

MID SUFFOLK DISTRICT COUNCIL

From: Kate Pearsall – Licensing Team Leader	Report Number: M/LASub/22/1
To: Licensing Sub-Committee	Date of meeting: 14 April 2023

HEARING TO DETERMINE AN APPLICATION TO VARY A PREMISES LICENCE UNDER SECTION 34 OF THE LICENSING ACT 2003

1. Purpose of Report

- 1.1 To report information to the Sub-Committee to enable the determination of an application made to vary premises licence MPL0313 - on issue in respect of The Swan, 9 High Street, Needham Market IP6 8AL.

2. Recommendations

- 2.1 The Sub-Committee must, having regard to the representations made, take such of the steps below (if any) as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence;
- to reject the whole or part of the application;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

The Sub-Committee is able to determine the variation application.

3. Financial Implications

- 3.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

4. Risk Management

- 4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions. The four licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

5. Consultations

- 5.1 The application made has been subject to the statutory consultation period as prescribed by regulation. The notices advertising the application have been on display at the premises and published (East Anglian Daily Times: 22 February 2023 edition).

6. Equality Analysis

6.1 There are no equality impacts arising directly from the matters contained within this report.

7. Shared Service / Partnership Implications

7.1 Not applicable.

8. Key Information

8.1 The hearing is to determine an application made to VARY an existing premises licence (number MPL0313) made under section 34 of the Licensing Act 2003. For ease of reference a summary of the existing premises licence permissions is attached as **Appendix A**.

8.2 The application has been submitted by the premises licence holder:

Greene King Retailing Ltd

For licensed premises:

The Swan, 9 High Street, Needham Market IP6 8AL

The Designated Premises Supervisor (DPS) is:

Katie Martin (personal licence holder 05/00034/LAPER)

8.3 The variation application was submitted on 15th February 2023.

8.4 The premises licence holders are seeking to diversify and update their current premises licence entitlements.

8.5 The full application attached as **Appendix B** specifies the full proposals of the variation. **Appendix C** indicates the location of the proposed outside bar.

8.6 Swan, Needham Market has benefitted from a premises licence issued by Mid Suffolk District Council since November 2005.

8.7 A hearing is necessary to determine the application following receipt of relevant 1 representation which have not been withdrawn. The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives, which are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

8.8 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy published under section 5 of the Act, and any guidance issued by the Secretary of State under section 182 of the Act. The adopted Statement of Licensing Policy does not contain any Cumulative Impact Policy for any specific area of the district, as there is no evidential basis for it. However, the Licensing Authority is empowered to create a special policy should circumstances require it.

The Licensing Authority's approach to this is specified in section 5 of the local Statement of Licensing Policy.

- 8.9 Where revisions are made to the legislation or guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.
- 8.10 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 and Articles 8 and 1 of Protocol 1 when determining applications for the variation of an existing licence.
- 8.11 Section 1.9 of the Council's Statement of Licensing Policy guides that the licensing process can only seek to control those measures within the control of the licensee or certificate holder (and their staff/agents). Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it a cure-all for community problems. If a licence holder has taken all appropriate steps to promote the licensing objectives whilst carrying on authorised licensable activities, and there is no causal link established between problem issues in the locality and a specific premises then it is unlikely that licensing processes are the mechanism to address them.
- 8.12 Paragraph 14.19 of Secretary of State Guidance issued under section 182 of the Licensing Act 2003 states that "there can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.
- 8.13 The Licensing Authority's general approach to considering licensing hours is contained within section 6 of the local Statement of Licensing Policy, and section 7 guides on relevant representations.

9. Representations

- 9.1 The Licensing Authority has received no representations from the Responsible Authorities under the Licensing Act 2003.
- 9.2 There has been 1 representation received made by 'other persons'. This is attached as **Appendix C** to this report.

10. Appendices

Title	Location
A. Summary of premises licence MPL0313	Attached
B. Variation application (section 34)	Attached
C. Amended plan of the premises	Attached
D. Representations received from 'other persons'	Attached

11. Background Documents

- Licensing Act 2003
- Guidance issued by Secretary of State under Section 182 of the Licensing Act 2003 (December 2022)
- Statement of Licensing Policy (2021-2026)

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