

## WESTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 22 JUNE 2016 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE BY THREE DAGGERS (OPERATING) LTD FOR THE THREE DAGGERS, 47 WESTBURY ROAD, EDINGTON, WESTBURY**

**Present:**

Cllr Desna Allen, Cllr Nick Blakemore and Cllr James Sheppard

**Also Present:**

Wiltshire Council

Jemma Price (Licensing Officer)  
Lisa Pullin (Democratic Services Officer)  
Paul Taylor (Senior Solicitor)

Applicant

Robin Brown  
Christian Goodwin

Those who made a Relevant Representation

Rachel Shepherd  
Mr Shepherd on behalf of Mr and Mrs Russell

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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 James Sheppard as Chairman for this meeting only.**

## 2 **Apologies for Absence/Substitutions**

There were no apologies.

## 3 **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 5 - 11 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 Three Daggers Limited for a Variation of a Premises Licence at The Three Daggers, 47 Westbury Road, Edington, Westbury**

Jemma Price, 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.

Jemma confirmed that a variation was sought to extend the opening hours to 08:00 to 01:30 Monday to Sunday and to include the sale of alcohol outdoors Monday to Sunday 10:00 – 21:30 (10:00 – 23:00 to be permitted for the Music Brew Event, October Hop Fest and up to 4 other occasions in the year).

During the consultation period 4 relevant representations were received expressing their concerns about public nuisance.

Jemma confirmed that it was the Applicant's intention that no licensable activities would take place between 08:00 and 10:00 each day.

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

Key points raised by Robin Brown, General Manager on behalf of Three Daggers Limited were:

- The reason for the opening at 08:00 instead of 10:00 was to allow the Applicants to serve breakfast to non-residents;
- There was a new building outside of the premises and it was intended that this would be a BBQ and outdoor bar facility, this was due to increased trade and to take the pressure off the inside bar at busy period; and
- They intended to play low level background music outside and want to keep their neighbours and the village happy. They had never received any noise complaints.

The Sub Committee asked the following question of the Applicant:

Q You mention playing music, but isn't this already part of your existing licence?

A *Yes this is already part of our licence.*

Those who had made Relevant Representations (Mrs Shepherd and Mr Shepherd on behalf of Mr and Mrs Russell) were given the opportunity to ask questions:

Q You have included live and recorded music within your application (boxes e and f at part 4 on the form) – is that to be played outside?

A *Jemma Price, Licensing Officer confirmed to those present at the hearing that, as a result of changes to the Licensing Act which came into force in April 2015 a licence is not needed for live music that takes place between 08:00 and 23:00 when another licensable activity is taking place. What the Applicants have said that they intend to do is provide background music which is not a licensable activity. Boxes e and f on the application form were completed in error as these are now not licensable activities.*

Q Does that mean that the Applicants can have live and recorded music every day during these times? That you are applying for live and recorded music

A *Jemma Price confirmed that under the amended provisions of the Licensing Act they are allowed to play live or recorded music outside between the hours of 08:00 and 23:00. However, this should not cause a public nuisance and if it is too loud then the Environmental Health team could be asked to step in and sort out any problems.*

Q I live 200 yards away and when there is music outside I can hear it and the DJ announcements whilst in my house.

A *Jemma Price confirmed that Temporary Events Notices have been applied for for outside events – background music would not be at a level where you would be able to hear it in your property.*

Q Have they applied for a Temporary Events Notice for Brewfest?

A *Jemma Price responded and without checking records which were not available at the meeting she could not confirm if a TEN application had been submitted for Brewfest.*

Q Will you be using the car park as a bar?

A *If our beer bus is on site at busy periods we would open it up and situate it by the footpath, but on occasions it might be placed in a section of the car park as a back up.*

Q Isn't having the beer bus and the sale of alcohol in the car park a potential hazard?

A *If that was the case then the movement of traffic would be excluded from that area of the car park.*

Q You have a fixed bar in your new building but the Planning Department have told you that you can only use this as a garden shelter store.

A *Jemma Price confirmed that she had contacted the Planning Department to seek clarity on this and had been advised that one section of the building has to be used as a store only, but that the rest of the building could be used as the Applicant's wished.*

Q Why do you need more bars? You also have a bar in the Brewery that could be used as an overflow.

A *The Brewery is a working environment for 5/6/7 days a week depending how busy we are with the brewing. We do use the bar in the Brewery for a few limited or private events, but as I say in the daytime this is a working environment.*

Q Why do you want to open early to serve breakfasts – can't you do this in your Farm Shop Café?

A *We are also a three bedroom bed and breakfast and so have staff in serving up to 6 residents breakfast, with the staff already in, we would like to be able to utilise them and provide breakfasts for non-residents from 08:00.*

Q You say you are going to open later outside for the two named events and up to four more – what is the nature of these events?

A *We will host the Music Brew and Hop Fest annually and the other 4 events given us the option to host a wedding or another village music event which we would not foresee going on longer than a weekend.*

Q Would you hold these events on a Bank Holiday weekend?

A *This is not likely, no.*

Q But you could hold events over a Bank Holiday weekend?

A *Yes we could.*

*Jemma Price confirmed that any noise from the premises should not create a nuisance for neighbours even during permitted events and Environmental Health could deal with any problems that arise.*

A *We won't have live music that often as we do not want to disturb our diners in the pub or those using our bed and breakfast accommodation. We are currently licenced to serve alcohol until 01:00 but generally close at 23:00. We are responsible to our patrons.*

Key points raised by Mrs Shepard and Mr Shepard (on behalf of Mr and Mrs Russell) who made a Relevant Representation were:

- If you sell alcohol outside there is an impact on us. The selling of alcohol is noisier than consumption. There were be an increased noise nuisance at the service areas outside;
- There should have been increased consultation between the Applicants and those that these changes will affect; and
- I think there should be a smaller number of outside events and limited use of outside bars.

The Applicant stated they had applied for the variation as their patrons have advised that they wish to have a drink with their children who are using the park outside and not be inside in a long queue at the bar. We are planning to run the BBQ when the weather allows and this would be complemented by the outside bar.

Mr Shepherd responded that when there is an event there will be an increased noise nuisance to them – if this was to be a small number of occasions this would be OK, but there is the potential to happen every bank holiday weekend and this worries me about ours and the village's quality of life.

Mr Shepherd made the following points in summation:

- If this change of licence is granted there will be an increase in noise and nuisance and this will impact on our life; and
- We do not know when the events might be coming up – they should be restricted as to when they can be held to allow for all of our enjoyment.

Mr Brown, Applicant made the following points in summation:

- We are trying to run a business but willing to work with our locals and neighbours – we would like to reassure them that we are responsible and will endeavour to keep noise to a minimum as this is in our interests too.

The Sub Committee then retired to consider the application at 11:05 and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The hearing reconvened at 11:45.

**Resolved:**

**The Western Area Licensing Sub Committee has resolved to grant the variation of the Premises Licence in respect of The Three Daggers, 47 Westbury Road, Edington, Westbury, as applied for, subject to the four events (additional to the Hop Fest and Music Brew) per year during which the sale of alcohol is permitted outside until 23:00 hrs, not exceeding a period of 48 hours each.**

**Reasons:**

**The Sub Committee noted that some of the representations concerned the playing of live and recorded music within the outside areas at the premises. However, given the times that they would take place, these activities were now deregulated and were not, therefore licensable. However, they could still be subject to action under environmental health legislation, if they became a nuisance to neighbours.**

**The main concerns that fell to be considered by the Sub Committee were, therefore, those relating to noise from patrons using the proposed outside bars. It was argued by those who had made representations that noise levels arising from the sale of alcohol in the outside area were considerably louder than if that area was only being used for consumption.**

**However, bearing in mind that the sale of alcohol in the outside areas was to cease at 21:30 (other than for the limited number of special events) the Sub Committee did not consider it appropriate to refuse the variation or add any further conditions to the licence.**

**Therefore, having considered the written evidence presented in the agenda and the oral representations received at the hearing the Sub Committee concluded that the variation was acceptable and adequately met the licensing objectives with the added restriction on the maximum duration of the additional events (48 hours), for which the sale of alcohol outside could take place until 23:00 hours.**

**Right of Appeal:**

**All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.**

(Duration of meeting: Hearing – 10.30am – 11.05am  
Determination of Application – 11.05am – 11.45am  
Announcement of Decision – 11.45 – 11.50am)

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

Press enquiries to Communications, direct line (01225) 713114/713115