

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

6 JULY 2021

Application for a Variation of a Premises Licence; The Prestbury Sports Bar, The Close, Warminster, BA12 9AL

1. Purpose of Report

- 1.1 To determine an application for a variation of a Premises Licence in respect of The Prestbury Sports Bar made by Mr Nicholas Pitcher and Mr Peter Bartley.

2. Background Information

- 2.1 An application for a variation of a Premises Licence in respect of The Prestbury Sports Bar has been made by Mr Pitcher and Mr Bartley for which 16 relevant representations and a petition of 43 signatories has been received.

- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 35(3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers necessary for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy.

- 2.3 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

- 2.4 Such steps are:

- i) To grant the licence as applied for.
- ii) To modify the conditions of the licence.
- iii) To reject the whole or part of the application.

- 2.5 On the 6th May 2021 an application for a variation to the premises licence was received and accepted as a valid application. Due to a delay by the applicant to display blue notices outside the premises advertising the application, the consultation period was extended from 3rd June 2021 to 8th June 2021.

- 2.6 The variation applied for is summarised as follows:

*To extend the current licensable area to include the carpark.
To allow the provision of live music in the carpark on Saturdays, Sundays and Bank Holiday Mondays between 12:00 and 20:00*

A copy of the application from Mr Pitcher and Mr Bartley is attached as **Appendix 1.**

2.7 The Prestbury Sports Bar has benefitted from a premises licence issued under the Licensing Act 2003 since 21 April 2006. The current premises licence was issued on 5 January 2016 and authorises the following:

Licensable activity	Location	Days and times
Sale of Alcohol	On and Off Sales	Sunday 11:00 – 23:00 Mon- Thur 11:00 – 00:00 Fri – Sat 11:00 – 02:00
Indoor Sports Events	Indoors	Sunday 11:00 – 23:00 Mon- Thur 11:00 – 00:00 Fri – Sat 11:00 – 01:00
Live Music Recorded Music Similar to any Music or Dance	Indoors	Sunday 11:00 – 23:00 Mon- Thur 11:00 – 00:00 Fri – Sat 11:00 – 01:00
Late Night Refreshment	Indoors	Mon- Thur 11:00 – 00:00 Fri – Sat 11:00 – 01:00
Hours Open to the premises	.	Sunday 11:00 – 00:00 Mon- Thur 11:00 – 01:00 Fri – Sat 11:00 – 03:00

2.8 The current premises licence and plan are attached as **Appendix 2.**

2.9 The Live Music Act 2012 provides the following exemptions in relation to live music:

Live music: no licence permission is required for:

- a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
- a performance of amplified live music between 08.00 and 23.00 on any day provided that the audience does not exceed 500 on premises authorised to sell alcohol for consumption on those premises,

Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

The Live Music Act 2012 is attached as **Appendix 3**.

2.10 As a result of the COVID pandemic, the Government has encouraged licensed premises to make use of their outdoor spaces and at certain stages have restricted operations to outside only. During these periods, the licence holders of The Prestbury Sports Bar made use of the car park for the consumption of alcohol and amplified live music. The amplified music generated a number of noise complaints to the Public Protection Team from local residents. In response to the complaints Carla Adkins, Licensing Officer contacted the licence holders to explain that the carpark was not covered by the building's premises licence and therefore amplified music was not permitted to take place. It was explained that the exemptions under the Live Music Act 2012 permitted live unamplified music only. (The current licence permits the sale of alcohol for consumption on and off the premises). After receiving this information the licence holders ceased offering and advertising live amplified music and instead only provided live unamplified music.

3. Consultation and Representations

3.1 The application process requires a public notice to be posted on the premises for a period of 28 days. During the consultation period 16 relevant representations and a petition of 43 signatories have been received against the application.

Of the 16 representations against the application, 1 was received from Wiltshire Council's Public Protection Officer for Environmental Control & Protection.

The petition against the application was correctly lodged and the instigator has been informed that it is their responsibility to update each of the signatories with the date of the hearing and the outcome.

The Licensing Authority also received 12 letters of support for the application. As these did not relate to the promotion of one or more of the four licensing objectives they were not considered as relevant representations and therefore are not included in the report.

3.2 Responsible Authorities

- Trish Morse, Environmental Protection and Control – Wiltshire Council.

3.3 Interested Parties

- Mr Gary Rattray, 34 High Street, Warminster, Wiltshire, BA12 9AF.
- Mr Andrew Winter, Flat 3, 34 High Street, Warminster, Wiltshire, BA12 9AF.
- Mr Adam Jones, 3 Lower Marsh Road, Warminster, Wiltshire, BA12 9PB.
- Mr Jeff Varker, Kyngeston Court, The Close, Warminster, Wiltshire.
- Mrs Deirdre Greenwood, 42 Portway, Warminster, Wiltshire, BA12 8QD.
- Mr John Greenwood, 42 Portway, Warminster, Wiltshire, BA12 8QD.
- Mr & Mrs Angus and Kett McAfee, Lott House, 16 The Close, Warminster, Wiltshire, BA12 9AL.
- Mr Philip Torjussen and Ms Pamela Corrin, 9 North Row, Warminster, Wiltshire, BA12 9AD.
- Ms Jeannie Broadway, The Old Coach House, The Close, Warminster, Wiltshire, BA12 9AL.
- Mr & Ms Jack and Elaine Holloway and Mr Peter Miles, 15 The Close, Warminster, Wiltshire, BA12 9AL.
- Mr Arthur Cuthbert, 18 Kyngeston Court, The Close, Warminster, Wiltshire, BA12 9AL.
- Mrs Andrea Wordsworth, 27 Portway, Warminster, Wiltshire, BA12 8QG.
- Mr & Mrs Andrew & Gaynor Frostick 25 Portway, Warminster, Wiltshire, BA12 8QG and Mr William Peachment, 21 Portway, Warminster, Wiltshire, BA12 8QG.
- Ms Tracy Greenwell, Kyngeston Court, The Close, Warminster, Wiltshire
- Christopher & Katherine May, Tavender House, 38 Portway, Warminster, Wiltshire, BA12 8QD.

3.4 A summary of the representations made is detailed in the table below:

Representation	Licensing Objective	Summary of representation
Mrs T Morse, Public Protection Officer, Environmental Protection and Control	Public Nuisance	Music played outside will adversely impact the amenity of nearby residents
Mr Rattray	Public Nuisance	Noise from music and customers using the carpark.
Mr Winter	Public Nuisance	Noise from music. Customers urinating in the carpark.
Mr Jones	Public Nuisance	Noise from music and customers in the carpark will impact tenants of intended new build properties.
Mr Varker	Public Nuisance	Noise from music and customers of the carpark will

		disturb residents of Kyngeston Court.
Mrs Greenwood	Public Nuisance	Noise from music in the carpark
Mr Greenwood	Public Nuisance	Noise from music in the carpark
Mr & Mrs McAfee (also instigators of petition)	Public Nuisance	Noise from music in the carpark
Mr Torjussen and Ms Corrin	Public Nuisance	Noise from music in the carpark
Ms Broadway	Public Nuisance	Noise from music in the carpark
Mr & Mrs Holloway and Mr Miles	Public Nuisance	Noise from music in the carpark
Mr Cuthbert	Public Nuisance	Noise from music in the carpark
Mrs Wordsworth	Public Nuisance	Noise from music in the carpark
Mr & Mrs Frostick and Mr Peachment	Public Nuisance	Disturbance from amplified music in the carpark
Mrs Tracy Greenwell	Public Nuisance	Noise from music and customers of the carpark will disturb residents of Kyngeston Court. Customers urinating on the premises of Kyngeston Court.
Mr & Mrs May	Public Nuisance	Noise from customers and music in the carpark

3.5 The relevant representations are attached as **Appendix 4a- 4p**. The petition is attached as **Appendix 5**.

Attached as **Appendix 6** is a plan which shows the locations from where representations have been made.

4. Legal Implications

4.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

4.2 The Applicant and all Responsible Authorities and Interested Parties who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those Responsible Authorities and Interested Parties who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

- 5.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

6. Right of Appeal

- 6.1 It should be noted that the Premises Licence Holder, the 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.
- 6.2 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.
- 6.3 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.
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Date of report: 21 June 2021

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Live Music Act 2012**
- **The Legislative Reform (Entertainment Licensing) Order 2014 Explanatory Document**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Application form and plan
- 2 Current licence and plan
- 3 Live Music Act 2012
- 4a Representation – Mrs T Morse, Public Protection, Environmental Protection and Control
- 4b Representation – Mr Rattray
- 4c Representation – Mr Winter
- 4d Representation – Mr Jones
- 4e Representation – Mr Varker
- 4f Representation – Mrs Greenwood
- 4g Representation – Mr Greenwood
- 4h Representation – Mr & Mrs McAfee
- 4i Representation – Mr Torjussen and Ms Corrin
- 4j Representation – Ms Broadway
- 4k Representation – Mr & Mrs Holloway and Mr Miles
- 4l Representation – Mr Cuthbert
- 4m Representation – Mrs Wordsworth
- 4n Representation – Mr & Mrs Frostick and Mr Peachment
- 4o Representation – Mrs Greenwell
- 4p Representation – Mr & Mrs May
- 5 Petition
- 6 Representations Map