

Northern Area Licensing Sub Committee

MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 30 NOVEMBER 2021 AT THE LARGE HALL, CALNE TOWN HALL, THE STRAND, CALNE SN11 0EN.

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin and Cllr Kevin Daley

Also Present:

14 Election of Chairman

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

- **To elect Councillor Allison Bucknell as Chairman for this meeting only**

15 Apologies for Absence/Substitutions

There were no apologies for absence.

16 Procedure for the Meeting

The Chairman asked if anyone present wished to withdraw from the meeting. All parties confirmed they wished to remain in and take part in the Sub Committee hearing.

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 to 10 of the Agenda refers).

17 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

18 **Declarations of Interest**

Cllr Allison Bucknell declared that due to Cllr Jacqui Lay's illness she was currently covering the Purton community area as a Wiltshire Councillor, but had received no expressions of interest from any local residents or parties re the Pear Tree, Purton.

19 **Licensing Application**

Application for a Variation of a Premises Licence in respect of The Pear Tree, Purton made by Venue Catering and Events Ltd

Licensing Officer's Submission

The Sub Committee gave consideration to a report (circulated with the Agenda) in which determination was sought for an application for a variation of a premises licence, presented by Jemma Price (Public Protection Officer – Licensing) for which 20 relevant representations had been received. The application was for the following licensable activities:

Addition of a Noise Management Plan (NMP) to be approved by the local authority to mitigate noise nuisance for local residents.

Supply of alcohol for consumption ON and OFF the premises, Monday – Sunday inclusive.

The supply of alcohol for residents and their bona-fide guests 24 hours daily, Monday to Sunday inclusive.

The supply of alcohol within all areas inside and out as per the property boundaries, as per the attached site plan.

Late night refreshment – 23:00hrs to 05:00hrs Monday to Sunday inclusive.

Regulated Entertainment indoors (both live and recorded music) 10:00hrs to 01:00hrs, Monday to Sunday inclusive (but subject to reduced hours as detailed within their specific sections).

Acoustic music outdoors until 19:00hrs.

Removal of Annex 2A – Converted conditions.

Licensable Activity	Timings	Days
Live music (Indoors and Outdoors)	10:00hrs to 01:00hrs	Monday to Sunday
Recorded Music (Indoors and Outdoors)	(Indoors) 10:00hrs to 19:00hrs	
Non-Standard Timings	(Outdoors)	Monday to Sunday

New Year's Eve to be extended from the normal terminal hour on New Year's Eve (into New Year's Day) until the normal commencement hour on New Year's Day.	10:00hrs to 01:00hrs (Indoors) 10:00hrs to 19:00hrs (Outdoors)	
Provision of late-night refreshment (Indoors and Outdoors)	23:00hrs to 05:00hrs	Monday to Sunday
Sale by retail of alcohol for consumption both ON and OFF the premises		
Non-Standard Timings New Year's Eve to be extended from the normal terminal hour on New Year's Eve (into New Year's Day) until the normal commencement hour on New Year's Day.	10:00hrs to 01:00hrs	Monday to Sunday

It was noted by the Sub Committee that there were three options available to them:

To grant the licence as applied for.

To modify the conditions of the licence.

To reject the whole or part of the application.

The following parties attended the hearing and took part in it:

On behalf of the Applicant

Angus Hastie – CEO, The Pear Tree, Purton

Carl Bruder – Applicant's Solicitor

James Rankin - Applicant's Barrister

Scott Bradbury – Bar Manager, The Pear Tree, Purton

Sarah Sweeney – DPS, The Pear Tree, Purton

Relevant Representations

Stephen Lloyd - 8 Church End, Purton

Sue Jenks - Old Coach House, Church End, Purton

Mike Tedstone, - 3 Church End, Purton

David Nettleton - 4 Church End, Purton

Ray Thomas - Purton Parish Council

Mary Nettleton - 4 Church End, Purton

Chris Jenks - Old Coach House, Church End, Purton

Responsible Authorities

Tessa Hares - Environmental Health Officer (EC&P), Public Protection, Wiltshire Council

Linda Holland – Licensing Manager, Public Protection, Wiltshire Council

The Chair advised that the written representations had been read and considered by the members of the Sub Committee in advance of the meeting. The Chair invited the Applicant to introduce their application.

Applicant's submission

The Applicant Mr Hastie and Mr Rankin spoke in support of the application.

James Rankin advised that:

That the applicant apologised to local residents for the issues that occurred, and that a letter that had been sent to local residents had been poorly written and was inexcusable.

That there was a genuine desire to find common ground to address the problems that had arisen.

That moving the music from the Orangry to the Bartlett room had made a positive change, and that the applicant should have spoken with Licensing officers at that stage.

That the applicant felt that any couples booking the venue, then arranged the event - this event then did not need a licence and was non-ticketed.

Off sales – that if a wedding was pre-paid, then the alcohol was provided, and then did not need a licence, bar sales would however still be licensable.

That the views of the residents were now noted by Mr Hastie.

That there had been a number of wedding events after the ending of the first lockdown were there had been some anti-social behaviour, but that Mr Hastie had made changes to try and appease the local residents.

That the acoustic report, contained on page 152 of the agenda pack was outlined.

That the applicant was keen to build bridges with local residents.

Angus Hastie advised that:

He hadn't appreciated the manner that the Pear Tree had dealt with local residents re noise issues.

That better lines of communication had now been instigated, with residents having Angus Hastie's phone number and email address.

That he was looking at how the Pear Tree dealt with issues internally.

That the Pear Tree now had a dedicated phone line for the duty managers to have on them at all times – for an immediate response to issues raised by local residents.

The Noise Management Plan, contained on page 152 of the agenda pack was outlined.

That the Pear Tree had responded in a very positive manner to the issues that had been raised.

That the business only had a viable future if it could exist happily with local residents.

That work was ongoing re an acoustic fence, with maybe adding a Cotswold stone wall to further help deaden noise from the venue.

That car parking outside the premises on the verges on public highway outside of the venue shouldn't happen again – that guests would be asked to move if parked there in future.

That the venue looked at a better way of handling the booking local taxi operators, with people asked to wait in the building when using taxis after an event.

Sub Committee Member's questions

Noise management plan – do you have a version with all amendments contained?

a. Not at the moment, a completed plan would be drawn up.

lawn terraced area – would it be mapped out, it seems a bit vague?

a. Yes, this would be mapped out. A defined area was mapped out for consumption of alcohol, looking at estate fencing to encourage guests to remain in those areas.

Are you aware that you can only have one DPS?

a. Yes

Where was the smoking area?

a. After 10:30pm the smoking area was the courtyard, contained in the built up area.

The other parties were asked if they had any questions for the Applicant.

Stephen Lloyd – Would background levels of noise be defined, could you carry on a normal conversation?

a. There was no set defined level of what was background music.

Would there be a defined event finishing times?

a. Yes, by 12:30am.

Peter Andrews – Risk assessments, we have seen none of these – what's happening on this?

a. Not covered under this licensing Hearing.

David Nettleton – Noise Managements Report – why propose an outside area for alcohol consumption where people would obviously gather?

a. The venue would have dedicated staff monitoring this situation.

Sue Jenks – That the Pear Tree was in a quiet rural area, not an urban area.

Relevant representation to address the Sub Committee in support of their representation were then given.

Peter Andrews – That sound levels of 95db would cause harm to staff working at the Pear Tree.

How would noise limiters work with live bands etc?

Acoustic fencing would only reduce noise on a minimal level.

Stephen Lloyd – That the acoustics of the area were difficult.

That there were concerns re people leaving walking when they were drunk.

Would like to see a defined db level for the outside area.

Sue Jenks – That this business would cause noise issues.

That residents felt that the Pear Tree had devalued their homes.

The noise from the Pear Tree that we objected to was people noise, not music. The venue hadn't focussed enough on human noise, there was still noise even when people were asked to tone their behaviour down.

Mike Tedstone – That there were concerns re mis-selling, that the Pear tree was something that it isn't - not a substantial building in its own grounds as its billed on their web site. The owners need to recognise that the premises was totally un-suitable for large outdoor events.

David Nettleton – That the closeness of the venue and residential properties could not be stressed enough.

That the venue had continued to operate as if it had the respective licenses.

That environment noise assessment had not been fully implemented – noise levels outdoors had been un-acceptable on multiple occasions.

That there was no confidence that the venue could properly manage noise issues.

Ray Thomas- Purton Parish Council – That the Parish Council have received multiple complaints re human and music noise from the Pear Tree

That the Parish Council understood that the business needed to be viable to trade, but not at the cost of the local residents.

Mary Nettleton – Was not expecting the venue to management changes in the future in a positive way.

That the venue management acted like they could do what they wished.

That there were concerns that as soon as the good weather returns guests would be back outside making a noise nuisance again.

Chris Jenks – Had concerns that nothing in the proposal would lead to any positive changes being made.

Tessa Hares - Environmental Health Officer (EC&P), Public Protection, Wiltshire Council advised that:

That there were concerns re the noise survey report.

That Wiltshire Council were un-aware of who was carrying out the survey until the report was received.

That the noise survey monitoring was un-attended and un-verified.

That the survey report does not cover what is needed in the opinion of Wiltshire Council.

That Wiltshire Council officers would have been happy to work with the Noise Consultant carrying out the survey.

That Wiltshire Council noted the concerns re human noise.

That further monitoring was required – a different scenario when more people were outside, and the need to monitor real noise.

Questions to Tessa Hares

How long would you expect to resolve these issues?

a. Would need to work with the noise monitoring consultant to carry out further noise monitoring – 3 months would be reasonable.

Had the noise consultants worked with Wiltshire Council officers, might we have had a different outcome?

a. Yes

Angus Hastie advised that the venue had encountered issues trying to get the results of the Consultant's findings due to him being ill.

Linda Holland – Licensing Manager, Public Protection, Wiltshire Council advised:

That it was hard to understand why the venue did not think that all the changes made to the premises would not need any licence amendments.

That the venue should have been more aware of their obligations re licensing regulations.

That the venue's Section 172F licensing does not appear to have been carried out in accordance of the regulations.

Queries re the revised Pear Tree building plans.

Was disappointed with the level of engagement with local residents.

Expected strong robust management of the premises.

The Applicant and his representatives had no further questions for those in attendance who made relevant representations.

Those in attendance that had made relevant representation were given the opportunity to make any closing submissions.

Peter Lloyd – that the applicant’s company owned twelve similar businesses, but couldn’t follow the said rules, was not confident that they would make the necessary changes to the Pear Tree and the way that it was managed in future.

There were no more questions or points of clarification from any party.

The hearing was then adjourned to allow the Members of the Sub Committee to deliberate.

Decision

The Northern Area Licensing Sub Committee RESOLVED to GRANT the application for the variation of the Premises Licence as detailed below and subject to the following conditions:

Licensable Activity	Timings	Days
Live music (Indoors and Outdoors)	10:00hrs to 00:00 (Indoors) 10:00hrs to 18:00hrs (Outdoors)	Monday to Sunday
Recorded Music (Indoors and Outdoors)	10:00hrs to 00:00 (Indoors) 10:00hrs to 18:00hrs (Outdoors)	Monday to Sunday
Non-Standard Timings New Year’s Eve to be extended from the normal terminal hour on New Year’s Eve (into New Year’s Day) until the normal commencement hour on New Year’s Day.	From 00:00 until 01:30	
Provision of late-night refreshment (Indoors and Outdoors)	23:00hrs to 00:30hrs	Monday to Sunday

<p>Sale by retail of alcohol for consumption ON the premises</p> <p>Non-Standard Timings New Year's Eve to be extended from the normal terminal hour on New Year's Eve (into New Year's Day) until the normal commencement hour on New Year's Day.</p>	<p>10:00hrs to 00:00hrs</p> <p>From 00:00 until 01:30</p>	<p>Monday to Sunday</p>
<p><i>Hours open to the public (not licensable)</i></p>	<p>10:00hrs to 00:30hrs</p>	<p>Monday to Sunday</p>

Subject to the following conditions:

1. ON sales only are permitted in the areas marked in green and red on **Plan 1**, the area marked in purple on **Plan 2** and the area marked in green on **Plan 3**
2. Amplified Live and recorded music will not be permitted indoors in the area marked in red on **Plan 1**.
3. Non-amplified live and recorded music at a background noise level is only permitted in the area marked red on **Plan 1** and the area marked in purple on **Plan 2**.
4. Training
 - a. All members of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act, conditions of the Premises Licence, the Noise Management Plan connected with this premises and its licensing conditions and the promotion of quiet departure of all patrons. Written records of this training shall be retained and made available to police and authorised officers of the Licensing Authority on request.
 - b. All training undertaken by staff members shall be fully documented and recorded and should be completed bi-annually.
 - c. All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Written

records of this training shall be retained and made available to police and authorised officers of the Licensing Authority on request.

- d. All staff shall be trained - including regular refresher training - in personal licences, first aid, how to identify drunk or drug impaired customers and conflict management training. This training shall be repeated at least bi-annually and written records of the training kept and made available to police and authorised officers of the Licensing Authority on request.

5. Age Restricted Sales

- a. All members of staff shall have training in age restricted sales including regular refresher training. Written records of this training shall be kept on the premise and made available to Police and authorised officers of the Licensing Authority on request.
 - b. A live working bar compliance folder to include incident logging and a refusals log to be made available to the Licensing Authority and Wiltshire Police on request.
 - c. The premises to have in place proof of age requirements for bar sales, Challenge 25 (passports, driving licence or approved ID) to be in place.
6. The premises will be responsibly managed at all times.
 7. All events will be carefully managed to minimise the impact on neighbouring residential properties.
 8. There will be zero tolerance to drunken anti-social behaviour.
 9. Security checks of all public areas to be undertaken throughout each event.
 10. The Designated premises supervisor or a personal licence holder to be present on site during any event.
 11. The converted conditions contained in Annex 2A of the licence LN/000003080 are removed.

12. CCTV

- a. Appropriate signage shall be displayed in prominent positions, informing customers they are being recorded on CCTV.
- b. CCTV covering areas inside and outside of the premises shall be installed and maintained to police recommendations with properly maintained log arrangements.
- c. A staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times that the premises

are open to the public. This staff member will be able to show police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested.

- d. CCTV shall be working and recording correctly at all times. All images shall be stored for a minimum of 31 days.
13. The premises shall operate a zero tolerance policy to drug use and have a drugs policy in place and all staff to be trained in the implementation of the policy. The policy should be made available to police and authorised officers of the Licensing Authority on request.
14. The premises shall ensure clients attending the premises are aware of closing times and have made suitable provision for transport.
15. The premises to ensure all public areas to have sufficient lighting.

16. Management of Noise

- a. The approved Noise Management Plan shall be implemented and adhered to prior to and during all events.
- b. The premises shall engage an acoustician to advise on suitable mitigation measures and demonstrate that they are able to carry out the requested activities without causing a public nuisance. The acoustician shall produce a report to be submitted in writing to the Environmental Health Officer. This report must detail measures to control noise from all types of music and people noise. These mitigation measures must be incorporated into a noise management plan by 28 February 2022.
- c. A noise management Plan shall be submitted and agreed in writing by the Environmental Health Officer and implemented fully thereafter. It shall be reviewed every 3 months and to include controls for music, (live, recorded, unamplified) and people noise.

Noise management plan must also include:

- target sound levels at key monitoring points close to the boundary with residential premises to allow the Pear Tree to undertake their own validation monitoring during events to ensure that noise controls are working.
- written observations shall be made at agreed points on the premises perimeter by a member of staff. This shall relate to both music and people noise. Notes shall also be made on what corrective actions were taken.
- The noise limiter level shall be set by agreement with the Environmental Health Officer's recommendations. The noise limiter must be set at a level where music is not audible at residential dwellings.

- d. Any music played outside shall not be audible at the premises boundary.
 - e. Windows and doors shall be kept closed when there is music for entertainment in the Orangery.
17. Any late-night refreshment to be restricted to indoors only.
18. A dedicated telephone number will be made publicly available and will be manned during operating hours of the premises.

The Applicant

The Applicant's representative informed the Sub Committee that they had carried out changes to the premises and outside area of the premises in order to carry out events including weddings and were seeking to vary the licence and to extend the licence area and conduct those events. Since the Licensing Authority had made contact with the Applicant, events since September had been conducted by way of TENS.

The Applicant's representative accepted that weddings carried out during the summer of 2021 had created a public nuisance and disturbance to residents who resided close to the premises.

The Applicant offered a sincerely apology to those residents for doing so. The Applicant's representative noted that two responsible authorities had made representations and on the day of the hearing spoken to the Environmental health officer regarding the provision of a suitable and appropriate Noise Management Plan.

Responsible Authorities

There were two representations from the Licensing Authority and Environmental Health. regarding the operation of the licence and events which took place over the Summer of 2021 and the public nuisance (noise) which had severely impacted local residents.

Representations

Representations were received from eighteen residents including Purton Parish Council regarding the public nuisance arising from the events which had taken place over the Summer 2021 and events operated under TENS during the Autumn 2021.

Reasons

In reaching its decision the Sub Committee took account of and considered all the written evidence and representations from all parties and the oral submissions received from the Applicant and Councillor who spoke to the representation made by Purton Parish Council.

The Sub Committee having heard the representations took the view that the Applicant understood the implications arising from the public nuisance that had arisen during the summer and the impact on local residents and that the Application had confirmed to the Committee through its evidence that it would undertake various steps in future to ensure the promotion of the licensing objectives in particular the prevention of public nuisance. The Sub Committee made clear to the Applicant the implications arising from any failure to promote the licensing objectives.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

It should be noted that the Premises Licence Holder, any Responsible Authority(ies) and Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.

A Responsible Authority or an Interested Party may apply to the Licensing Authority for a Review of a Premises Licence in accordance with the provisions of section 51 of the Licensing Act 2003. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by an Interested Party will not normally be granted within the first 12 months except for the most compelling circumstances.

20 **Further submission on behalf of Representation 9**

(Duration of meeting: 10.40 am - 4.00 pm)

The Officer who has produced these minutes is Kevin Fielding of Democratic Services, direct line 01249 706612 , e-mail kevin.fielding@wiltshire.gov.uk

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