

Licensing Acts Panel



Report of Head of Legal & Democratic Services

Author: Kate Fisher

Telephone: 01235 540494

Textphone: 18001 01235 540494

E-mail: kate.fisher@southandvale.gov.uk

To: Licensing Acts Panel

DATE: 26 September 2013

Application for a variation of the premises licence for The Black Swan, 17 Bath Street, Abingdon

Recommendation

That the panel consider the application to vary a premises licence and the objections to the application and decide whether to a) grant the application as applied for, b) grant the application with modified conditions or c) reject the application in whole or in part.

Purpose of Report

1. To present the facts and relevant representations received in respect of an application to vary a premises licence for The Black Swan, 17 Bath Street, Abingdon, under Section 34 of the Licensing Act 2003 to the Licensing Acts Panel in order that it can determine the application.

Strategic Objectives

2. The relevant strategic objective is that of 'building the local economy'. The relevant corporate priority is that of 'maintain low levels of crime and anti-social behaviour'.

Background

- 3.1 The Licensing Act 2003 ('the Act') has established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the 'licensable activities'.

Any assessment of licensable activities must consider and promote the following four statutory objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

3.2 Licences will normally be granted by the licensing officer under delegated powers but in the event of representations being received regarding the grant or variation of a premises licence, or in the case of an objection being received from Thames Valley Police with regard to personal licences, the application is then referred to the Licensing Acts Panel to be considered.

3.3 An application has been received to vary the existing premises licence (**Appendix 1**). The current licence can be seen at **Appendix 2**. In response to representations received from Thames Valley Police and Environmental Protection, the applicant has made some amendments and the application now seeks to vary the licence, as follows:

Licensable Activity	Current days & times	Proposed days & times
Live Music (Indoors)	Thursday – Saturday 09:00-01:00	No change on current times
Recorded Music (Indoors)	Thursday – Saturday 09:00-01:00	Thursday – Saturday 09:00-02:00
Anything of a similar Description (Indoors)	N/A	Monday – Wednesday 09:00-23:00 Thursday – Saturday 09:00-02:00
Supply of Alcohol (on the premises)	Monday – Wednesday 10:00-Midnight Thursday – Saturday 10:00-01:30 Sunday 11:00-Midnight Christmas Eve, Christmas Day, Sundays prior May Day,	Monday – Wednesday 09:00-Midnight Thursday – Saturday 09:00-02:45 Sunday 11:00-Midnight Christmas Eve, Good Friday, Easter Saturday

	Spring & August Bank Holidays, Easter Saturday, Easter Sunday 10:00-01:30	09:00-02:45 All other seasonal variations to remain the same
Hours premises are open to the public	Thursday – Saturday 09:00-02:30 Christmas Eve, Christmas Day, Sundays prior May Day, Spring & August Bank Holidays, Easter Saturday, Easter Sunday 10:00-02:00	Thursday – Saturday 09:00-03:00 Christmas Eve, Good Friday, Easter Saturday 09:00-03:00 All other seasonal variations to remain the same

3.4 A representation has been received from Thames Valley Police who have asked for the following condition to be added to the licence:

- The premises to be closed by 03:00

This condition has been agreed by the applicant.

3.5 A representation has been received from Environmental Protection asking for the following conditions to be added to the licence:

- Live Music to cease at 01:00
- A verbal reminder from staff and door supervisors asking patrons to leave the premises quietly
- Regular patrols of the smoking area will be completed throughout the evening

These conditions have been agreed by the applicant.

3.6 Representations have been received from 13 residents. Their concerns relate to increased antisocial behaviour and noise occurring to a later hour. Details of the representations can be seen in **Appendix 3**.

3.7 A representation has also been received from a local district councillor. Details of the representation can be seen in **Appendix 4**.

3.8 A representation has been received from Abingdon Town Council which is attached in **Appendix 5**. However this was submitted after the end of the consultation period and the panel is not required to give it any consideration.

3.9 The statutory blue notice was checked by Licensing Officers and the newspaper advertisement is attached as **Appendix 6**.

Options

4.1 In determining the application the authority must give weight to:

- representations received from Responsible Authorities
- relevant representations received from any other parties
- the Secretary of State's guidance issued under Section 182 of the Licensing Act 2003
- the council's statement of licensing policy and
- the steps necessary to promote the Licensing Objectives

4.2 In view of the above, the panel is requested to consider the application for the variation of the premises licence and decide whether to:

- (a) grant the application as applied for,
- (b) grant the application with modified conditions or
- (c) reject the application in whole or in part

Financial Implications

5. Should the applicant or any Interested Party wish to appeal against a decision of the council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision was upheld.

Legal Implications

6.1 The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those rights. When determining whether to grant the application the panel will be aware of human rights considerations, specifically Part 1, Article 6, the right to a fair trial, Part 2 and Article 8 the right to respect for private and family life for those making representations.

6.2 The hearing of all applications is subject to the principles of natural justice.

6.3 Section 17 of the Crime and Disorder Act 1998 states, 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area'.

6.4 Under Schedule 5, Part 1 of the Licensing Act 2003, any person aggrieved by the decision in respect of the application may appeal to a Magistrates' Court within 21 days of the date of the decision.

Conclusion

- 7 This report provides information submitted by the applicant and local residents and responsible authorities. The panel should determine this application with a view to promoting the four Licensing Objectives. It must, having had regard to all the relevant objections made and the evidence it hears, a) grant the application as applied for, b) grant the application with modified conditions or c) reject the application in whole or in part.

Background Papers

- None.
-