



# Agenda

Meeting: **Licensing Sub-Committee**  
Date: **19 June 2018**  
Time: **2.00 pm**  
Place: **Council Chamber - Civic Centre Folkestone**

To: **To all members of the Licensing Sub Committee – Councillors  
Ms Susie Govett, Russell Tillson and Michael Lyons**

The sub-committee will consider the matter, listed below, at the date, time and place shown above. The meeting will be open to the press and public.

Members of the committee, who wish to have information on any matter arising on the agenda, which is not fully covered in these papers, are requested to give notice, prior to the meeting, to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://shepway.public-i.tv/core/portal/home>. Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber

1. **Election of Chairman for the meeting**
2. **Apologies of absence**
3. **Declarations of interest**

Members of the Council should declare any interests which fall under the following categories\*:

- a) disclosable pecuniary interests (DPI)
- b) other significant interests (OSI)

**Queries about the agenda? Need a different format?**

Contact Committee Services – Tel: 01303 853369/853267  
Email: [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk) or download from our  
website  
[www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)

- c) voluntary announcements of other interests

**4. Declarations of lobbying**

Members should complete the enclosed yellow form and return it to the Committee Administrator at the meeting.

**5. The Swan Hotel, 59 High Street, Hythe, CT21 5AD (Pages 3 - 32)**

Report DCL/18/05 sets out the facts for the Licensing Committee to consider when a responsible authority applies to the Licensing Authority for a review of a premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is, therefore, not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in this report

\*Explanations as to different levels of interest

(a) A member with a discloseable pecuniary interest (DPI) must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares a DPI in relation to any item must leave the meeting for that item (unless a relevant dispensation has been granted).

(b) A member with an other significant interest (OSI) under the local code of conduct relating to items on this agenda must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares an OSI in relation to any item will need to remove him/herself to the public gallery before the debate and not vote on that item (unless a relevant dispensation has been granted). However, prior to leaving, the member may address the meeting in the same way that a member of the public may do so.

(c) Members may make voluntary announcements of other interests which are not required to be disclosed under (a) and (b). These are announcements made for transparency reasons alone, such as:

- membership of outside bodies that have made representations on agenda items, or
- where a member knows a person involved, but does not have a close association with that person, or
- where an item would affect the well-being of a member, relative, close associate, employer, etc. but not his/her financial position.

Voluntary announcements do not prevent the member from participating or voting on the relevant item

This report will be made public on 11 June 2018



Report No: **DCL/18/05**

**To:** Licensing Sub-Committee  
**Date:** 19 June 2018  
**Status:** Non-Executive Decision  
**Head of Service:** Ben Geering

**SUBJECT:** An application to Review the Premises Licence for:

**The Swan Hotel, 59 High Street, Hythe, CT21 5AD**

**SUMMARY:** This report sets out the facts for the Licensing Committee to consider when a responsible authority applies to the Licensing Authority for a review of a premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is, therefore, not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in this report

**REASONS FOR DETERMINATION:**

The Committee is obliged to determine the review with a view of promoting the licensing objectives. In making its decision the Committee must also have regard to all the representations made and the evidence it hears. The Committee is obliged to have regard to the revised national section 182 guidance and the council's own licensing policy.

**DETERMINATION:**

**The Licensing Sub-Committee is asked to:**

- 1. Note the contents of Report DCL/18/05.**
- 2. Determine the review. The options for determining the application are set out in section 4 below.**

## **1. BACKGROUND**

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premise and other licensable activities must be authorised by a premise licence.

A premise licence holder must comply with the four licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

They must also explain how they will comply with the licensing objectives.

- 1.2 If a responsible authority considers that a premise licence holder is not complying with any of the licensing objectives, they can apply to the Licensing Authority for a Review of the licence.
- 1.3 The Swan Hotel is a premises situated in High Street, Hythe. The high street is a mainly commercial area with a mix of public houses, retail premises and other commercial premises. There is a limited amount of residential use of the accommodation over the retail premises. The Swan Hotel is an established licensed premise operating as a public house, restaurant and hotel. Current premise licence is shown in Appendix 1 (page 7).

## **2. APPLICATION**

- 2.1 PC Chris Stephens on behalf of Kent Police has applied for a review of the premise licence for the Swan Hotel 59 High Street, Hythe on 24 April 2018 under section 87 of the Licensing Act 2003. A copy of the application is enclosed as Appendix 2 (page 11).

## **3. RELEVANT REPRESENTATION**

- 3.1 During the time permitted for representation to be received regarding the Review application, representation was received from 2 responsible authorities and 5 other interested parties including neighbouring residents and businesses as well as the premise licence holder/designated premise supervisor. A copy of these is enclosed as Appendix 3 (page 23).

## 4. OPTIONS

4.1 The licensing sub-committee has the following options:

- a) Reject the application and leave the licence and conditions unchanged.
- b) Modify the conditions of the licence
- c) Exclude a licensable activity from the scope of the licence
- d) To remove the Designated Premises Supervisor
- e) To suspend the licence for a period not exceeding 3 months
- f) To revoke the licence.

4.2 The committee must only consider evidence that relates to the 4 licensing objectives. Any conditions must promote the licensing objectives and be evidence based.

4.3 The determination of the application for a review of the premise licence comes into effect after the period for appeal has expired or, if an appeal is lodged, when the appeal has been determined by the courts.

## 5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Arthur Atkins, Environmental Health and Licensing Manager  
Telephone: 01303 853242  
Email: [arthur.atkins@shepway.gov.uk](mailto:arthur.atkins@shepway.gov.uk)

### **Background documents:**

Current Licensing Policy is available here

[http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway\\_District\\_Council\\_-\\_Licensing\\_Policy\\_Statement\\_2016-2021.pdf](http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway_District_Council_-_Licensing_Policy_Statement_2016-2021.pdf)

The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions and section 11 about reviews. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

## 6. APPENDICES

Appendix 1. Current licence (page 7)

Appendix 2 Application for Review of Premise Licence (page 11)

Appendix 3 Relevant Representation (page 23)

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**Premises Licence Number: SHEP00242/05**

### Part 1 – Premise Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Swan Hotel  
59 High Street  
Hythe  
Kent CT21 5AD Telephone: 01303 266236

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

START DATE: 24/11/2005

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Alcohol Sales On & Off Sales

#### THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

	Alcohol Sales On & Off Sales
Monday	10:00 23:00
Tuesday	10:00 23:00
Wednesday	10:00 23:00
Thursday	10:00 23:00
Friday	10:00 23:00
Saturday	10:00 23:00
Sunday	12:00 22:30

#### THE OPENING HOURS OF THE PREMISES (IF GIVEN)

Monday  
Tuesday  
Wednesday  
Thursday  
Friday  
Saturday  
Sunday

#### WHERE THE LICENCE AUTHORIZES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND/OR OFF SUPPLIES

ON OR OFF

#### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Mr. Mihirbhai Patel  
18 Abbots Way  
Beckenham  
Kent  
BR3 3RL Telephone: 01303 266236

**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER  
(WHERE APPLICABLE)**

N/A

**NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR  
WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Mr. Mihirbhai Patel

18 Abbots Way

Beckenham

Kent

BR3 3RL

Telephone: 01303 266236

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY  
DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR  
THE SUPPLY OF ALCOHOL**

BROMLEY COUNCIL

PERSONAL LICENCE NUMBER: 16/00080/LAP



## Annex 1- Mandatory Conditions

### Mandatory conditions where licence authorises supply of alcohol

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### Off Sales

On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.

On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.

On Good Friday, 8 a.m. to 10.30 p.m.

### Mandatory condition: supply of alcohol

#### Mandatory Licensing Conditions Order 2010

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

<p>(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and</p> <p>(iii) still wine in a glass: 125 ml; and</p> <p>(b) customers are made aware of the availability of these measures.</p>
<p><b>A club premises certificate which authorises the supply of alcohol for consumption off the premises must include the following conditions:-</b></p>
<p>The first condition is that the supply must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.</p>
<p>The second condition is that any alcohol supplied for consumption off the premises must be in a sealed container.</p>
<p>The third condition is that any supply of alcohol for consumption off the premises must be made to a member of the club in person.</p>

**Annex 2 - Conditions Consistent with the Operating Schedule**

General - to meet all objectives

**Annex 3 - Conditions Attached after a Hearing by the Licensing Authority**

N/A

**Annex 4 - Plans**

As at application date held on file

25 APR 2010

RECEPTION

RESTRICTED (when complete)

Application for the review of a premises licence or club premises  
certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

25 APR 2010

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I PC 9944 Stephens

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description  
The Swan Hotel,  
59 High Street

Post town Hythe

Post code (if known) CT21 5AD

Name of premises licence holder or club holding club premises certificate (if known)  
Mr Mihirbhai PATEL

Number of premises licence or club premises certificate (if known)  
SHEP00242/05

Part 2 – Applicant details

I am

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

c) a person involved in business in the vicinity of the premises

d) a body representing persons involved in business in the vicinity of the premises

2) a responsible authority (please complete (C) below)

Please tick yes

**RESTRICTED (when complete)**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**3 a member of the club to which this application relates (please complete (A) below)**

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in a applicable)**

**Please tick**

**Mr**

**Mrs**

**Miss**

**Ms**

**Other title**

(for example, Rev)

**Surname**

**First names**

**Please tick yes**

**I am 18 years old or over**

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address

**Kent Police  
Folkestone Police Station  
Bouverie Road West  
Folkestone  
Kent CT20 2SG**

Telephone number (if any)

E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

**Please state the ground(s) for review (please read guidance note 1)**

Following a serious incident at 2205hrs on Friday 13th April 2018, other recent violent incidents, disturbance caused to a local resident, persons under the age of 18 being drunk on the premises and poor management/availability of CCTV, police have called the review under all four of the licensing objectives.

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**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**Please provide as much information as possible to support the application**

(please read guidance note 2)

On Friday the 13<sup>th</sup> April at 2205hrs a local resident telephoned Kent Police to report that there was a fight going on at The Swan Hotel. The noise generated from the incident could be heard by the operator over the phone. The resident stated that they can hear a lot of noise and commotion and wanted to complain about the noise as well as the fight.

At 2236hrs the same evening, SECAMB contacted Kent Police to report that there was a fight at The Swan Hotel. The victim had been kicked to the ground, stamped on and is suspected to have a fractured shoulder. The offender was still at the location.

At 2300hrs Police attended the location and found paramedics treating the victim. He was drunk and did not want to engage with the officers. He was taken to the William Harvey Hospital for treatment.

Due to the circumstances and injuries sustained by the victim, a crime report was raised for Grievous Bodily Harm with Intent. To support the investigation on the 16<sup>th</sup> of April, PCSO 59863 Bennett attended The Swan Hotel to request and collect CCTV of the initial incident inside the premises. PCSO Bennett spoke with the Bar Manager who identified himself as . . . said that he did not know how to use the CCTV system as he was not trained to do so and could therefore not provide any footage (PCSO Bennett statement is attached to this application). Although the victim would not engage with police, the offence committed is serious and with additional verifiable evidence police can pursue a prosecution. Unfortunately in these circumstances and without the premises CCTV, police are unable to identify the suspect/s and the report was filed with no further action taken.

Previously on Thursday the 29<sup>th</sup> March 2018 at 2136hrs, a male customer at The Swan Hotel called Kent Police to report that 'there was a group of people beating another female up'. The female was now locked in the toilet. The victim also called police stating that she had been punched in the face by 2 people and that she had gone into the male toilet as the female toilet was locked.

Police attended and a crime report was raised for Public Order Affray and 2 females were arrested. The crime report identifies the following.

'Female toilets were closed due to previous reports of 'drug taking' in there so she used the Gents toilets'.

'Other customers try splitting the altercation up, this goes on for 3-4 minutes'.

'CCTV has been recorded using PC PUTLAND's BWV as it couldn't be downloaded at the time \*\*the footage stays on the system for approximately 7 days only'.

'I have attempted to contact the Swan Hotel in order to try and get the CCTV. However they are not answering. The issue was that they have had a problem with their system and therefore it is unclear if they will have retained the footage'.

'Due to the fact that I am unable to get the actual CCTV in an evidential format I do not believe that there is any further course of action that needs to be taken in regards to this report'.

'XXXX XXXX came out of the pub quite drunk some time after we had arrived and stated that the offender was still in the pub'

The girl described above has since been found to be 17 years old - born

DC Woolnough reports that whilst attending The Swan Hotel to deal with the incident on 29/03/2018 she believed that 80% of the customers were under age and were all intoxicated. Due to the investigation the officer was not in a position to ID and confirm her suspicions. DC Woolnough also expressed her concerns surrounding the locking of the female toilets due to drug taking and that the licensee seemed to be as drunk as the customers.

On the 27<sup>th</sup> January 2018, PC Alexander reports that he was investigating an incident at The Swan Hotel. . . identified himself to PC Alexander as the manager and stated that he was not a personal licence holder. He further stated that he closed at 2am and when requested to allow PC Alexander to review the CCTV, he changed his story but wasn't sure of the time. PC Alexander found through reviewing CCTV that the premises was still open at 4am. . . initially claimed that they were hotel guests, but later admitted that there were people in the premises who were not residents. . . was also

**RESTRICTED (when complete)**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

unable to download the footage.

The information provided by PC Alexander prompted a premises visit by Folkestone and Hythe District Council who instigated appropriate enforcement at the time. On 23<sup>rd</sup> March 2018 as part of OP Locality (a multi-agency licensed premises Initiative) the premises was advised that they must submit a variation to the premises licence before they can legally serve any Hotel Guests beyond 2300hrs. To date this action has not been taken forward by the Premises Licence Holder.

From the collated information, it is apparent that managerial responsibilities at the Swan Hotel are below adequate. There are repeated incidents that show CCTV is inadequate through staff being unable to download footage and availability times being 7 days or less. No intervention or adequate response to disorderly behaviour. Offenders remain at the premises after being involved in disorder. Selling of alcohol outside of authorised times. There is likely supply of alcohol to minors evidenced above. Inappropriate steps in attempt to prevent drug misuse on the premises and the bar manager being drunk when in charge of the sale of alcohol. In addition to this, the noise generated from the premises has an effect on neighbouring residents.

In light of recent events Kent Police request that the licensing committee consider taking the following steps to prevent crime and disorder, promote public safety, protect children from harm and prevent a public nuisance.

A personal licence holder will be employed and will be present on the premises during all hours that the premises are open for licensable activities.

CCTV to be fitted to a standard agreed to by the police that complies with The current CCTV Code of Practice produced by the Information Commissioners Office, with all public areas, including all access and egress points covered. This is also to include any exit doors, alleyways or any other areas used for the ejection of customers.

The CCTV system will be maintained and serviced on a regular basis and records kept to that effect.

CCTV shall be operational at all time that members of the public and/or staff are on the premises.

Images will be retained for a period of at least one calendar month by whatever means the licence holder deems appropriate.

The Police or Local Authority will have access to these images at any reasonable time.

The Police or Local Authority will be provided with a recording by way of USB, tape, CD Rom or any other means of the image, immediately upon request.

Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident at the request of police or local authority.

All staff will be fully trained in their responsibilities under the Licensing Act and the training will be fully auditable and available to any responsible authority on request.

All staff selling alcohol will be trained in the BII Level I award or equivalent in Responsible Alcohol Retailing.

A 'Challenge 25' policy will be adopted at the premises.

All staff at the premises will be trained in the 'Challenge 25' policy.

All staff training will be auditable and will be available to any police officer, Local Authority Licensing Officer or Trading Standards Officer at any reasonable time.

The premises will display zero tolerance drug posters in male and female toilets.

The premises will complete and retain an incident book that will be made available to Police and local

**RESTRICTED (when complete)**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

authority upon request. The book will be a bound book with no loose leaves and detail time, date, location, a precs of the incident, details of police officers attending, known injuries, name (if known) / description of persons involved.



**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**Please tick yes**

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day	Month	Year

**If you have made representations before relating to this premises please state what they were and when you made them**

**RESTRICTED (when complete)**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant’s solicitor or other duly authorised agent**  
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

*25-4-18*

.....

Capacity

*POLICE CONSTABLE REPRESENTING KENT POLICE*

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 5)

**Post town**

**Post code**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e mail address your e mail address (optional)**

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

**From:** Stephen ALEXANDER-PC 46009564

**Sent:** 27 January 2018 16:59

**To:** Chris STEPHENS PC 46009944

**Cc:** Paul DIMENT 46054700

**Subject:** The Swan

Chris

I am on IDM attachment at the moment and have assisted with an enquiry into a DV assault where the male has been detained. I thought I would update you reference I visit I had to undertake at The Swan , Hythe High Street. The incident was a domestic incident (KP-20180127-0215 ) .

We were asked to go and see if there was CCTV and whether the DP and his partner had been at the pub and if there was any issues . On arrival I went to the bar and a staff member identified himself to me . I introduced myself and asked if he was in charge . He stated no but gave his details as a . He did not have a personal licence . He told me the manager was upstairs in the hotel part of the premises . He was asked to go and look for him and after 10 mins returned and said he would come down . A further wait and a male came down and said he was the manager.

He gave his details as and he lives on premises . He too does not have a personal licence . He explained that ( he is shown as DPS ) no longer has anything to do with the premises . I have looked up . and it shows his as the manager on a previous visit.

I enquired with him what time he closed and he initially said 2am however when I said I could check this with his cctv he changed his story but wasn't sure of the time . We went to look at the CCTV as the DV incident happened at 4.15 approx . The premises is still open at 4am. He initially stated they were hotel guests but then did admit later that there were people in the premises who were not residents . He was unable to download the footage and as I am on attachment I do not have my full kit here so could not bodycam the cctv. If you need anything further please let me know.

Regards

Steve

**Chris STEPHENS PC 46009944**

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**From:** Leigh WOOLNOUGH DC 46011393  
**Sent:** 30 March 2018 04:32  
**To:** Chris STEPHENS PC 46009944  
**Subject:** The Swan Public House

Hi Chris,

I attended the above premises about 10pm to reports of a girl being assaulted by two females the IP was a 17 year old female and was in the pub with a group of 17 year olds. I arrested a female by the name of [redacted] for assault. Her daughter [redacted] was the second offender but was not at the pub at the time of police arrival, has been banned from the premises by the licensee three times last year and is currently on a ban this year but he let her in tonight because her mum vouched for her. Had he not done so police would not have been called however the reason I am e-mailing you is that we had cause to enter the pub to search for the offender. Whilst in the pub it was apparent that 80% of the customers were under age and were all intoxicated. We were not in a position to ID them as much as I would have liked to. The other issue I found was that the licensee locks the female toilets due to drug taking on the premises and he seems to be as drunk as his customers.

I am advised by others on the team that the landlord is always as drunk as the customers.

Would you be able to look at a licensing check of the premises.

Many thanks

Leigh

RESTRICTED (when complete)

MG11

### WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN 46

Statement of: **Lewis Bennett**

Age if under 18: **Over 18** (if over 18 insert 'over 18') Occupation: **Police community support officer**

This statement (consisting of 1 page each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.

Signature: **L Bennett**

Date: **Monday 16th April 2018**

Tick if witness evidence is visually recorded  (supply witness details on rear)

Approximately 1110 hours on Monday 16<sup>th</sup> April 2018 I was in full uniform on foot patrol on Hythe High Street. I entered The Swan Hotel, 59 Hythe High Street, Hythe, Kent where I conducted CCTV enquiries regarding a reported fight on Friday 13<sup>th</sup> April. I spoke with the bar manager who identified himself to me as . I explained that there had been a fight at the premises that spilled out onto the street and requested that he provided me CCTV for the times between 2200 and 2230hrs from the bar area, extd and immediately outside. stated that he did not know how to use the CCTV system as he was not trained to do so and could therefore not provide it to me.

Signature: **L Bennett**

Signature witnessed by:

Typed by:

Kent Police MG11 (rev 3/11) v1.8

2010/11

File Name: \\users\j.henry\shared\cctv\police\140250001\Documents\Witness statements\The Swan Hotel - witness statements.docx

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Page 1 of 1



Licensing Authority - Folkestone Hythe District Council

Thursday 17<sup>th</sup> May 2018

The only thing I would like to say as representation is that I myself have visited the premises 4 times over the last year – 3 of those being in last couple of months and I have witnessed only 1 member of bar staff being a young lady on her own.

The lady in charge at the time of my visits did not know who the Designated Premise Supervisor was and neither did she know any of the conditions or operating schedule.

There were mainly men in the bar area, all very loud and shouting on each visit that I made. I myself, on the last visit felt very vulnerable as they were intoxicated shouting out 'who is that' to the bar girl and 'was she alright'. When I advised who I was and why I was visiting she said 'can you not go into the bar I don't want people to see that we have done anything wrong'. I advised that I had to display the notice of review in the window and it was for public viewing anyway and explained the reason for that too. She seemed very worried. I asked her if she is the only member of staff on duty and how does she look after two bar areas at once if it's only her... she then said 'well it don't get very busy in the restaurant side during the day and can you just put it up and leave and ill speak to my boss'. By the time I exited the premise there was already 5 people in the street gathered around the notice and when I walked out they looked at me and said 'about time!'

On our annual premise licence compliance inspections in Hythe so many business owners/managers in the High street complained or mentioned the bad running and management of The Swan. The loudness and drunkenness of all who drink in that premise. They also commented that it only attracts the same faces continuously as it's not an establishment that families would wish to visit. Music at times can also be very loud, I have witnessed this and I asked the bar lady to turn the volume down as it could be heard in the street loudly.

Following the police incidents in March & April 2018, I visited Mr Patel and advised him to put in for a variation to his licence to add Alcohol on sales for Hotel guests only, separate from the alcohol sales on the current licence for the public house and restaurant. I explained why the Licensing Authority and police were pushing for this. He said he would complete it and submit it. This never happened so two weeks later I visited again as I could not make phone contact. The bar lady called Mr Patel and I spoke to him and once again reiterated the advice about submitting the variation. Once again this was never received.

## Local Business Representation

To whom it may concern

I have been asked by our local community officer to contact you regarding the nuisance caused by the Swan Hotel. For reasons

(redacted comments)

On a regular basis the noise and bad language coming from the Swan during daylight hours causes a nuisance in the High Street. From 10.30 in the morning throughout the day, customers from the Swan are loitering outside the pub with pint glasses in their hand, smoking and causing an obstruction on the pavement, and making members of the public including mothers with pushchairs leave the pavement and walk in the road.

Many of my customers (a lot of whom are visitors to Hythe) comment on the noise and language, commiserate that we have to put up with it all day and comment that it is a blot on the High Street, in what is otherwise a very nice town.

On a recent occasion I had cause to return to my shop at 11.45pm to allow UK Power Networks to gain access to complete some electricity repairs. At this point the Swan was in full swing, windows open, music blaring and drunken people outside the Swan smoking, swearing and fighting. I had cause to be at my shop until 01.15am and when I left there was no sign of the "party" slowing down. The UK Power Networks engineers also commented that this had been going on since 8pm Thursday evening.

If you require any further information please do not hesitate to contact me.

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## Local Business Representation

Public Nuisance - We are becoming increasingly concerned about the people who are frequently drinking outside (on the pavement & road) of The Swan Hotel in Hythe High Street. They are often inebriated and can present as volatile and intimidating. This has been happening on quite a regular basis and seems to be escalating now that the weather has improved. To the point that myself and my colleagues are having to cross the road as do not feel safe walking past these people. I dread to think what it must be like at night.



## Local Resident Representation

Since moving to Hythe (over a year now) I have witnessed incidents at this pub.

This pub is a noisy establishment and there is always trouble outside. Being one of the pubs neighbours they have been nothing but a nuisance. From loud noise from music to load noisy drunk people outside. Below are a number of examples.

Every week, Thursday or a Friday, there is load music which resonates through my flat and down the high street. this goes on to 12 am. This is worse in the Summer when its hot as they keep the windows open.

About 2 or 3 weeks ago I will assume there was a private party that went on until 3 or 4 in the morning.

There was a fight outside the pub at 10pm a couple of weeks ago.

A young girl was arrested about a month ago from the pub.

Last year there was another fight between three men and three women.

I have heard drunk people from the pub leave and shout as they walk down the high-street and argue with people who have woken up from their "singing".

There is broken glass bottles on the street sometimes or empty beer glasses.

The people that smoke at the pub just throw their cigarette ends on the street. Its quite messy sometimes during the weekends especially if they show a football game or a boxing fight.

I hope that my email highlights the nuance this pub is to its neighbours.

(Redacted comments)

Prevention of Public Nuisance and Crime & Disorder

# Memorandum



**From** Oliver Jewell  
Principal Trading Standards Officer

**Our Ref** R/003775  
**Your Ref**

**Tel**

**Email**

**Date** 9<sup>th</sup> May 2018

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**To** Folkestone & Hythe District Council Licensing Section

*The Trading Standards Department of Kent County Council as a responsible authority under the Licensing Act 2003, and hereby make representation in relation to licensing objectives, in connection with the application in relation for review of the premises of The Swan Hotel, 59 High Street, Hythe, CT21 5AD.*

I can confirm that Trading Standards holds no other relevant material to be added to this review, however having reviewed the material contained within the Kent Police application, this department agrees with the recommendations put forward as part of the reviews as proportionate to the apparent failures to meet the licensing objectives.

It is noted from the review the attendance of DC Woolnough on 29/03/2018 assessed approximately 80% of the customers to be underage. Whilst this wasn't subject to confirmation, this suggests a worrying picture of the current attitude to the protection of children from harm. Suitable measures suggested in the review include the imposition of a Challenge 25 policy, training and refusals logs at the venue which it is suggested should go further to ensure these measures are properly and effectively implemented by the licence holder.

1. The Challenge 25 proof of age scheme shall be operated at the premises. All customers who appear under the age of 25 will be challenged to prove that they are over 18 when attempting to purchase alcohol. Acceptable forms of ID include a photo driving licence, passport, or home office approved identity card bearing the holographic 'PASS' mark. If the person seeking alcohol is unable

to produce an acceptable form of identification, no sale or supply of alcohol shall be made to or for that person.

2. All staff selling alcohol shall be trained to the BII Level 1 award in Responsible Alcohol Retailing before commencing work. Staff should additionally receive refresher training which must be logged and provided not less than every twelve months. The training log will be made available for inspection by Police, Local Authority Licensing Officer or Trading Standards Officer.
3. A refusals log must be kept at the premises, and made immediately available on request to the Police, Local Authority Licensing Officer or Trading Standards Officer. The refusals log is to be inspected on a monthly basis by the DPS and noted in the log and a record made in the log of any actions that appear to be needed to protect young people from harm. The log must record all refused sales of alcohol and include the following:
  - a) the identity of the member of staff who refused the sale
  - b) the date and time of the refusal
  - c) the alcohol requested and reason for refusal
  - d) description of the person refused alcohol
4. Posters of A4 size shall be displayed conspicuously on the premises in customer facing areas:
  - a) 'Challenge 25' to advise potential purchasers that suitable proof of age will be required for all purchasers who appear to be under 25.
  - b) 'Proxy purchasing' intended to warn adults not to buy alcohol for those under 18 years-of-age.

The conditions above are suggested in addition to other recommendations made by Kent Police in relation to the other Licensing Objectives.

**Principal Trading Standards Officer – Kent County Council**

**Date:** 16<sup>th</sup> May 2018

## Gosschalks – Solicitor for Freeholder of The Swan Hotel

Dear Sirs,

**Re: Licensing Act 2003 – Review Proceedings**

**The Swan Hotel, 59 High Street, Hythe CT21 5AD**

**Premises Licence number SHEP00242/05**

We act on behalf of Ei Group plc (formerly Enterprise Inns Plc). Our client is the freeholder owner of these premises and we thank you for providing a copy of the application for review lodged by Kent Police.

We would be grateful if you would accept this letter as a formal representation on behalf of our client.

Ei Group Plc owns around 4000 public houses in England and Wales. The vast majority of these public houses are the subject of lease/tenancy agreements by which the tenant operates his/her/its own business out of our client's premises. The lease/tenancy agreement makes it clear that all operational responsibility for the premises lies with the tenant.

These premises are the subject of a 20 year lease agreement in favour of Alene and Arpi Limited.

We note from the application for review that the Police are seeking the addition of a number of conditions on to the premises licence. Having reviewed the application, we respectfully submit that the appropriate action to take on the basis of the evidence given is that this application be determined by the imposition of conditions relating to CCTV, staff training and the imposition of a condition relating to age verification.

On the face of the evidence provided by the Police, it appears that the issue that has given rise to the review is down to the management of these premises.

The Home Office guidance (Paragraph 11.20 – April 2018) is clear that when determining which of its powers to invoke, a Licensing Authority should seek to establish the cause or causes of the concerns that the representations identify and direct the remedial action at those causes. By imposing conditions relating to training, the issues that gave rise to the review would be addressed.

Our client may seek to expand upon this representation when this matter is listed for hearing before the Licensing Committee. At this stage, we would be grateful if you could acknowledge receipt of this representation and advise in due course as to the date of the hearing in order that we may take instructions from our client with regards to whether or not it will seek to attend and expand upon this representation.

We look forward to hearing from you.

Yours faithfully

**GOSSCHALKS**

## Mr Patel – Licence Holder Representation

Regarding the latest incidence reported on 13th April 2018, please note that I was away on an personal emergency to India (evidence can be provided if required). I discussed about this incidence with my manager and staff present on duty that night and was told by them that there was no fight inside the pub and they only got to know about it when the police arrived at the premises inquiring about it. This incidence had not started inside the premises of The Swan hotel as reported. However I do apologize about the CCTV footage that our manager couldn't provide on USB. He had offered the officer who arrived on 16th April to see the footage and record the incidence themselves but the officer didn't do so. On earlier occasions police have come down to the hotel for recordings which they usually record themselves or I provide them the USB of the same. Unfortunately I was away on this instance and the Officer didn't watch or record the incident on 16th April.

I have now trained [redacted] and the morning Bar tender to record the incidence on the USB. I will make sure that I provide the footage on USB whenever requested by an official. We have always called the police in case of an incident in the past and have had such violence creators from the pub.

Regarding the second incidence that was recorded on 30th March, the incident did happen with the 17 year old girl who was only served coke. She later even thanked the manager for supporting her after the incident. The offender [redacted] (who is Bard from the pub) was unfortunately allowed that night as it was her mom's birthday and she had vouched for her. [redacted] had complained falsely about drug usage in the toilet to support her daughter. We will make sure that Bard customers aren't allowed into the pub under any circumstances. The group however which the police claim as underage isn't correct as ID's are always checked before serving alcohol and we do have the Challenge 25 in place. This has now been made even more strict as we have put up a notice of not allowing customers under 18 after 9 pm into the Pub. Staff training about the Challenge 25 is going to be undertaken on 25th May to revise the laws.

Regarding locking of Ladies toilets, we do so as the entrance of the Ladies and Gents toilets is common and the Men sometimes end up using the Ladies toilets as we have had complaints from ladies customers of the same. We have never had complaints from customers regarding the locking of ladies toilets.

I have never been drunk on the premises as claimed on the report. I am not even a regular drinker. You can test me anytime for it.

The oldest incident recorded on 27 January about the late closing of the Pub. The pub was unfortunately opened until late on that occasion and the manager [redacted] had been given a warning of the same. I now make sure that no guests are served after the closing hours of 11pm and the Pub is shut once the guests have finished their last drink.

I would also want to bring to your notice that most of our day guests are old are

regular customers to the Pub since around more than 20 years and do not get drunk in the Pub. But Staff have been warned not to serve drunk customers if any.

Measures taken or will be implemented soon:

1) There will be a personal Licence holder at all times present in the bar. The bar manager is attending for one on 22nd May at Ashford

2) CCTV footage will be made available on USB whenever requested by officials. The recordings availability times are going to be increased to one month. Maintenance of the CCTV is carried on regular basis.

3) Challenge 25 is in place but will be made stricter by undergoing training of staff on Thursday 25th May. Under 18's will not be allowed into the pub after 9 pm and before 9 pm they will have to be accompanied with family.

4) All staff have been asked to provide BII Level 1 award or equivalent award by end of this month.

5) Closing hours are strictly adhered to. I am now making sure no customers are served after closing time of 11pm. We will apply the application to vary a premises licence to serve ONLY hotel guests after 11pm. This decision will be taken once the review of our premises licence is cleared.

6) Employing a security personnel on busy days.

7) Not serving customers believed to be drunk and refusing to serve trouble makers. This is already in place but will be made stricter.

8) Incidents log will be maintained in detail and be made available to officials whenever requested.

9) Zero Tolerance Drug Posters have been put up. If any incidents come up will be reported to Police.

9) As a DPS, I will take responsibility of the past incidents and am really sorry about these. But I will make sure that I adhere to all the laws and will not allow unforeseen incidents to happen in the Pub and will report them to police immediately if the case and cooperate with the officials. I am a law abiding citizen and a father of 2 kids and will definitely not do anything that will affect the locality and especially children. I have taken this review very seriously and request you to present me one chance to run my premises in an up to date manner.

Please advice / suggest us if we need to work on any other factors to insure that the pub is run in a orderly manner.

Mihir Patel  
The Swan Hotel  
59 High Street  
Hythe  
CT21 5AD

**Folkestone and Hythe District Council**

**Licensing Sub-Committee  
19 June 2018**

Declarations of Lobbying

Members of the Licensing Sub-Committee are asked to indicate if they have been lobbied, and if so, how they have been (i.e., letter, telephone call, etc.) in respect of the applications below:

<b>Application No.</b>	<b>Type of lobbying</b>
	.....
The Swan Hotel, Hythe	.....
	.....
	.....
	.....
	.....
	.....
	.....
	.....

SIGNED: .....

**When completed, please return this form to the Committee Administrator at the meeting.**

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