

## NORTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 26 NOVEMBER 2014 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE BY SN15 LEISURE LTD FOR SN15, 17A STATION HILL, CHIPPENHAM**

**Present:**

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Sue Evans

**Also Present:**

Wiltshire Council

Roy Bahadoor (Public Protection Officer)  
Richard Francis (Senior Environmental Health Officer – Responsible Authority)  
Lisa Pullin (Democratic Services Officer)  
Paul Taylor (Senior Solicitor)

Applicants

Tom French (SN15 Leisure Ltd)  
Phillip Kolvin (Queen’s Counsel for the Applicants)  
James Lever (SN15 Leisure Ltd and Proposed Designated Premises Supervisor)  
Barry Richards (TLT Solicitors)  
Paul Shayegan (SN15 Leisure Ltd)  
Piers Warne (TLT Solicitors)

Wiltshire Police

Dave Bennett (Licensing Manager)  
Jacqui Gallimore (Licensing Officer – Wiltshire)  
Sian Kalynka (Licensing Officer – Swindon)  
Guy Ladenburg (Counsel for Wiltshire Police)

Members of the Public who made a Relevant Representation

Councillor Chris Caswill (On behalf of Robert Burford and Ian Keasey also)  
Peter Wans (On behalf of Rev Millett)

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1 **Election of Chairman**

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

**Resolved:**

**To elect Councillor Desna Allen as Chairman for this meeting only.**

2 **Procedure for the Meeting**

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 1 – 8 of the Agenda refers).

3 **Chairman's Announcements**

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

4 **Declarations of Interest**

There were no interests declared.

5 **Licensing Application**

**Application for a Premises Licence made by SN15 Leisure Limited in respect of SN15, 17a Station Hill, Chippenham**

Councillor Desna Allen, Chairperson, welcomed those present and asked all to introduce themselves.

She reminded those present that this application had been made pursuant to the grant of a Provisional Statement by the Licensing Authority in April 2013. As such, section 32 of the Licensing Act applied. This meant that representations on any subsequent application for a premises licence may be excluded in the circumstances set out in that section.

The Chairperson stated that the Applicant had previously indicated that, in their view, all of the representations that had been received on this application should be excluded, by virtue of section 32, and could not be taken into account by the Licensing Authority. This had been disputed by the Police, who argued that their representations were not excluded and should, therefore, be taken into account.

The legal representatives for both the Applicant and the Police had provided brief submissions, setting out their legal arguments on this point. It was

proposed, therefore, to consider the issue of the admissibility of representations as a preliminary point.

The advocates for the Applicant and the Police were then invited to address the Sub Committee on this point.

Philip Kolvin (PK), QC for the Applicant

On behalf of the Applicants, PK stated that they were not now seeking to exclude the representations made as they did not wish to shut out the views of the local residents. He confirmed that the Applicants had an issue with the representation from Wiltshire Police but stated that the Applicant would be prepared to proceed to the substantive hearing of the application.

Guy Ladenburg (GL), Counsel for Wiltshire Police

GL stated that the Applicants were arguing that the Police were attempting a “second bite of the cherry” and were making representations on the same information as at the provisional statement stage. It would be the Police’s case that this was not so. They felt that there had been a material change in circumstances in that the management of the premises had changed now that it had come forward as a full licence application. There was a proposed new management structure to be put in place which gave a great deal of uncertainty and about which the police had serious reservations.

The background of these premises gave the Police cause for concern as the previous licence holder had had the licence revoked because of the serious problems with crime and disorder. The Police would wish for there to be a robust management structure in place to protect the local residents. Their view was that the proposals from the provisional statement had changed and that the new people proposed for the roles were not acceptable. The high level of investment in the premises required was not evidenced.

Paul Taylor, Solicitor for Wiltshire Council clarified with both parties that they were happy not to debate the admissability of representations and proceed straight to the hearing.

All parties confirmed that they were happy to proceed with the hearing of the application for a Premises Licence.

Roy Bahadoor, Licensing Officer for Wiltshire Council introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. This application for a Premises Licence was being made pursuant to the Provisional Statement granted on 12 April 2013.

During the consultation process eight representations had been received. Four from local residents, one from a Town Councillor, one from a Unitary Councillor,

one from Wiltshire Police and one from the Environmental Control and Protection Team of Wiltshire Council.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Phillip Kolvin, QC, on behalf of the Applicants were:

- We wish for a ruling to be made on whether you would accept Mr Lever as the Designated Premises Supervisor (DPS) for the premises. If you were not minded to accept him, he could be withdrawn as proposed DPS;
- The business history/experience of Paul Shayegan who was a Director of SN15 Leisure Ltd making the application for a Premises Licence;
- That Mr Shayegan was fully aware of his responsibilities to comply with the licensing objectives as he knows of the problems in the past with this venue;
- If a Premises Licence were to be granted the Applicants would sign a 15 year lease of the building and would be spending approximately £172k on a refit to bring the building up to a suitable standard to open the venue. Around 40 people would be employed to run the premises;
- Mr Shayegan had joined forces with Mr French and Mr Lever who would be assisting with the finances for the project. Mr Shayegan would continue to work at and run SN15 as it was his company behind it;
- When the application for a Provisional Statement was submitted, five supporting documents were included and these same five documents had been submitted again with the application;
- The Applicants were happy to subscribe to the schedule of conditions that were detailed on the revoked Karma Nightclub licence;
- The management plan had not changed since the Provisional Statement and all roles and responsibilities were set out in the plan;
- If a licence was granted there would be a Challenge 25 Policy, there would be a bar supervisor on each bar and there would be zero tolerance on drugs;
- Craig Mickle (proposed DPS at time of Provisional Statement application) had moved on to pastures new and now James Lever was the proposed DPS;

- All of those who made a representation to the Provisional Statement stage had made one again with the exception of Cllr Murry;
- The Applicants accepted that the residents had previously suffered because of the noise breakout and the anti social behaviour of their patrons and damage to their property;
- Wiltshire Police had previously stated that the Provisional Statement application broadly met all of the Police's requirements and the Sub Committee addressed the issues raised by putting in a number of conditions and measures to make the application acceptable to grant;
- No appeal was made to decision to grant the Provisional Statement by any party;
- In reliance on the Provisional Statement the Applicants had spent £30k on commencement of the remedial works;
- Anyone could take advantage of a Provisional Statement but it was still SN15 Leisure Ltd who were the Applicants with the same application, same plan, same supporting documents, and the works required had been substantially carried out;
- No adverse comments had been received from Wiltshire Fire & Rescue Service and a full fire Risk Assessment would be carried out if/when the premises re-opens;
- A condition had been agreed to satisfy the concerns of Mr Francis, Wiltshire Council Environmental Health regarding noise breakout;
- The local residents had made some basic points which had already been considered by the Sub Committee at the previous hearing. The Applicants did not wish for the residents to suffer in the future and if this was the case they could bring the matter back and ask for the licence to be reviewed;
- Wiltshire Police refer to Mr Shayegan's involvement with a business linked to drugs convictions, but he was not involved in the day to day management of the premises at that time and so it should not be levelled at him that he was unfit to run a nightclub business;
- Mr Lever (the proposed DPS) was an investor in the premises and he had been in the industry for 20 years. He had a personal licence granted by Swindon Borough Council and no reviews of any licence had been carried out at any or the premises he had been involved with;
- The only person who could object to a particular DPS was the Chief of Police and we don't see any evidence that the Chief of Wiltshire Police had

made an objection in the required form to Mr Lever being the DPS for SN15 Leisure Limited. As there was no such statement then we would say that the representation about Mr Lever is irrelevant and cannot be taken in to account;

- The Applicants have not had sufficient time to consider the additional evidence provided by Wiltshire Police at the late stage and as we say that as there is no statement to object the whole objection to Mr Lever should fall away and not be considered by the Sub Committee; and
- If the Sub Committee were unhappy with Mr Lever being DPS then the Applicants would offer to remove him and leave the role open for now in order to make progress at this hearing.

#### Response from Guy Ladenburg, Counsel for Wiltshire Police

- We would say that the Applicants are raising a technical objection in an effort to exclude the Police's evidence on the unsuitability of Mr Lever – we feel that the Sub Committee needs to hear the our evidence in full; and
- It is accepted that there is not a specific statement, using the wording in section 18(9) of the Act, in the police's representation, that the DPS should not be Mr Lever. However, there doesn't need to be one. The Applicants are wishing to have the Police's evidence regarding Mr Lever excluded. However, we do wish to have the opportunity for it to be set out to the Sub Committee as Mr Lever will have a wider role in the running of the premises, beyond that of DPS.

The Sub Committee adjourned at 10.50am.

The Sub Committee reconvened at 10.55am.

Paul Taylor, Solicitor for Wiltshire Council stated that the Sub Committee accepted that they could not consider whether or not to exclude Mr Lever as DPS, as the requirements of section 18(9) had not been met. However, they also accepted the Police's view that the concerns about Mr Lever were wider than just his role as the DPS and related to the whole management of the premises. They would therefore take into account the Police's representations on this issue.

Key points raised by Guy Ladenburg, Counsel for Wiltshire Police - Responsible Authority were:

- There was no "statement" from the Chief of Police in objection to Mr Lever being DPS but noted that the Sub Committee accepted that the full Police representation should be heard;

- Wiltshire Police would not be seeking to exclude the press and public during the presentation of their evidence;
- The Police were seeking to prove that there had been a material change of circumstances since the Provisional Statement application. They had had confidence in Craig Mickle being able to suitably run the premises, but as he was no longer involved they didn't have confidence in the proposed management arrangements;
- There were inconsistencies in what was being said about the involvement with the previous Karma management. In a meeting with Mr Shayegan he had said that Mike Rosser (Karma) had paid for the works carried out, but we hear today that SN15 had paid for those works;
- The Police were not confident that there was a break from those involved in running the old regime and this would have a significant impact on the licensing objectives to properly manage the premises. This is why the Police had made their representation;
- The statement of Sian Kalynka (Swindon Licensing Officer) did not show Mr Lever in a good light and highlighted the concerns of 3 late night premises that he had been involved with when the premises were poorly managed; and
- The Police would say that there was a likelihood of history repeating itself and there was no evidence that Mr Lever and Mr French had successfully run premises at this level.

Councillor Chris Caswill asked the questions of the Applicants:

Do you accept that the sound insulation work was prospective and not actually carried out?

PK – Yes provisional works were carried and a statement of intentions of work were provided.

Why was the schedule of works only made available yesterday?

PK - We carried out relevant work to date and then wished to provide proof to the Sub Committee that that what we said had been done had actually been done.

Why is an email addressed to Mike Rosser?

PK – He is the landlord of the premises and it is him from whom we would be leasing the building.

Key points raised by Richard Francis, Senior Environmental Health Officer, Environmental Control and Protection, Wiltshire Council were;

- He had been involved since the Provisional Statement stage and an extensive amount of work had been done to make the necessary for sound management improvements;
- On a site visit there were concerns that an area of noise breakout was not covered by the original report from Ian Sharland. To resolve this concern a condition has been agreed between myself and the applicant as follows:-

“An additional sound commissioning exercise will be undertaken once the decorative and substantive works are completed at the premises. The commissioning exercise will be undertaken to set music sound levels for the noise limiter installed at the premises and will be adjusted at this time to the satisfaction of Wiltshire Council Public Protection Officers to ensure the promotion of the prevention of public nuisance objective.

Any future adjustments to the agreed music levels shall be through a licensing variation and agreement with the Wiltshire Public Protection Officers.”

- With the inclusion of the above condition I am happy with the application.

Councillor Chris Caswill asked the questions of Richard Francis (RF) from the Responsible Authority:

Why was the noise expected from the patio looked at so late and why couldn't we have had access to the agreed noise condition before now?

RF – I apologise for the lateness of the condition. From a site visit that I carried out it became apparent that the doors by the lower dance floor were going to be used for access/egress. When I had carried out my earlier assessment these doors had been closed. So further sound testing was carried out and I am confident that with my proposed condition all sound breakout problems will be alleviated.

Why do you say in your email to the Applicant's that you hope to avoid a public hearing?

RF- As Officers we try to negate the need for a public hearing by negotiation and resolving issues.

Key points raised by Councillor Chris Caswill who made a Relevant Representation and by Robert Burford and Ian Keasey for whom Cllr Caswill was representing were:



- The residents would have liked to have appealed the decision made to grant the Provisional Statement but could not do so due to the financial burden;
- Although the comments raised by the residents were similar to those raised at the provisional statement stage, on this occasion the whole area surrounding the premises were objecting and so the scale of the objection had increased;
- A proper schedule of works was only made available the day before this hearing. The Applicants were told that the licence would only be issued if the works had been carried out. I feel that it is unreasonable that the Applicants have not done what was asked and say that they would do it when the full licence is issued. I say that the premises are not yet ready and that the application is inadequate, not properly prepared and should be refused;
- The Management Plan should recognise the concerns of the residents and it states that you will have a minimum of 1 door supervisor. I would say that there should be at least 2 at all times and this should be added as a condition if the licence was to be granted; and
- There are problems for the residents of St Mary's Place, Chippenham and measures should be put in place to prevent exit/egress into St Mary's Place. Perhaps the Applicant could contribute to a gate that could be locked at a certain time. I have been informed that this would be a possibility by Council Officers and it would help with problems there.

Paul Taylor, Solicitor for Wiltshire Council clarified that attempts were made to get a proper schedule of works from the Applicants. However, the Council had taken a pragmatic view that the two reports that had been submitted effectively constituted the Schedule and had proceeded on that basis, whilst accepting that this was not ideal.

Councillor Chris Caswill stated that he was disappointed that this issue was not dealt with in the public domain and reiterated that there was not a suitable schedule of works and the application should not have been accepted.

Paul Taylor asked the parties to comment on whether they considered that conditions could be added to the licence to address the concerns that had been raised.

Guy Ladenburg for Wiltshire Police made the following points in summation:

- We do not feel that adding conditions to this licence would alleviate concerns. It would be like plasters covering up old wounds; and

- The Police feel that there has been a material change and do not feel that the premises would be adequately managed by the proposed management structure to promote the licensing objectives.

Phillip Kolvin for the Applicants made the following points in summation:

- There was no connection from the old regime and all those involved are new. The management roles were identified as per the Provisional Statement stage and these would all be fulfilled. The only change to the application was the DPS and you ruled that that this was not a live representation.

Councillor Desna Allen wished to clarify that the offer to voluntarily remove Mr Lever as DPS still stood. Phillip Kolvin confirmed that it did.

- New investors had come in and wanted to make it work. Mr Shayegan had ultimate responsibility for the company and there had been no challenge on his experience. He was of good character and had 30 years experience in the business;
- Mr Lever had never been prosecuted and no reviews of any premise he has been involved in had ever been carried out;
- In our proposals we say that we would have at least 10 door staff in the premises and would be happy for a condition to say that we have at least 2 door staff in position at all times; and
- The Applicants were aware of the risk they are taking if they didn't run these premises well.

Councillor Chris Caswill made the following points in summation:

- I say that the works required within the schedule of works have not been carried out and no where does it say that they have been accepted by Wiltshire Council;
- The Council appear to be constantly shifting the rules for the Applicants;
- I hear what has been said in relation to the management of the patio area but do not have confidence that this will be appropriately managed; and
- I feel the Applicants have not done what was asked of them so the application should be refused.

The Sub Committee then retired to consider the application at 12.20pm.

The Hearing reconvened at 2.20pm.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

**Resolved:**

**The Northern Area Licensing Sub Committee have decided to grant the application by SN15 Leisure Ltd for a Premises Licence at 17a Station Hill, Chippenham in relation to the licensable activities and hours as applied for:**

	<b>Timings</b>	<b>Days</b>
<b><u>Provision of regulated entertainment</u></b>		
<b>Films (Indoors)</b>	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
<b>Live music (indoors)</b>	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
<b>Recorded music (indoors)</b>	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
<b>Performance of dance (indoors)</b>	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
<b>Anything of a similar description (indoors)</b>	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
<b>Sale by retail of alcohol (on sales)</b>	11:00 to 01:30 11:00 to 02:30	Sunday – Wednesday Thursday – Saturday
<b>Hours Premises Open to the Public</b>	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
<b>Non standard timings (for all Licensable Activities listed above)</b>	<p>On New Year’s Eve, from the end of permitted hours until the commencement of permitted hours on New Year’s Day.</p> <p>An additional hour commencing at the end of permitted hours, on the day when British Summertime commences.</p>	

**Subject to the attached conditions set out below**

## **Licence Conditions**

### **PREVENTION OF PUBLIC NUISANCE**

- **Noise generated on the premises shall be kept at such a level at the boundary of any occupied property that it shall not be a nuisance to the occupier of that property. The Premises Licence Holder or the Designated Premises Supervisor shall carry out observations from time to time in the vicinity of the nearby properties, between 23.00 hrs to closing time, to establish whether there is a noise breakout from the premises.**
- **The Licensee shall take all necessary steps to prevent persons in the neighbourhood being unreasonably disturbed by noise made by persons waiting to enter and when leaving the premises.**
- **The external amenity area at the rear of the premises comprising the 3 patio areas is to be restricted to a maximum of 40 persons at all times and is only to be used after 23:00 for the purposes of smoking (no drinks are to be taken outside after this time). The smoking area shall be restricted to the upper patio area. This area to be appropriately managed by the applicant to ensure compliance.**
- **No rubbish or recyclable material is to be disposed of from the premises between the hours of 02:00 and 07:00.**

### **PUBLIC SAFETY**

- **Maximum Numbers**
  - a) **Overcrowding in such a manner as to endanger the safety of the public (even, if in the circumstances, this is less than the maximum permitted number) shall not be permitted in any part of the premises. The maximum number of persons permitted on the premises as stated in the licence is not to be exceeded at any time.**
  - b) **The Licensee or authorised representative shall record and control at the time the numbers of persons in the premises. The Licensee shall keep these records for 12 months. A suitable means of counting persons shall be provided. This may be mechanical, electrical or other approved method.**

### Occupancy/Exit Capability

The maximum number of persons that should be permitted to use the parts of the premises detailed below should not exceed the figure stated:

<u>Parts of the Premises</u>		<u>Max Numbers</u>
Ground Floor	Open plan when used for dancing/standing	276
Balcony	Open plan standing audience	45
1 <sup>st</sup> floor dance/ bar areas	Open plan when used for dancing/standing	291
Total floor space capacity – number of persons		612
Total available exit capacity for normal risk rating and 2.5 minute simultaneous evacuation time		600 persons
Maximum numbers permitted:		600 persons

Arrangements will need to be made to control the number of people attending the premises and to avoid overcrowding of any area caused by people migrating from one area to another.

- In all parts of the building to which the public are admitted, a means of illumination shall be provided capable of illuminating those parts clearly.
- Log Book

A log book shall be provided in which to record details of all tests, i.e. fire-fighting equipment, safety/emergency lighting, fire drills, etc. and other details as required by the Licensing Authority and kept available for inspection at all times. The logbook shall not be in loose-leaf and shall have numbered pages. The person carrying out the test must record his/her details in the logbook.

- Fire Alarms

The fire alarm (where provided) shall be properly maintained in effective working order. Weekly tests, using different call points for each test, shall be carried out. The results of such tests shall be recorded in the logbook. The person carrying out the test shall record his/her details in the logbook.

- **Fire Procedure**

The licensee shall ensure that the person in charge, official attendants and himself are aware of the method of operating the fire extinguishers and the action to be taken in the event of a fire including evacuation of the premises, the method of calling the Fire Brigade and the location of the nearest available telephone.

- **Special Lighting Effects**

If special effects such as lasers, pyrotechnics, smoke machines, foam machines, strobe lighting effects and fog generators are being used at the premises, then

- i) The relevant current guidelines/legislation appertaining to the special effect shall be complied with.
- ii) Warning notices shall be displayed prominently at entrances and in the premises.

- **Smoke Machines and Fog Generators**

- a) Smoke machines and fog generators shall be sited and controlled so that they do not obstruct exit routes or cause a hazard to surrounding curtains or fabrics.
- b) The volume of smoke and/or fog shall be limited so that it does not seriously affect the means of escape or obscure escape route signs.
- c) Warning notices shall be displayed stating that fog or smoke is used as part of the effects on the premises.

- **Management**

- a) It is the personal responsibility of the Licensee to ensure that all conditions are complied with. The Licensee shall ensure that at all times when the licence applies, there is a person nominated by him/her who will have control of the premises, and will ensure that all licence conditions are adhered to.
- b) If the premises are hired out, the Licensee shall draw to the attention of the hirer, all of the above items and make effective arrangements to ensure that that are complied with.

## **PROTECTION OF CHILDREN FROM HARM**

- **Obscene or Indecent Performances**

The Licensee shall conduct the licensed premises in an orderly manner and shall not allow performances of an obscene or indecent nature.

- A Challenge 25 policy will be implemented. A recognised proof of age, which includes a photograph, is to be required for anyone who appears to be under the age of 25 and who wishes to purchase or consume alcohol.
- There shall be no admittance to persons under 18 (except planned 'student nights' or private parties).
- Clear procedures are to be in place for the operation of private parties and under 18 events.

### **PREVENTION OF CRIME AND DISORDER**

- The Premises Licence holder is to develop, maintain and implement a detailed Management Plan which must include the chain of command and responsibilities, risk assessments, procedures, policies (including dispersal policy) to enable the Premises Licence holder to comply with the four licensing objectives. The Licence shall be run in accordance with the Management Plan (current plan submitted with Provisional Statement April 2013). Such plan to be available for inspection upon request by the Police and Licensing Authority and to be accessible to staff.
- **CCTV**
  - a) A CCTV system with recording or monitoring capability shall be installed to cover all floors of the premises used under the terms of the Licence and shall also cover all entrances, exits and external areas immediately around entrances. Recordings shall be kept for 28 days and be made readily available to any authorised Officer of the Council or Police Officer.
  - b) The CCTV system shall be maintained in full functioning order and used at all times when the premises are open.
  - c) The CCTV is to be reviewed and if necessary upgraded to standards required by Wiltshire Police Crime Reduction Officer.
- **Door Supervisors**
  - a) Minimum of 10 SIA registered door supervisors on every trading session after 21:00. Outside of these areas the number of SIA Door



**Supervisors to be determined by a Risk Assessment subject to d) below.**

- b) All security staff to wear clothing that clearly identifies them at all times (including outerwear).**
  - c) Door supervisors to sign in and out with their names/badge numbers at the start and end of each shift.**
  - d) At least two door supervisors will be placed at the main entrance during trading hours.**
  - e) Door supervisors are to remain on duty outside the venue for not less than 30 minutes after the last customer has left the venue, to provide a visible presence and deter anti-social and/or criminal behaviour. This also includes clearing the street of any litter left behind by patrons.**
- All reasonable steps will be taken by staff to ensure that persons entering the premises are not carrying any illegal drug.**
  - Regular searches by staff of all areas of the premises will be undertaken during trading hours to ensure that drug use or excessive drinking is not taking place on the premises.**
  - Any person found in possession of illegal drugs, is excessively drunk or violent will be asked to leave the premises immediately.**
  - The Designated Premises Supervisor or another identified responsible person who holds a valid Personal Licence is to be present at the venue during all key trading times.**
  - The Designated Premises Supervisor is to undertake or to have undertaken training as approved by Wiltshire Police.**
  - An accurate and up to date incident and refusal logs are to be maintained at all times. Incident logs should include ejections and be signed by relevant security staff.**
  - Only polycarbonate glasses are to be in use at all times throughout the venue, the venue is to operate a bottle decanting policy, no glass bottles are to be present in the public areas.**
  - All bar staff to undertake an alcohol awareness course by a recognised training provider and records of all staff training to be kept on file.**

- **All staff (to include Management) to undertake induction/fresher training to include roles and responsibilities and the current Licensing Objectives.**
- **DPS or nominated person shall attend local pub watch meetings.**
- **Sound levels**
- **An additional sound commissioning exercise will be undertaken once the decorative and substantive works are completed at the premises. The commissioning exercise will be undertaken to set music sound levels for the noise limiter installed at the premises and will be adjusted at this time to the satisfaction of Wiltshire Council Public Protection Officers to ensure the promotion of the prevention of public nuisance objective.**

**Any future adjustments to the agreed music levels shall be through a licensing variation and agreement with the Wiltshire Public Protection Officers.**

### Reasons

The application for this premises licence has been made pursuant to a provisional statement issued on 12 April 2013. In that Statement, the Licensing Authority had indicated that, if a subsequent application were made for a premises licence in the same terms as sought in the provisional statement application, it would consider it appropriate to grant that licence, subject to the completion of the necessary works to the premises and subject to conditions as detailed in the provisional statement.

The provisional statement had been issued following a hearing held to consider representations made by the police, the Council's Public Protection Team, the licensing authority, the local member, local residents and local business owners. That hearing had also heard from the applicant regarding the proposed management arrangements for the premises. When deciding, at the provisional statement stage, that it would support the future grant of a premises licence, the Licensing Authority had, therefore, taken account of the representations made by the applicant at that time regarding the intended management of the premises.

The Sub Committee considered that many of the concerns regarding this application, particularly those of the local residents and business owners, had been considered at the provisional statement stage and were addressed by the conditions set out in the provisional statement, which are now imposed on the premises licence.

The Sub Committee considered that the principal issues in this current hearing were whether the required works had been satisfactorily carried out and

whether changes in the management arrangements for the premises justified any changes to the position taken by the Licensing Authority at the provisional statement stage.

### Works to the Premises

The Sub Committee heard representations from Cllr Caswill that no proper schedule of works had been produced by the Applicant, as had been required by the Provisional Statement. Furthermore, there had been no confirmation that all of the recommendations set out in the reports of Ian Sharland dated 10 November 2012 and Roger Tombs of 7 November 2012 had been carried out. The Sub Committee accepted that this may be the case, but considered that the main issue here was whether the structure of the premises, following the works that had been done, was appropriate to meet the licensing objectives. Having considered the comments of Richard Francis, Senior Environmental Health Officer, the Sub Committee were satisfied that the additional acoustic condition set out above would give the Environmental Protection Team and the Licensing Authority the necessary ability to control the level of music and noise emissions from the premises.

### Changes in Management

The Applicant submitted that representations made by the police regarding the suitability of Mr Lever, the proposed DPS, were not relevant representations, as the provisions of Section 18(9) of the Licensing Act had not been complied with. The Police argued, however, that their concerns about Mr Lever related to his involvement in the management of the premises generally, not specifically to his appointment as DPS. The Sub Committee accepted that the requirements of section 18(9) had not been met and that they could not consider any representations, or make any decision, specifically regarding Mr. Lever's position as DPS.

However, as explained during the hearing, the Sub Committee considered that, irrespective of whether or not he was the named DPS, it seemed clear that Mr Lever would be involved in the management of the premises, given his role in the Applicant company. They therefore felt that it was relevant to hear and consider representations about Mr. Lever's suitability on that basis.

The police had summarised their concerns regarding the proposed involvement of Mr. Lever in the management of these premises. They had referred to a number of incidents that had occurred at previous licensed premises in Swindon where Mr. Lever had worked.

The police had also set out their concerns regarding Mr. Shayegan, in particular regarding alleged inconsistent statements made by him both in relation to the role that he would play in the management of these premises and also in connection with his previous involvement with premises in Bath known as the Blue Rooms.

In response, Mr. Kolvin, for the Applicants, had reiterated that both Mr. Lever and Mr. Shayegan had considerable experience in the licensed trade and that they were both aware of their obligations to manage the premises properly and to comply with any licence conditions, including the detailed management plan.

The Sub Committee have given careful consideration to the concerns that were raised by the police regarding the change in management arrangements and personnel. However, they do not consider that these changes were sufficient to justify a refusal of the application. The management of the premises is regulated by the conditions imposed on the licence and the management plan. Any failure to comply with those conditions can lead to a review of the premises licence.

In reaching its decision the Sub Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4, 18, and 32); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court against the terms of this statement. Any such appeal must be made within 21 days of receipt of this statement.

(Duration of meeting: 9.30am – 10.55am Hearing  
10.55am – 11.05am – Adjournment  
11.05am – 12.20pm Hearing  
12.20pm – 2.20pm - Break and Deliberations  
2.20pm – 2.25pm – Announcement of Decision)

The Officer who has produced these minutes is Lisa Pullin, tel - 01225 713015, email - [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk), of Democratic Services.

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