

Licensing Act Sub-Committee

Agenda

Date: Tuesday, 21st August, 2012
Time: 10.00 am
Venue: The Tatton Room - Town Hall, Macclesfield SK10 1EA

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda and for Members to declare if they have pre-determined any item on the agenda.

3. **Application for a Premises Licence: The Black Swan, Trap Street, Lower Withington, Macclesfield, SK11 9EQ (Pages 5 - 44)**

To consider an application for a Premises Licence by The Sprout Pub Company Ltd, in respect of The Black Swan, Trap Street, Lower Withington, Macclesfield.

THERE ARE NO PART 2 ITEMS

For requests for further information

Contact: Julie Zientek
Tel: 01270 686466
E-Mail: julie.zientek@cheshireeast.gov.uk

This page is intentionally left blank

CHESHIRE EAST COUNCIL

PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	Local residents (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Local residents (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which local residents should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Local residents (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
--	--	--

Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

SUMMARY OF PROCEDURE

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Tuesday 21st August 2012 at 10.00am
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application for a Premises Licence The Black Swan, Trap Street, Lower Withington, Macclesfield, SK11 9EQ.

1.0 Report Summary

- 1.1 The report provides details of an application for a premises licence together with information as to representations received in relation to the application.

2.0 Recommendations

The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by The Sprout Pub Company Ltd, in respect of The Black Swan, Trap Street, Lower Withington, Macclesfield, SK11 9EQ.

3.0 Reasons for Recommendations

- 3.1 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003.

4.0 Wards Affected

- 4.1 Gawsworth

5.0 Local Ward Members

- 5.1 Cllr Lesley Smetham

6.0 Policy Implications

- 6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may (a) grant the licence subject to

conditions; (b) exclude from the scope of the licence any of the licensable activities to which the application relates; (c) to refuse to specify a person in the licence as the premises supervisor; or (d) to reject the application.

9.0 Risk Management

9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

10.0 Background and Options

10.1 The application is for Premises Licence under section 17 of the Licensing Act 2003.

10.2 The operating schedule indicates that the relevant licensable activities applied for are:

Plays

Films

Indoor Sporting Events

Boxing or Wrestling Entertainments

Live Music

Recorded Music

Performance of Dance

Anything of a similar description to Live and Recorded Music and Dance

Provision of facilities for Making Music

Provision of facilities for Dancing

Provision of facilities for entertainment of a similar description to Making Music and Dancing

Late Night Refreshment

Sale and Supply of Alcohol

10.3 The hours applied for are as follows:

Plays (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Films (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Indoor Sporting Events

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Boxing or Wrestling Entertainments (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences
From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Live Music (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Recorded Music (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Performance of Dance (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Anything of a similar description to Live and Recorded Music and Dance (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Provision of facilities for Making Music (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Provision of facilities for Dancing (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Provision of facilities for entertainment of a similar description to Making Music and Dancing (to take place both indoors and outdoors)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Late Night Refreshment (to take place both indoors and outdoors)

Monday to Sunday 23.00 to 01.30

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Sale and Supply of Alcohol (for consumption both on and off the premises)

Monday to Sunday 09.00 to 01.00

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

Hours the Premises are Open to the Public

Monday to Sunday 08.00 to 01.30

An additional hour on the day that British Summertime commences

From the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day

10.4 Designated Premises Supervisor: Ms Jenny Gibbs

10.5 The operating schedule includes the following steps to promote the licensing objectives:

(a) General – all four licensing objectives

All staff shall be trained in relation to the licensing objectives so as to prevent crime and disorder and public nuisance and to promote the protection of children from harm and public safety. Said training shall be documented and shall be made available to an authorised officer upon request.

(b) Prevention of crime and disorder

CCTV shall be installed at the premises, said CCTV system shall comply with the following criteria: The system shall display on any recording the correct time and date of recording; The system shall be recording during all hours the premises is open to the public; Recordings shall be held for a minimum of 30 days after the recording is made and shall be made available to the Police for inspection upon request; As a minimum, the CCTV shall capture a head and shoulders image of any person who enters the premises. A staff member who is conversant with the operation of the CCTV system shall be on the premises at all times the licensable activities are taking place. This staff member shall be able to show data or footage with the minimum of delay when requested.

(c) Prevention of public nuisance

Clear, legible and conspicuous notices requesting patrons to avoid causing noise, nuisance or disturbance to local residents shall be displayed at public exits.

Any regulated entertainment which takes place outdoors shall terminate no later than 22.00hrs.

Whenever regulated entertainment takes place outdoors, regular assessments of the noise emanating from the premises shall be conducted, with remedial action being taken whenever the level of noise is considered likely to cause a disturbance to any local residents.

(d) Protection of children from harm

A written Challenge 21 Policy shall be in place. This policy shall be actively promoted and shall state that any person who attempts to purchase alcohol who appears to be under 21 years of age shall be asked to provide identification to prove that they are 18 years of age or over. The following forms of identification shall be acceptable:

- a. Passport
- b. Photo Driving Licence
- c. PASS accredited holographic Proof of Age Card or
- d. Any other form of identification which may be agreed with the local Police Licensing Unit.

All staff shall be suitably trained in relation to the Challenge 21 Policy. All training shall be documented and shall be available to an authorised officer upon request.

There shall be no persons under the age of 18 permitted to remain on the premises after 22.00hrs, unless attending a pre-arranged private function.

10.6 Relevant Representations:

Responsible Authorities

10.6.1 The Police state in their response: Application received 3rd July 2012 from The Sprout Pub Company Limited for a Premises Licence, Black Swan, Trap Street, Lower Withington, Macclesfield, SK11 9EQ. The application is for regulated entertainment, the sale and supply of alcohol and late night refreshments. If granted it will replace the existing licence which does not include regulated entertainment. The proposed Designated Premises Supervisor is Jenny Gibbs. This application meets the four licensing objectives to the satisfaction of the Police. There are no Police objections.

10.6.2 The Environmental Health Department state in their response: Location: Black Swan, Trap Road, Lower Withington, Macclesfield, Cheshire, SK11 9EQ. Proposal: Premises Licence 28th day = 26TH JULY 2012. This Service has considered the above application and wishes to make the following recommendations: The premises are in a rural location with noise sensitive premises in close proximity. The applicant is requesting in sections E & F: live and recorded music indoors and outdoors until 1am. This is not appropriate and it is recommended that no live or recorded music is permitted outdoors in order to protect the amenity of noise sensitive receptors. Such performances should be covered by a Temporary Event Notice. In addition the following should be considered: Prevention of noise:

1. Live and recorded music outdoors is not permitted.
2. Entertainment noise from the premises shall not be audible at the boundary of noise sensitive properties.

Recommendation:

It is recommended that assessments of noise from the premises shall be undertaken by a competent person (either the Licensee or Manager) and any necessary remedial action is undertaken to ensure compliance. These assessments

shall be undertaken during opening hours of the premises and when entertainment or music is occurring. A written record shall be made of those assessments in a log book, kept for that purpose and shall include; the time and date of the checks, the person making them and the results including any remedial action.

3. There shall be notices at all exits from the premises in a place where they can be seen and easily read, notices reminding customers to leave quietly and respect residents on their way home.

4. Doors and windows shall remain closed when live amplified music is being played at the premises.

5. There shall be no disposal of bottles outside the premises between the hours of 21.00 and 09.00.

10.6.3 The Cheshire Fire Service – No response.

10.6.4 Local Planning Authority – No response.

10.6.5 Local Safeguarding Children Board – As Police response.

10.6.5 Health and Safety Officer – No response.

10.6.6 Trading Standards – No response.

Other Persons

10.6.7 The Licensing Authority has received 10 letters of representation from neighbour objectors and a representation from Lower Withington Parish Council as appended to this report.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs N Cadman
Designation: Licensing Officer
Tel No: 01270 685957
Email: Nikki.cadman@cheshireeast.gov.uk

APPENDICES

Appendices 1 – 10 Letters from Neighbour Objectors.
Appendix 11 – Letter from Lower Withington Parish Council.
Appendix 12 – Map of area.
Appendix 13 – Summary of Existing Premises Licence
Appendix 14 – Letter from Applicant's Solicitors

10th July 2012

Amanda Hinton
Licensing Administrative Officer
Westfields
Middlewich Road
Sandbach
Cheshire
C W11 1HZ

Dear Amanda Hinton

re: Application for a Premises Licence
For the Back Swan, Lower Withington. Ref FO22289

We should be grateful if the Licensing Authority would kindly consider the representation made below in relation to the above application.

-
- We have lived in the same property since 1967 so are aware that in practice the Black Swan has previously conducted its business with reasonable opening hours that seldom extended into the early hours. However the duration and length of the daily opening hours requested in the current Licence Application gives us serious concern in terms of the likelihood of unacceptable late night client and traffic noise.
- The list of regulated activities that the new owners intend to provide from the premises, both inside and outside, coupled with the opening hours associated with those activities seems inconsistent with the declared intent regarding usage of the premises expressed in the principal statement under 'General Description of the Premises'.
- Whilst noting that there is a commitment in the Application that any regulated entertainment that takes place outdoors will terminate no later than 22:00 hours, we would ask the Licensing Authority to take into consideration that in our experience it is the departure of clients and vehicle noise late into the night that becomes particularly noticeable, when at that time we sleep in an otherwise silent rural environment.

- In addition it is hard to comprehend why certain indoor/outdoor proposed activities, for example the exhibition of films, boxing, wrestling, outdoor music are included or are perceived as being in any way acceptable activities for a family friendly public house in what is predominately a quiet rural area.
- Whilst accepting that there may be some occasions when a client requests that a private party/special occasion extends beyond 23:00 hours, the blanket request in the Application for provision of late night refreshments , both indoors and outdoors - (Monday to Sunday 23:00 hours - 01:30 hours coupled with the sale and supply of alcohol between 09:00 - 01:00 hours) is a fundamental issue underpinning our concern. Such consistent late daily opening hours would be likely to regularly increase the level of noise and amount to public nuisance.
- In relation to the construction of an outside pizza oven we would request that the Authority considers a limitation in its operable hours to serve food no later than 22:00 hours.

The General Manager has kindly taken the trouble to introduce herself and speak to those living in close proximity to the Black Swan and she has fully described the way it is intended that the new owners will run their business. Her description was directly in line with 'The General Description of the Premises' within the Licensing Application i.e. a family- friendly traditional public house etc.

Therefore, if the remaining part of the Application (including the withdrawal of the more contentious elements in the list of licensable activities) reflected the intent of usage described by the General Manager and as worded in the "General description of the premises", coupled with a restriction in the daily late opening hours, then we would be less concerned.

In summary we would respectively request that:

- ❖ the Authority reviews the original Application in order that the proposed activities and opening hours are commensurate with the principle contained in the "General Description of the Premises".
- ❖ later opening hours for special occasions are dealt with other than by reliance on extended daily hours listed within the current Application.
- ❖ the location of the Black Swan within a quiet rural community with several houses in very close proximity is taken into consideration.

Yours sincerely

APPENDIX - 2

Licensing Department
Macclesfield Town Hall
Market Place
Macclesfield
SK10 1DS

July 7th 2012

Dear Sirs

Licensing Application - Black Swan, Trap Street, Lower Withington

I write to make comment following sight of Licensing Application for the Black Swan in Lower Withington.
This area is rural and very peaceful.

I have been a resident of _____ for 20 years and have had constructive relationships with all previous owners/operators. There has been a level of noise and nuisance: kitchen fans running and discharging onto _____ land; emptying of bottle bins; some noise from outside eating; deliveries and customer vehicle movement. The operations have, overall, been tolerable and have been managed through at least two expansions. Operating hours have been traditional Public House, closing at 2300.

It is with deep concern, therefore, to see that the licensing application is being made for operation through to 0100 for Regulated Entertainment and Alcohol Sale, and for Late Night Refreshment until 0130 - and overall opening hours from 0800 - 0130. I also note that they have expanded the building footprint to give additional facilities for serving patrons outside.

I have very strong objections to the potential for increased noise and nuisance that will be introduced by the extended hours, the overall increase in trade (due to longer hours and extended facilities) and additional support activity (delivery, refuse removal etc...). These will lead to a significant increase in impact, a large part of which will be during antisocial hours in a quiet rural community and to a property.

I trust that the above is a clear. If further information is required then I would be happy to discuss further. My 'phone number is _____

Yours faithfully

17/7/2012

Dear Sir/Madam,

Ref: F022289 The Sprout Pub Company Limited, The Black Swan,
Trap St, Lower Withington, Macclesfield, SK11 9EQ

My family and I would like to make representations to the Licensing Authority with regards to the above premises.

My property is situated | from The Black Swan, as the crow flies. We purchased the property in 1988 and throughout this time The Black Swan has always been a public house and restaurant. Due to the quiet background noise level of the rural area, we have always experienced some disturbance from patrons arriving and leaving the premises, car doors slamming, laughter etc. This we tolerate for the amenity that the premises provide.

The application for the extended hours licence (late night refreshments from 23:00 to 01:30, entertainment from 09:00 to 01:00, and the sale of alcohol from 09:00 to 01:00) would be totally unacceptable to us. Finishing serving food at 01:30 could see patrons departing the premises at somewhere between 02:00 and 03:00.

The narrow country roads (approximately | amplify the noise of vehicles entering and leaving the premises. Due to the proximity of | to The Black Swan, these vehicles are changing gear and braking as they pass our property at hours that we would expect to be asleep in bed. This vehicle noise would cause disturbance to our sleep.

~~The impact of noise from The Black Swan will cause loss of residential amenity and sleep disturbance, and would become intrusive, spoiling the enjoyment of our own property.~~

The late hours applied for are inappropriate for this rural location and will cause disturbance with car doors slamming, people talking and laughing, people talking when smoking outside (this has been an issue lately) and ringing taxis. All of the above we would find extremely intrusive bearing in mind we have a quiet background noise level, our bedroom windows are always open and after 11:00 it is normally so quiet we can hear the cows grazing in the fields opposite.

Old buildings are not purposefully designed to be insulated against noise and, even with air conditioning and ventilation systems so windows are closed, noise from The Black Swan still disturbs us.

It has been brought to my attention that the Council's Enforcement Officer has served notice on The Black Swan that they have contravened planning regulations by not obtaining permission on 6 counts.

This blatant disregard for authority leaves severe doubts as to whether we can expect The Black Swan to adhere to the conditions of its licence if granted.

Yours Faithfully



The Licensing Authorities,
 Cheshire East Council,
 Macclesfield Town Hall,
 Market Place,
 Macclesfield,
 Cheshire,
 SK10, 1DX.

Dear Council Members,

With reference to the application for a new premises licence relating to the Black Swan in Trap Street, Lower Withington, we are a retired couple, our names are _____, and we live within a hundred yards from the said premises. We have lived here for nearly eighteen years, and during this time, have viewed the Black Swan as a pleasant, well-run public house, and a very welcome amenity for the area, and further afield. However, we feel it would be inadvisable to grant the new licence on two grounds, namely 'public nuisance', and 'public safety'; the prevention of public nuisance and the promotion of public safety both being the said objectives of the East Cheshire Council.

(2)

The prevention of public nuisance

We have seen a copy of a letter to a local resident, from Amanda Hilton a Licensing Administrative Officer, which gives further details of the application. It states that it is intended that the premises will be a family-friendly, traditional public house with an emphasis on food made with quality local produce, and on quality local cask ales. Then follows a list of intended licensable activities which belie the above emphasis and image. They include intended outdoor activities such as Live Music, Recorded Music, Dance, Plays, Films and others - even Boxing and Wrestling is envisaged. These activities are to be allowed between 0800 and 0130 hours, with children and young people present until 22.00 hours, unless attending a 'private function'. It seems self-evident that the noise of such activities, plus the late closing hours and the increased number of patrons leaving late, will cause an unreasonable increase in 'public nuisance' for local residents and beyond.

It is appreciated that the new owners of the Black Swan are well-intentioned, but we suggest that it would not be possible to regulate the noise and traffic adequately, and it would be unsafe to grant such flexibility of licensing hours and licensable activities in this location.

We feel that the atmosphere of pleasure, and enjoyment of the surroundings experienced in this locality, by residents, visitors and patrons of the Black Swan alike, would be lost if this extended licence, and ^{these} licensable activities are allowed.

③

APPENDIX - 4

Public Safety

The Black Swan premises lie on a small, straight, narrow strip of a country road. As there is no special reduction of the legal speed limit, cars often come round the bends at unsafe speeds, a fact to which pedestrians and householders on this strip of road would attest.

On May 7th, 2012 [the front wall of our cottage was almost completely demolished by a car coming round one of the bends too fast, and "misbehaving" from the correct side of the road to the opposite side, when brakes were applied. The wall prevented inroads into the cottage itself, and the car was described as 'a write-off'. Fortunately the three young men in the car were not seriously injured, but suffered shock and minor injuries. The young driver admitted he had taken the bend 'too fast'. About a month later, two witnesses saw another car rebound in a similar way, but this time there were no consequences, and the driver went on his way. Cars exiting from the Black Swan come out on to this strip of road where the visibility is reduced by the nearby bends. We submit that extending the licensed hours on dark nights/early mornings, would not enhance public safety in this location.

In conclusion, we hereby submit our representation for the reasons given above. We oppose a late night extension (but not an earlier morning one), and permission for any licensable outdoor activities which would inevitably lead to increased public nuisance. We think that such flexibility, if granted, would be neither advisable or practicable in this location with its historic country 'pub' and cottages dating back to the late 18th/early 19th centuries, and its atmosphere of peace and beauty enjoyed by many.

Yours Respectfully,

APPENDIX - 5

The Sprout Pub Company Limited trading as THE BLACK SWAN

Application for a Premises Licence reference F022289

I am writing about the above application. My property is _____ of the Public House and any noise from the Pub, the car park and outside area can be clearly heard in my house and garden, with the fields between us acting as a funnel.

I have lived here for forty five years and am worried about the application for the extended hours licence. I am also extremely worried about the outside music.

The road is unsuitable for what they propose; there have been a number of accidents on the Black Swan corner. In addition the noise that the extra traffic will bring late at night is totally unacceptable.

It has always been a popular country pub and we hope it will continue. Please do not let them ruin one of the few unspoilt parts of Cheshire.

Yours Truly,

Tuesday, 17 July 2012

Application for a premises licence Reference F022289

The Sprout Pub Company Limited trading as THE BLACK SWAN

Address: Trap Street Lower Withington Macclesfield SK11 9EQ

Prevention of Public nuisance

I live ¹ the above premises. This is a rural, farming area where most residents are early to bed and early to rise. I am one of them.

My life has been blighted by the unacceptable anti-social behaviour from the clientele of the Black Swan.

Customers do not remain within the curtilage of the premises, they cross the road, stand outside my home, shouting, smoking, using mobile phones and allowing dogs to run loose. This behaviour usually starts from lunch time and continues into the early hours of the morning. This can be as close as within metres of our bedrooms and continue along the whole length of our boundary. I have, in the past, requested these people be quiet and move away, to no avail, resulting in my roof being pelted with stones. The previous management were contacted but took no action. The seating area outside is being extended significantly and will only serve to increase what is an already unacceptable level of noise.

The upstairs of the premises have been changed from residential to commercial with a restaurant being created on the first floor, which will increase footfall. There is no public transport. Therefore, this will lead to an increase in vehicles coming and going; car doors being closed loudly; people shouting; music booming through the evening and beyond closing time.

External lights on the building and car park which should only remain switched on until closing time are often left on all night, turning night into day.

The kitchen is the nearest part of the building to my home, approximately / metres distant, the cooking smells are offensive and the external fan drones away until the early hours and is sometimes left on all night.

As a result of all of the above mentioned intrusive anti-social behaviour I do not sit in the garden nor open the windows, even on the hottest of days, spoiling the enjoyment of my property for me.

I cannot leave my horse grazing in his paddock which is to the rear of our when I am not at home; as he becomes distressed by the same kind of anti-social behaviour we have been subjected to.

I appreciate living near to a public house there will be some noise but I am also entitled to peace and quiet. The proposed opening hours will not do this.

These premises are small, the car park and outside area acts as an amphitheatre and can be heard clearly.

The licensable activities applied for can only increase noise related problems, especially with the growth of readily available "event technology", portable mechanical equipment such as air pumps, generators, etc., which create continuous and oppressive noise. The use of and power of electroacoustic amplification would be excessive indoors or outdoors at these premises.

The impact of noise related problems gives cause to health and well-being issues and sleep deprivation. I need adequate sleep of both duration and quality in order to function properly (Environmental Protection Act 1990, Anti-social Behaviour Act 2003, Noise Act 1995).

It is my understanding that no member of staff from the Black Swan will reside at the premises and cannot, therefore, deal with any late night problems.

Cheshire Licensing policy 8.5 recommends that applicants indicate within the operating schedule "that consideration has been given to the impact the licensing hours applied for will impact on local residents and the surrounding area." Although this is a recommendation there is absolutely no consideration given to residents in this regard by the Sprout Pub Company Trading as the Black Swan, specifically to proposed activities and licensing hours.

Therefore I conclude that the licence appropriate for the Black Swan should be sale and supply of alcohol indoors from 10.00am to 11.00pm, outdoors from 12.00 noon to 7.00pm with hot food indoors until 9.30 and hot and cold food outdoors until 7.00pm.

The hours the premises should be open to the Public: Monday to Sunday 10.00am to 11.00pm. All other licensable activities applied for are inappropriate for what is a small Coaching Inn, in a rural location, should not be granted. Any activities and/or functions outside of these hours, a separate licence should be sought on an ad hoc basis.

The closing time of 11pm should apply to protect my basic human needs. 11pm has a wide social acceptance, especially in a quiet rural area with no public transport. It is a reasonable closing time which strikes a balance between the needs of the business and their customers, on the one hand, and my own needs being a physiological need for sleep and a right to have my basic human needs protected, on the other.

There is a massive amount of building works being undertaken at the Black Swan without the submission of plans to Cheshire East. It has become evident that the owners of the premises have contravened many planning regulations with an obvious disregard for authority. On this basis I am beginning to wonder if a Premises Licence should be issued to this Company at all.

Signed

Tuesday, 17 July 2012

Representation from:

Address:

Premises I am making the representation about: The Black Swan

I am making this representation in a personal capacity

Address of the premises I am making representation about: Trap Street, Lower Withington, Macclesfield, Cheshire SK11 9EQ

Nature of Application: Application for a Premises Licence reference F022289

My representation is with regard to the Licensing objectives "Public Safety" and "To prevent Public Nuisance" and my evidence and reasons are as follows:

Public Safety

The upstairs of this building has been converted to a Restaurant, without Planning Consent. There is only one access and evacuation point from the first floor which is a narrow, steep staircase. Clearly Customers and Staff would be at risk if there were a fire.

To prevent Public Nuisance

Hours of operation

This is a quiet rural area and we feel privileged to live here, primarily because of the quality of residential amenity which I feel we are about to lose. The Black Swan has been here for hundreds of years before our arrival, we therefore tolerate normal operation in the same way that we accept the operation of tractors and other agricultural machinery which go about their business, frequently from 6am and on occasions even earlier. That is the nature of the environment. The proposal to increase the hours is a dramatic and unacceptable shift from the status quo. If agreed it will affect our sleep patterns and our basic human rights to a period of quiet. Each evening we have been relieved at approximately 11pm as the last customers have left the car park allowing us to sleep. Our bedrooms are only away from the nearest part of the Public House and being a they are on the
Therefore what takes place at the Black Swan has an enormous impact on our ability to enjoy retirement.

Noise and vibration

The noise, from the pub is extremely intrusive with customers shouting to each other as they leave with car doors slamming and engines being revved in an exaggerated manner. This is particularly prominent given the normal tranquillity of this part of the countryside, with its low background noise levels. There are two issues; one is the blatant encouragement by the new business owners to expand its operation to the outside area of the building. The second one is the extension of the operation into anti-social hours. It will not be the same group of customers staying at the premises for longer, but a separate clientele arriving after most local pubs have closed, to enjoy the later hours. Consequently traffic volumes on what is a narrow country lane will increase dramatically and so will there be an increase in noise as a direct result. There is, of course, no public transport.

All I want to do is to enjoy my home and garden which this proposal will prevent me from so doing

When it was last in operation a few customers would venture outside, generally if there was a smoker in their party or someone wishing to make a telephone call on a mobile device. Despite the low numbers the noise was at very high levels, with people talking, shouting and laughing, this will increase with the encouragement to eat food prepared outside.

Hitherto there has never been music of any nature played or performed outside the premises. Such practice really does not fit into this area and would be totally unacceptable, after all none of the neighbouring properties ever have music playing outside their homes, my representation would be that the Black Swan should not be permitted to breach this protocol.

Noxious smells

The kitchen is the closest part of the building to our property, the extractor fan emits kitchen smells during the period the premises are open. To extend the period of operation beyond what we tolerate currently would be unacceptable. In addition we have never been subjected to the smell of cooking outside the premises, but with the construction of a Pizza oven this will no longer be the case. To my knowledge traditional pizza ingredients include garlic, onion and strong smelling cheese; these ingredients emit a pungent smell when cooked. Incidentally this practice does not fit with their general description of the premises, which in the forward to their licence application: "food made with quality local produce" none of the aforementioned ingredients are produced locally.

Light pollution

External lighting has in the past been subdued. Judging by the number of lighting cable feeds that have appeared, approximately eight in number at the front elevation alone, I suspect that this will no longer be the case. If these external lights were to remain on after 11pm this would, in this vicinity, result in serious and unacceptable light pollution

I would suggest the following conditions that could be added to the licence to remedy my representations:

Opening hours to extend to 11pm at the latest, every evening with the exception of New Years Eve

No performance of plays indoors or outdoors. No exhibition of films indoors or outdoors. No Boxing or Wrestling indoors or outdoors. No live music to take place indoors or outdoors. No recorded music to take place indoors or outdoors. No performance of dance to take place indoors or outdoors. No provision of facilities to make music to be available indoors or outdoors. No provision of facilities for dancing to take place indoors or outdoors, No late night refreshment to be available indoors and outdoors between 11pm and 1:30am. Nothing, similar to the above, to take place indoors or outdoors.

The building is not conducive to noise retention due to its age and construction. Additionally, there is no ventilation or air conditioning, with the only method of cooling the atmosphere is by the opening of windows.

I would also appreciate the Licensing Sub Committee to take into account the following:

I am truly concerned about the sincerity and reliability of the assurances given by the Sprout Pub Company Limited to the Licensing authority in their Premises Licence application. The Company was formed in February of this year. A short track record of this Company is one which has commenced to alter the premises in clear breach of planning laws as identified by the East Cheshire Enforcement Officer, Mr Vincent Farrell who, on the 12th July 2012 instructed the builders to stop work as they are in breach of Planning Regulations and need to submit plans to Cheshire East Council for their approval.

Clearly, the owners are not intent in being compliant with the laws that the majority of us respect. How can we expect that they will observe and not contravene any conditions imposed on a licence?

Finally, I sent an e-mail to a director of the Company to the e-mail address which was stated outside the Black Swan, I enclose a copy. They failed to reply for a period of 13 days and then did not answer my question, merely offered an apology and a meeting. Is this the way they intend not to cause disturbance to local residents, or to deal with any complaint put to them in the future. I understand that no one will reside on the premises as they have, without planning consent, changed the use of the upstairs from residential: owners accommodation, to commercial: a restaurant.

I do intend to attend any hearing of the Licensing Committee

Signed

Tuesday, 17 July 2012

FROM:

TO: enquiries@swanhotel.com

Hide Details

Thursday, 21 June 2012, 23:04

Hello,

My wife and I live on Trap Street close to the Black Swan. First of all, welcome and congratulations. We are both delighted to discover your plans to establish a business of a similar standard to the Swan at Newby Bridge. We wish you every success. We are tempted to be nostalgic and refer back to the times that Graham and Judith Holland owned the Pub and upheld very high standards of cuisine with respectable and respectful clientele.

The main purpose of contacting you is to try to discover when the building work will be complete. It has recently been unreasonable, particularly at weekends where we would welcome a restoration of normality. The recent Jubilee Bank holiday weekend was unbearable. We had invited friends over to stay with us for the Sunday, Monday and Tuesday of that weekend, an occasion which was 6 months in the planning, only to have to decide to abort on the Saturday and contact them all to tell them not to come. This was due to the noise of a compressor which operated on all 4 days. We assume it was an opportunity taken by your builders at a time when the remaining workforce would be absent. Clearly no one else could have operated in those conditions.

We appreciate this is a temporary situation, but our right to enjoy the peace of country life appears to have been ignored particularly at week-ends and especially the weekend of national celebration, everywhere else, but here!

Nevertheless we do look forward to the finished article and sincerely hope that you are succesful.

Good Luck

APPENDIX - 8

18th July 2012

Amanda Hinton,
Licensing Administrative Officer,
Cheshire East, Council,
Westfields,
Middlewich Road,
Sandbach,
Cheshire
CW11 1HZ

Dear Ms Hinton,

**Re: Application For a Premises Licence at The Black Swan,
Trap Street, Lower Withington, Macclesfield. SK11 9EG**
Ref: F022289

We write in connection with the above application by the Sprout Pub Company and challenge the application on the provision of late night refreshment and regulated entertainment between the hours of 2300 and 0130hrs.

Firstly and most importantly the area of _____, which The Black Swan is situated in, is a rural area of extremely quiet background noise. In this area outside activities at Capesthorne Hall and Congleton both miles away are all audible. Noise travels large distances and any noise, music, cars leaving the premises, general background noise from any outside activity in the early hours, generated between 2300 and 0130 would be unacceptable to local residents. I would draw your attention to an outside pizza oven and converted stables for an eating area which could, if the current licence application was approved, be operated until 0130hrs. The noise generated would be intrusive and be a loss of residential amenity.

Secondly, we understand parking at The Black Swan will now be limited to 27 car parking spaces ie approx 54 people. The narrow derestricted country road outside The Black Swan is on a series S bends and is already a dangerous section of highway. Parking on this road at any time let alone between the hours of 2300 and 0130 would be accidents waiting to happen and must be discouraged.

Thirdly, the application clearly states that "whilst it is not anticipated that the premises will host regulated entertainment with any degree of entertainment with any degree of frequency, it is anticipated that events will be hosted on occasion, so the permissions are sought on the flexibility

to do so". This may be the case but gives the operators "carte blanche" to operate live music, refreshments, dancing, etc. every night up to 0130hrs. There are already channels for extended licence applications to the correct authority so blanket conditions to give flexibility are not required.

Fourthly, the new owners do appear to be setting out to alienate the resident population who are anxious for The Black Swan to offer good food and amenable facilities within the local area. Surely, these are potential repeat business customers who will help to ensure the success of this venture.

We understand that there are six planning infringements already and that enforcement notices have been served. One wonders with this level of disregard for planning authority whether the conditions of any licence issued will be adhered to.

Yours sincerely,

Cheshire East Council,
Macclesfield Town Hall,
Market Place,
Macclesfield,
Cheshire,
SK10 1DX.

10/07/2012.

Licensing Application for The Black Swan

A residents view.

Dear Sirs,

We are confused and concerned by the numerous inconsistencies and contradictions which make up a large part of the new owners application for a late night licence in relation to the above. It is impossible for us to know what kind of establishment we might have to live with should such a licence be granted.

In their submission the applicants say "it is intended that the premises will be a family-friendly, traditional public house with an emphasis on food made with quality local produce," they then go on to present a list of licensable activities which would seem to be totally out of character with their stated intention.

We cannot for instance, see any clear link between "family-friendly" and late night drinking and we struggle with the concept of a traditional country pub and entertainments which include things like boxing and wrestling.

In their application. The new owners have readily acknowledged the need to satisfy the four licensing objectives, volunteering, under the heading of Public Nuisance, "that any regulated entertainment which takes place outdoors will terminate no later than 22:00 hours" They then immediately seek formal licence to introduce no less than 10 different forms of entertainment "to take place both indoors and outdoors - Monday to Sunday 09:00 to 01:00 hours"

In a recent conversation with the new management representative about the "dreaded" list we were assured that there would never be any intention to do half of the things listed and that the potentially controversial activities had only been included to provide flexibility ??? We simply don't know what this means but it certainly does nothing to allay our concerns. During our conversations, mention was made of some newly built Pizza ovens and of the attraction these may hold for people who could have been drinking elsewhere and who might then think it a good idea to enjoy a late night Pizza at the Swan. We were given the absolute assurance that this could not happen because food would never be served outside after 21:00 hours. It is difficult to reconcile this with an application which specifically refers to "Late Night Refreshments to take place both indoors and outdoors Monday to Sunday 23:00-01:30 hours"

We have no idea what the new owners real intent might be, but we at least, can be unambiguous in expressing our concerns which obviously centre round noise and disturbance in general, and late night noise and disturbance in particular.

Because the area is small and because local people are thin on the ground, it is clear that the new owners will have to rely heavily on a sizeable and regular influx of people, living further afield, driving into and out of the village, perhaps late at night on unlit, narrow roads for late night food or merely to enjoy the extended drinking hours

In a part of the world where the levels of background noise are practically zero, any increase in traffic noise, car park associated noises and conversations etc. in the early hours of the morning, cannot fail to have significant impact on the local communities right to a peaceful existence and to undisturbed sleep in their own homes.

We are sceptical and reluctant to believe that the promised notices however prominently displayed, will significantly reduce the "noises of departure" between groups of friends who, having come to the end of a good night out are saying their goodbyes and preparing to drive off, usually with some exuberance and nearly always using more engine revs. than could ever be justified.

There is a secondary concern that premises which have hitherto been licensed, primarily for indoor activity, could now become licensed for outside activity, at any time of any day and with no specific restriction on volume. This might not go down too well with someone trying to enjoy their garden on an otherwise pleasant summer day.

Finally we have always been afraid of being confronted with the "fait accompli" situation which could easily follow on from the fact, that most of the development work has already been completed by the new owners who, on the face of it, would appear to be either reckless or very firm in the belief that their application is irresistible, that it cannot fail and that licenses will be granted without amendment to the application.

We take comfort then; from your offices recent advice that our reservations will have due consideration before decisions are reached as to whether a late night licence really would be appropriate in a small village, where a local need has never been established and where the only possible beneficiary would seem to be the licence holder

Cheshire East Council Licensing Authority
Macclesfield Town Hall
Market Place
Macclesfield
SK10 1DX

23rd July 2012

Dear Sirs,

The Black Swan Lower Withington: Application for a premises licence.

We live within half a mile of the Black Swan (in a straight line) and can see the pub from our property. Therefore, we are within direct line of sight and sound and vehicles accessing the premises are also within half a mile and within sight and sound. The area is of rural character and is served by narrow country lanes. It is a peaceful, quiet community.

We are concerned by the recent application for a premises licence and wish to make representation as below:

There are four licensing objectives: the prevention of children from harm; public safety; the prevention of crime and disorder; the prevention of public disorder.

We believe that the application will have potential impact in the observance of these objectives, primarily as a consequence of the late hours application (09:00 to 01:00 each day) for the sale of alcohol and permitted opening hours of 08:30 to 01:30 each day. This is exacerbated by the application for regulated entertainment (music) from 09:00 to 01:00 each day and for late night refreshment from 23:00 to 01:30 each day. Given the rural location of the Black Swan and such trading hours, many customers may well be attracted from the surrounding towns, giving rise to significant traffic and noise levels.

We have no objection to the pub operating within normal licensing hours i.e. 23:00 closing. Indeed we welcome a vibrant well run facility for the enjoyment of all.

However, the potential for regular late night drinking, eating and entertainment offers the prospect of significant disturbance and **public disorder** with the possibility of noise until 02:00 daily causing sleep disturbance and loss of residential amenity. This is particularly so against a low background noise level and the fact that sound travels further in a rural location.

Late night drinking and entertainment also brings the prospect of risk to **public safety** and of **crime and disorder** if significant numbers of customers have been drinking throughout the day either at the premises or having arrived from other licensed premises, which have closed earlier in the day.

The late night opening and rural location may also attract under-age customers, which may pose a risk under the objective to **prevent children from harm**.

Such activities and operating hours will inevitably place additional demands on the local police. It is also questionable if there will be sufficient suitably trained staff available throughout these trading hours and activities to properly supervise the premises and the behaviour of customers to ensure **public safety; prevent public disorder**, and ensure no under-age drinking.

The narrow country lanes give potential for **public safety** concerns with significant numbers of vehicles arriving and departing the premises throughout the day and night. This will also cause significant noise and therefore disturbance to local residents.

In summary, we question the need for a licence for such long opening hours combined with long hours to serve alcoholic drinks, late night refreshment and regulated entertainment in such a quiet and "out of town" rural location, which is clearly a drive to destination. On the other hand, a well run premises with normal trading hours and perhaps a restricted (in terms of hours and number of occasions) entertainment licence would be a welcome addition to the community and one that in previous incarnations has been positively received. The current application is too broad and out of context with the location and environment and is potentially at odds with the four licensing objectives.

Yours faithfully,

Lower Withington Parish Council

**Lapwing Barn
Salters Lane
Lower Withington
SK11 9LL
23 July 2012**

Dear Sir/Madam

Application for a premises licence by The Sprout Pub Company Limited, in relation to the Black Swan, Trap Street, Lower Withington, Macclesfield SK11 9EQ.

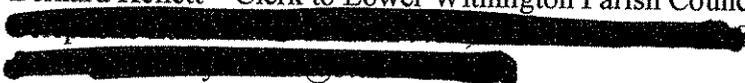
Please find attached a letter on behalf of Lower Withington Parish Council objecting to the above application.

Yours sincerely



Bernard Kellett
Parish Clerk
Lower Withington Parish Council

Bernard Kellett – Clerk to Lower Withington Parish Council



Cheshire East Council
Macclesfield Town Hall
Market Place
Macclesfield
Cheshire SK10 1DX
23 July 2012

Dear Sir/Madam,

I am writing on behalf of Lower Withington Parish Council with regard to the application for a premises licence by The Sprout Pub Company Limited, in relation to the Black Swan, Trap Street, Lower Withington, Macclesfield SK11 9EQ.

The Parish Council wishes to object to this application, as a council and on behalf of residents who have raised issues with the councillors regarding the application.

Our objection relates to one of the four licensing objectives, namely: ***Prevention of public nuisance – this can relate to hours of operation, noise and vibration, noxious smells, light pollution and litter.***

The Sprout Pub Company Limited has applied for licensable activities as follows:

The sale of alcohol from 9a.m. until 1a.m. every day

Regulated entertainment from 9a.m. until 1a.m. each day

Late night refreshment from 11p.m. until 1.30a.m. each day

Permitted opening hours of 8a.m. until 1.30a.m. each day

The Black Swan is situated in a quiet, rural area and is located opposite a number of residential properties. Vehicular access is only possible via Trap Street (off the B5392), Trap Road and Messuage Lane – the latter roads being narrow and largely unsuitable for high volumes of traffic.

Permitting opening hours as stated in the application are likely to result in the following:

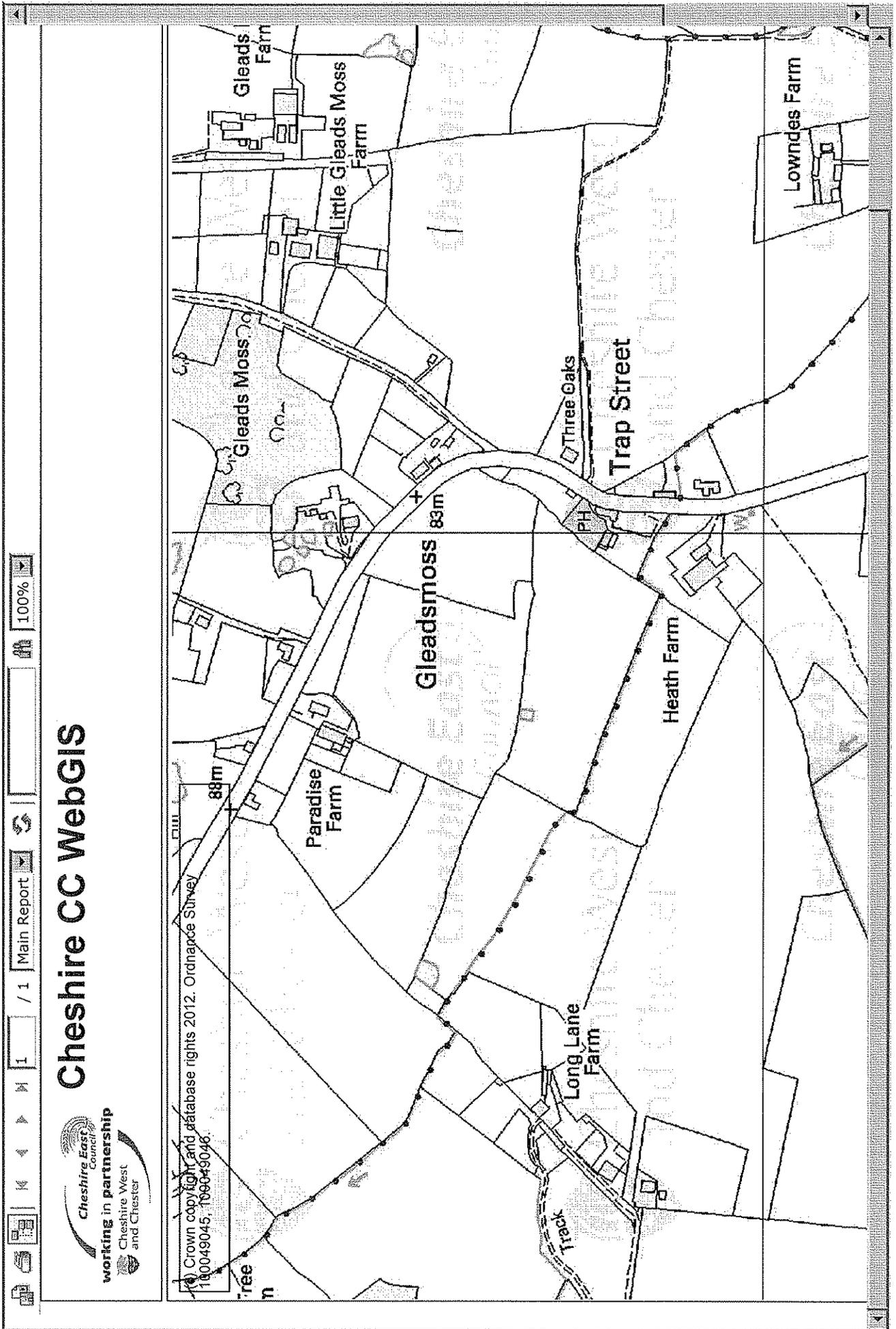
- Considerable noise from late night revellers and vehicles entering and leaving the premises.
- An outside eating area is apparently being constructed that will require outside lighting, creating additional light pollution and the potential for noise occurring into the small hours.
- Late night entertainment (presumably music) will create additional noise and disruption for local residents.

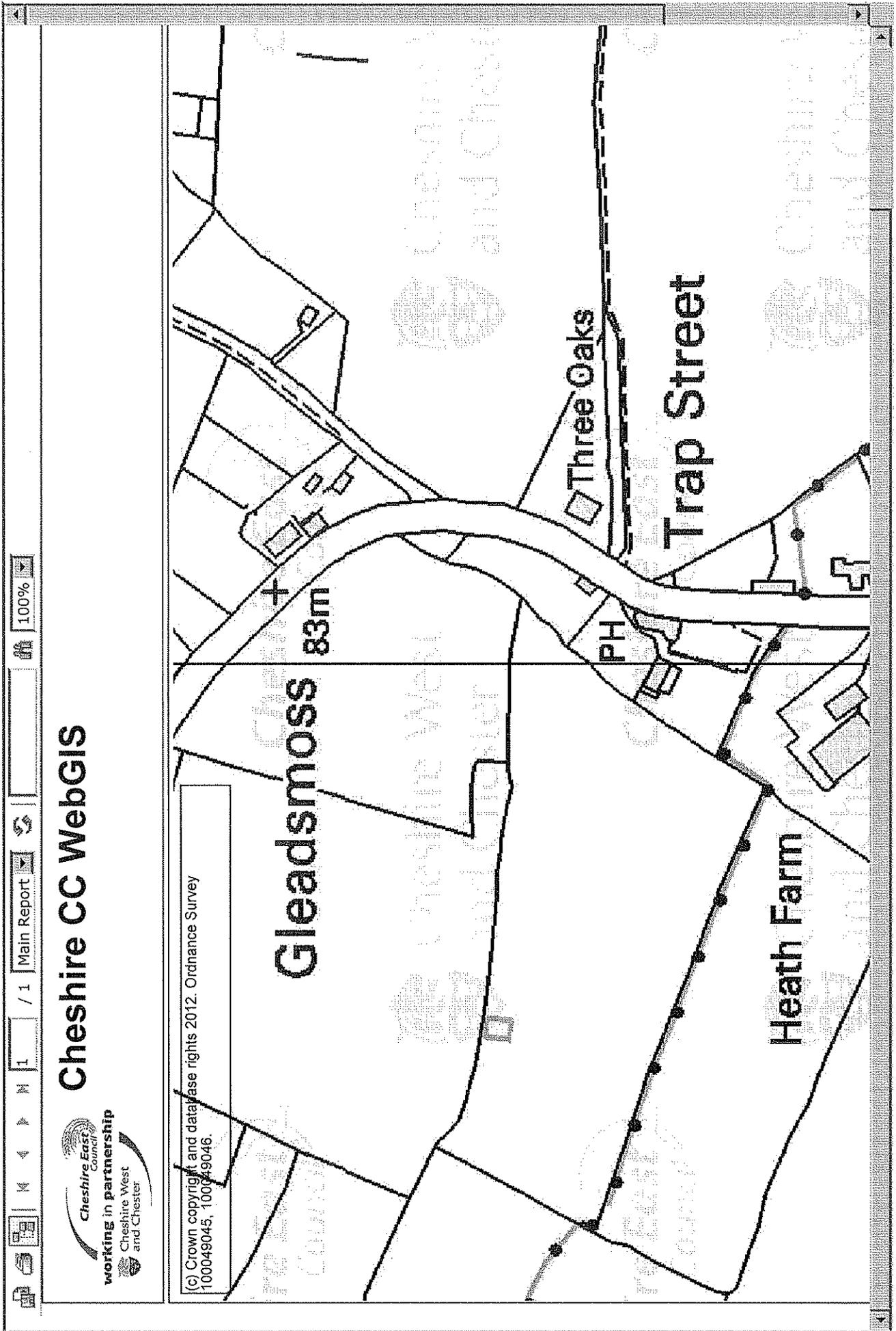
In the opinion of Lower Withington Parish Council this application should be rejected.

Yours sincerely,



For and on behalf of Lower Withington Parish Council







Premises Licence Summary

Premises Licence Number:

PR/0302

Premises Details

Postal address of Premises or, if none, ordnance survey map reference or description:

Black Swan
Trap Street
Lower Withington
Macclesfield
Cheshire

Post Town: Macclesfield

Post Code: SK11 9EQ

Telephone Number: 01477 571602

Where the Licence is time limited, the dates:

Not applicable

Licensable activities authorised by the Licence:

Recorded Music
Sale and supply of alcohol
Late night refreshment

The times the Licence authorises the carrying out of licensable activities:

Recorded Music

For time premises are open to the public

Sale and supply of alcohol

Monday to Saturday	10.00 to 24.00
Sunday	12.00 to 23.30
Good Friday	12.00 to 23.30
Christmas Day	12.00 to 23.30

From the end of permitted hours on New Years Eve to the commencement of permitted hours on New Years Day.

Subject to conditions 1, 3 of Annex 2.

Late night refreshment

Monday to Saturday 23.00 to 00.30

Sunday 23.00 to 24.00

Good Friday 23.00 to 24.00

Christmas Day 23.00 to 24.00

From the end of permitted hours on New Years Eve to 05.00 on New Years Day

The opening hours of the Premises:

Not known

Where the Licence authorises supplies of alcohol, whether these are on and/or off supplies:

For consumption either on or off the premises

Name, (registered) address of holder of Premises Licence:

Ms Jenny Gibbs

Registered number of holder, for example company number, charity number (where applicable):

Not applicable

Name of designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol:

Ms Jenny Gibbs

State whether access to the Premises by children is restricted or prohibited:

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

(1) He is the child of the holder of the premises licence.

(2) He resides in the premises, but is not employed there.

(3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

(4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

Signed by

On behalf of Cheshire East Borough Council

Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under this Premises Licence –
 - (a) at a time when there is no designated premises supervisor in respect of the Premises Licence, or
 - (a) at a time when the designated premises supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under this Premises Licence must be made or authorised by a person who holds a Personal Licence.

LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010**MANDATORY CONDITIONS****Condition 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.

Condition 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).

Condition 3

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

CONDITIONS 4 & 5 APPLICABLE WITH EFFECT FROM 1ST OCTOBER 2010**Condition 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.

Condition 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;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures

Annex 2 - Conditions consistent with the Operating Schedule

1. Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.

b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.

c. On Good Friday, 12 noon to 10.30 p.m.

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

g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

2. The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (h) the taking of alcohol from the premises by a person residing there; or
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- (j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

3. Alcohol may be sold or supplied for one hour following the hours set out above and on Christmas day, between 3 p.m. and 7 p.m. to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

4. Where there is provided in the Premises an entertainment for children, or an entertainment at which the majority of the persons attending are children, then, if the number of children attending the entertainment exceeds one hundred, it shall be the duty of the person providing the entertainment to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate, and to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and to take all other reasonable precautions for the safety of the children

5. Where the occupier of the Premises permits, for hire or reward, the Premises to be used for the purpose of an entertainment, he shall take all reasonable steps to secure the observance of the provisions of condition 4 above.

6. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (1) He is the child of the holder of the premises licence.
- (2) He resides in the premises, but is not employed there.
- (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary. In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for

the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

None

Annex 4 - Plans

Please see attached

Direct Dial: [REDACTED]
Email: [REDACTED]
Date: 1st August 2012



naphthens
solicitors

Our Ref: MFI/SEF/THE0586-0001
Your Ref:

Greenbank Court, Challenge Way
Greenbank Business Park
Blackburn, BB1 5QB
T: 01254 667733
F: 01254 681166
E: Blackburn@naphthens.co.uk
W: naphthens.co.uk
DX: 745450 Blackburn 12

To Whom It May Concern

To Whom It May Concern

**Re: The Black Swan, Lower Withington
Application for a New Premises Licence**

I have been instructed by the Applicant in relation to the above matter and as such, I have had sight of your objection to the application for a premises licence.

As you may already be aware, the Licensing Act 2003 (which is the primary piece of legislation governing matters such as this) and the associated Guidance strongly encourage a spirit of "partnership working", with open lines of communication between applicants, responsible authorities, local businesses and local residents. In addition the operators of the Black Swan have a genuine desire to work with local residents rather than against them.

For the above reasons, the proposed premises licence holders are keen to meet with those who have objected to the application in order that they can explain their intentions for the premises and the rationale behind the application, and also so that they may listen to the concerns of residents and explore any ways in which they can be addressed to the satisfaction of all parties.

To facilitate this, the proposed premises licence holders are proposing a meeting for all parties. It is proposed that the meeting will take place on Tuesday 7th August at 19.00 and your attendance would be very much appreciated. A venue has been organised and it is proposed to hold the meeting in the Lower Withington Parish Hall situate at Salters Lane, Lower Withington, SK11 9DY. I am away on annual leave until Sunday 5th August, but would be grateful if you would contact Samantha Faud on [REDACTED] to confirm whether or not you are able to attend. Should you wish to discuss the matter with me you can contact me at any time on my mobile, the number for which is [REDACTED]. I can also be contacted through e-mail, the address for which appears above.

I look forward to hearing from you.

Yours sincerely



Malcolm F Ireland
Head of Leisure & Licensing
for Naphthens LLP, Solicitors

Naphthens LLP. Registered office: 7 Winckley Square, Preston, Lancashire, PR1 3JD.
Naphthens LLP is a limited liability partnership registered in England and Wales: No OC325775.
The term "partner" indicates a member of Naphthens LLP who is not in partnership for the purposes of the Partnership Act 1890. A list of members is available from our registered office. Authorised and regulated by the Solicitors Regulation Authority. Firm No 462103 This firm does not accept service by email



**INVESTORS
IN PEOPLE**