

Western Area Licensing Sub Committee

MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 16 NOVEMBER 2022 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Trevor Carbin (Chair), Cllr Stewart Palmen and Cllr Tim Trimble

Also Present:

Rep 1 – Resident – *Not present but represented by Rep 10*

Rep 3 – Resident

Rep 4 – Resident

Rep 6 – Resident

Rep 9 – Resident – *Not present but represented by Rep 10*

Rep 10 – Resident

Rep 12 – Resident – *Not present but represented by Rep 4*

Rep 14 - Resident

Wiltshire Council Officers

Carla Adkins (Public Protection Officer – Licensing)

Asifa Ashraf (Solicitor - Observing)

Mike Edgar (Solicitor - Observing)

Sarah Marshall (Principal Solicitor)

Lisa Pullin (Democratic Services Officer)

1 Election of Chairman

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

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

2 Apologies for Absence/Substitutions

Apologies were received from Mr Paul Gardner, the Applicant. There were no substitutions.

3 Procedure for the Meeting

The Chairman notified all those present at the meeting that it was not being recorded by Wiltshire Council, but that the meeting could be recorded by the press or members of the public.

The Chairman reminded those present that any speakers that wished to remain and make a statement to the Sub Committee would be giving consent to there being the possibility that they would be recorded presenting this.

It was noted that those that had made a representation would not be identified by name within the minutes or decision notice.

The Chairman then 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).

4 **Chairman's Announcements**

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

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

Application by The Chaffinch Pub Company Limited for the variation of a Premises Licence in respect of The Bath Arms, Crockerton, Warminster

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 Carla Adkins the Public Protection Officer (Licensing) for which 14 relevant representations had been received. The application was for the following licensable activities:

- To extend the existing licensable area to include the outside space;
- To extend the timings for the sale of alcohol to 00:30hrs daily and remove the non-standard timings; and
- For the addition of an outside bar.

It was noted by the Sub Committee that there were 3 options available to them:

1. To grant the application, on the terms and conditions applied for
2. To grant the application, on the terms and conditions applied for, modified to such extent as considered appropriate to promote the Licensing Objectives,
3. To reject the application in whole or in part.

The Public Protection Officer (Licensing) then highlighted the following:

- That the current Applicant had been the premises licence holder since July 2022 and the premise has benefited from a premises licence since November 2005 under the Licensing Act 2003 and prior to this under previous legislation;
- Sixteen relevant representatives were initially received, 15 from local residents in objection to the application and one from the Senior Public Protection Officer (Environmental Control and Protection) in relation to concerns over noise nuisance. A number of conditions to mitigate the potential noise nuisance were proposed by the Senior Public Protection Officer and these were agreed by the Applicant who then requested that an email be sent to all those who had made a relevant representation to outline the Applicant's intention and their agreement with the proposed conditions. As a result of this communication one of the local residents withdrew their representation;
- Many of those that had made representations commented on a perceived change to the opening hours of the premises. The current premises licence allows the premises to open until 01:00hrs daily and the variation application did not seek to change that; and
- The appeals procedure for the parties following a decision made at the hearing.

The Chairman asked the Public Protection Officer (Licensing) if the wooden fence that was understood to have already been erected met the specification recommended by the Senior Public Protection Officer (Environmental Control and Protection) to be constructed of a material with a density no less than 10kg/mc and that there should be no gaps or holes in the structure? The Public Protection Officer (Licensing) reported that she was not sure if this was the case and that the Senior Public Protection Officer intended to inspect the fence to see if this was the case.

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

On behalf of the Applicant

- The Applicant was not present at the meeting

Relevant Representations

- Rep 1 – Local resident in objection to the application – *Not in attendance but represented by Rep 10*
- Rep 3 – Local resident in objection to the application
- Rep 4 – Local resident in objection to the application
- Rep 6 – Local resident in objection to the application
- Rep 9 – Local resident in objection to the application – *Not in attendance but represented by Rep 10*
- Rep 10 – Local resident in objection to the application

- Rep 12 – Local resident in objection to the application – *Not in attendance but represented by Rep 4*
- Rep 14 - Local resident in objection to the application

The Chair advised that all of the written representations had been read and considered by the members of the Sub Committee in advance of the meeting.

Applicant's submission

No representatives of the Applicant were present at the meeting.

Submissions from those who made relevant representations

Rep 10

- The premises was previously a quiet country pub, run in a pleasant way that was well appreciated by local residents;
- There were a few weddings each year and the pub had closed at a reasonable time and this was appreciated as they lived opposite the premises;
- The premises had now been closed for 4 years, the Applicant seemed to be refurbishing it in a quality way and they were happy to see it being restored to reopen;
- Now there was concern that the application was for the premises to be able to serve alcohol every day until 00:30hrs and that with the later hours there would be more patrons in the premises and then they would be closing and leaving later causing noise nuisance to the surrounding residents with clearing up and people talking and vehicle movements;
- There had been no outside bar before, but the Applicants had now built an outside area for 50-60 people and as the premises was surrounded on three sides by residential properties and the fourth with privately owned land with an animal this would involve a significant increase of noise when the outside space was being used; and
- Public safety was also a concern with increased staffing and patrons at the premises this would mean more vehicles trying to park in the very small parking area that would obviously overspill onto to the neighbouring roads and this coupled with the outdoor bar, later licence to serve alcohol would create more disturbance to the local residents.

Rep 1 (represented by Rep 10 at the meeting)

- Whilst they did not live in the immediate vicinity of the premises because of the valley they would also be disturbed by noise and from the premises even on their side of village; and
- They were concerned about the later alcohol licence and the possibility of more events at the premises as the Applicant had already posted online his plans for premises, advertising they as being available for private hire events. In the worst case if this was taken up as a regular line of business this could result in disruption to the neighbours.

Rep 9 (represented by Rep 10 at the meeting)

- They were new arrivals to the village, and whilst they did not have children their land backed on to the rear of the premises and their paddock had horses. Because the Applicants were requesting to extend their licensable area, they would face disruption up to their fence line which would impact them and their livestock. Their home was also side on to the premises and there would be disruption and noise from people leaving the premises.

Rep 12 (represented by Rep 4 at the meeting)

- Despite communication to the Applicants from the Senior Public Protection Officer (Environmental Control and Protection) stating the suggested fence specification between the outside bar area and neighbouring properties, they were now aware that this had been constructed but not to the specification raised by the Senior Public Protection Officer and the cheaply constructed fence was inadequate and would not provide nowhere near the required acoustic protection. This had led to the Senior Public Protection Officer withdrawing her representation and that this was misleading and they felt that it did not bode well for the Applicant. They suggested that the outside area should only be able to be used up until 22:00 hrs and that better acoustic fencing be erected.

Rep 4

- They lived next door to the premises and were 25 metres from the outside area and whilst they know that the premises was needed and they applaud their determination to make a go of it, the issue is the with the outside area which is now a fully blown function area with approximately 70 seats and a stretch tent to allow all weather access; and
- The concern is that this will change from an occasional venue and that there needs to be a balance between life in village and for the commercial venture that to be a success. When they had purchased properties in the immediate vicinity the commercial venture was not an

issue and the use if it is at odds with what was expected by those who live in Crockerton.

Rep 6

- They reiterated what had been raised by the other representations and had lived directly opposite the premises for 27 years, during which time there had been 6 different landlords. There had previously been village pub quizzes and extensions for Christmas/New Year celebrations etc and the occasional wedding which had never been a problem for them;
- The Applicant had stated that at 23:00hrs he would close the outside area and gather everyone into the premises so that alcohol sales and consumption could continue inside. They felt that this was unrealistic to expect a wedding party etc to move inside at 23:00hrs to continue and then there would then be people leaving later at 00:30hrs/01:00hrs making noise at the later time with talking more loudly when intoxicated, car doors slamming and vehicle movements. This would cause a considerable disturbance to everyone including children living in and around the premises; and
- The Applicant had not interacted with the villagers at all and his attitude in an email sent on 20 October said that for those who objected to the application they should vote with their feet and move and let others move in. They felt that this was very rude to the residents of Crockerton.

Rep 3

- They were concerned about the outside bar area; the site was already built and wouldn't be an inside area to prevent noise nuisance – they had created a tented area;
- The fencing that had been constructed was not an acoustic barrier fence;
- The Applicant's intention was to open until 00:30hrs to serve alcohol and there had been an article in the Wiltshire Life magazine for the premises to be available as a standalone venue for hire for private functions and events. This would not benefit anyone in village and those attending those events won't care about their noise and how it travels even more in a valley;
- The main concern is that the outside area wasn't there before when the premises was run as a village pub - that was what they were expecting and they do want a village pub, but a venue for people to come do did not benefit residents. They were objecting to sale of alcohol to 00:30hrs as they were concerned that the patrons would be parking on the neighbouring streets and creating noise nuisance;

- The Applicant had not engaged with village residents or the Parish Council. At a Parish Council meeting the application was not supported and the Applicant did not attend the meeting to explain his proposals for the premises; and
- At the nearby Bradley Hare and Woolpack premises they had outside areas that were open to 22:00hrs in the week and 23:00hrs at the weekends. The Applicant could have spoken to them and attending the hearing to allay their fears and inform them of their plans regarding the hours of business to reassure the neighbours but had not – they felt this was indicative of how the Applicant intended to run the business.

Rep 14

- They lived a fair distance from the premises up the valley, there was a direct line of sight and they had lived there for 7 years. If anyone in Clay Street had a party or were talking outside/where playing music they were able to hear it. So far people had been respectful and ceased at a reasonable hour but their concern was with the application to serve alcohol late at night – this could occur at the premises for up to 7 nights a week which would likely be at least all weekends with the proposed commercial venue. If there were music/bands the noise would be extremely loud; and
- The premises was an asset for village but there appeared to be no real interest by the Applicant to be conciliatory to the villagers feelings.

Sub Committee Members' questions

In response to Members questions the following points of clarification were given by those that made a relevant representation:

- There had not been a problem with premises before when they were open, they used to close by 23:00hrs. If there was the occasional wedding there would be some noise but there were only up to 12 events a year and they considered the neighbours and adhered to the cut off time. Most of the events had local people attending and was likely to be a community event at the village pub, if there was a function, they would open to 00:00hrs under a temporary events notice;
- The previous landlord was very good if it was a wedding or a Christmas or New Year's party, they music would stop at the correct time. This Applicant had no consideration for villagers in their commercial plans for the premises and this had caused quite a lot of mental distress;
- The outside structure consisted of a paved area of 45m by 60m with a stretch ten over one part. There was seating by way of fixed benches for 70 patrons. The outside bar was a refurbished outbuilding which was shown on the plans. This had been done in an attractive way as it was

obvious that this was a pretty serious business model to attract functions for the Applicant to balance the viability. There was parking for only 23 vehicles;

- Whilst there was the tented area there was still a garden area that could be developed and it was possible that yurts or tent could be but in – it was understood that this was undecided as yet;
- There were benches outside of the premises originally and the seating had now been put outside before any licensing approval. The Applicant had started doing work on the listed premises before consent was obtained and he was stopped from doing this until the consent had been obtained;

The Public Protection Officer (Licensing) clarified that the Applicant did not need to have a licence for patrons to be able to drink outside of the premises as they already had a licence for on and off sales and having seating outside was not licensable. However the Applicant was not currently able to sell alcohol outside.

- There was a tension with proposals for the outside area with an outside bar that was yet to be authorised and which was now sought to be a standalone commercial opportunity. It was understood that the intention of the Applicant was for there to be a Michelin star restaurant at the premises. It was questioned how are those diners going to feel if at 23:00 those at an event outside are then required to come into the premises whilst the patrons inside are trying to enjoy their fine dining. It was hard to understand how this would work in reality;
- From looking at the plans submitted with the Agenda papers it could be seen that the bar was half of the size it originally used to be and they wondered how those patrons joining from outside would all be able to be served at the much smaller bar that was proposed to already be filled with diners; and
- The Applicant had no track record in running a public house business – if the Applicant had come with experience of running several similar premises this may have allayed their fears but it would appear that he had bought the premises but had not thought to engage with residents on a face to face basis to inform them of his plans.

The Principal Solicitor wished to remind those making representations that had made references to planning issues and that this was not a planning application but a hearing for the determination of an application to vary the premises licence.

Closing submissions from those who made relevant representations

In their closing submission, the persons who had made a relevant representation in objection to the application highlighted the following:

- They gave thanks to the Sub Committee for listening, for their engagement and allowing those who had made representations to be given the opportunity to speak and express their views in a non-rigid way;
- The Applicant had indicated in his application that there would be changes to the kitchen but he had not applied for planning permission in relation to this. They were concerned about the noise nuisance these changes would also cause with these building works. It was felt that the Applicant had walked into the village and rode rough shod with residents with his proposed plans for the premises; and
- The Applicant had extended the red line outside of what is a village pub – whilst they accepted the need for the Applicant to have a commercial operation to ensure that business is successful, the Applicant needed to also consider and take into account how that impacts the local residents.

Points of Clarification Requested by the Sub Committee

No points of clarification of were requested by the Sub Committee.

The Sub Committee then adjourned at 11.20hrs and retired with the Principal Solicitor and the Democratic Services Officer to consider their determination on the licensing application.

The Public Protection Officer (Licensing) was called in briefly at 12:00hrs approx. to answer a question from the Sub Committee regarding the Applicant's email regarding Live Music. The Public Protection Officer confirmed that the Live Music Act provisions apply to the premises. The Public Protection Officer was then asked to leave.

The Hearing reconvened at 12.15hrs.

The Principal Solicitor advised that she gave brief and relevant legal advice to the Sub Committee on the application of the four licensing objectives and that the Sub Committee were not able to consider any planning and highways issues that had been raised by the parties in their representations and at the meeting.

Decision:

Arising from consideration of the report, the evidence and submissions from all parties and having regard to the Statutory Guidance, the Council's Statement of Licensing Policy and the Licensing Act 2003 the application for a variation of a Premises Licence in respect of The Bath Arms, Crockerton, Warminster be granted for the licensable activities shown below and subject to the relevant conditions agreed by the Applicant as requested by the Senior Public Protection Officer – (Environmental Control and Protection) and an additional condition imposed by the Sub Committee (detailed below)

Licensable Activities	Days	Timings
Sale by retail of alcohol for consumption ON and OFF the premises	Sunday to Thursday	11.00 – 23:30
Sale by retail of alcohol for consumption ON and OFF the premises	Friday to Saturday	11.00 – 00:30
		(All-existing Non-standard timings for Christmas day now removed)

- **To extend the licensable area to include the outside space as outlined in red on the attached map.**
- **The addition of an outside bar.**

Conditions as proposed by the Senior Public Protection Officer – (Environmental Control and Protection) and agreed by the Applicant

1. Provision of Regulated Entertainment (Live and Recorded music) and management of the outside seating area will be carried out strictly in accordance with the Noise Management Plan, which will be raised by the Applicant and agreed by the local authority by 16 December 2022.
2. Outside seating area and outside bar will be fully closed at 23:00hrs. Patrons will not be permitted to take drinks or food outside after that time.
3. Doors and windows to be kept closed, except for access and egress, when regulated entertainment (live and recorded music) is taking place.

Condition imposed by the Sub Committee

4. An acoustic barrier to be constructed of a height no less than 1.8m consisting of material with a density of no less than 10kg/m² with no gaps or holes to be placed on the western boundary of the site between the patio area and the nearest residential property.

Reasons for Decision

In reaching its decision, the Sub Committee took account of and considered all the written evidence and the representations from all parties present at the hearing. The Sub Committee noted the concerns raised by the residents at the hearing concerning the Applicant's engagement with residents and regarding noise and use of the outside area but considered that the changes to the hours for the sale of alcohol and with the inclusion of the three conditions proposed by the Public Protection Officer – Environmental Control and Protection and an additional condition relating to acoustic barrier fencing would deal with these

concerns. The Sub Committee heard no evidence that the Applicant would fail to promote the licensing objectives and as the premises was not currently open there was no evidence of noise complaints placed before the Sub Committee.

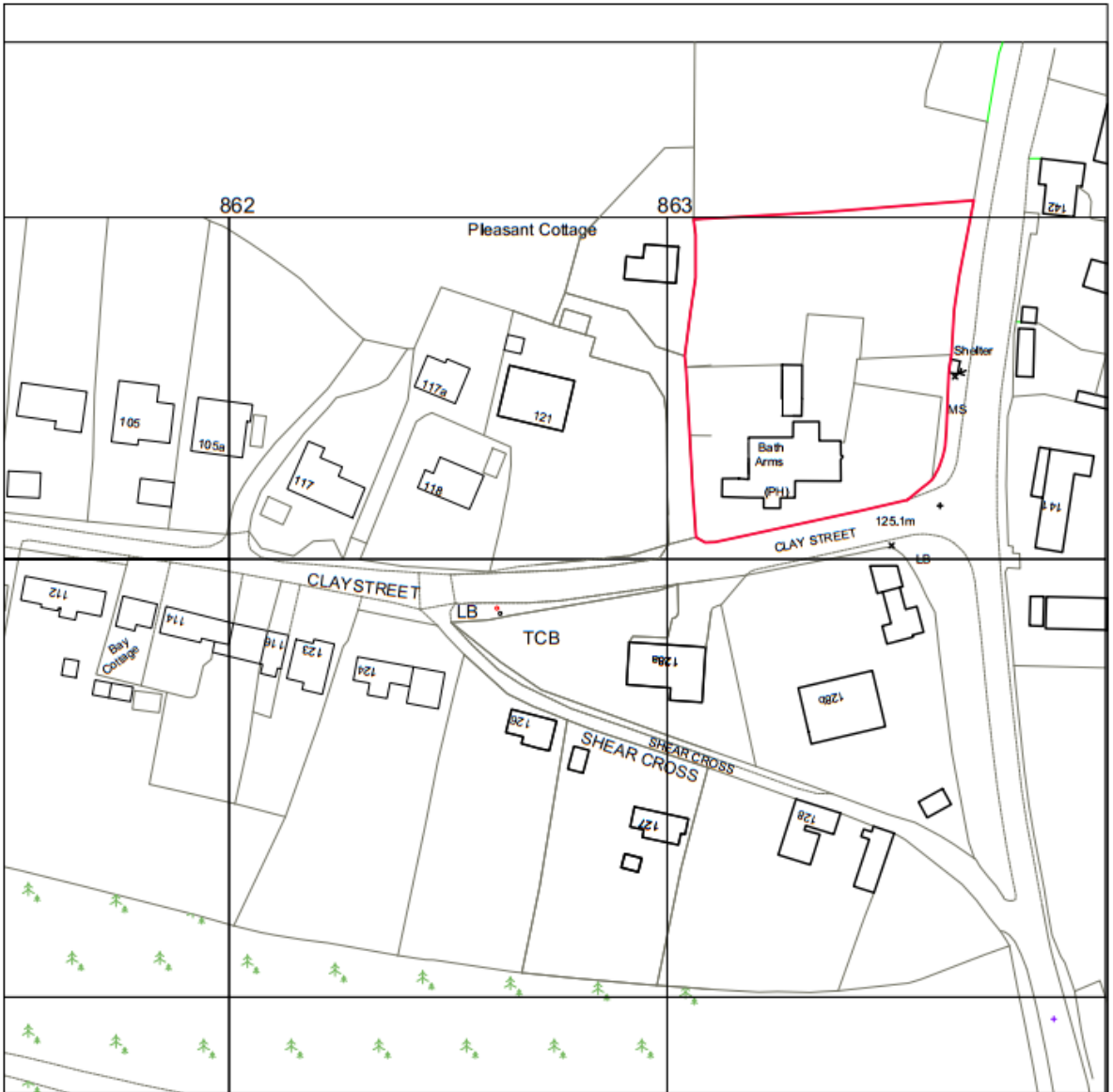
The Sub Committee were not able to consider any issues raised concerning parking, lighting, planning and highway matters as these representations were not concerned with the promotion of the licensing objectives. The Sub Committee can only hear evidence concerning the licensing application and the promotion of the licensing objectives.


The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

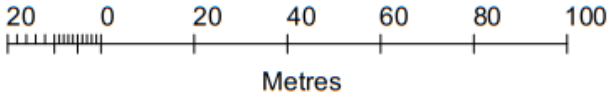
Right to Appeal

The Premises Licence Holder, any Responsible Authority(ies) and Interested Parties who made representations were informed that they 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 written 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. 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.



KEY
 **LICENSABLE AREA**



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Client: Chaffinch Pub Co Title: Location Plan
 Project: The Bath Arms, Clay St, Crockerton, Warminster, BA12 8AJ
 Status: For Approval
 Date: 05.04.22 Drawn by: MB
 Scale: 1:1250 @ A4 Drawing No. SW0017-EX-4-01

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(Duration of meeting: 10.30 am - 12.20 pm)

The Officer who has produced these minutes is Lisa Pullin of Democratic Services,
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