

## DECISION NOTICE

### Western Area Licensing Sub-Committee

#### Meeting held on 4 October 2010, in respect of Licensing Application: The Rose and Crown, 57 East Street, Warminster

The Western Area Licensing Sub-Committee resolved to grant the application by Punch Taverns Plc for a Premises Licence under the Licensing Act 2003 in respect of The Rose and Crown, 57 East Street, Warminster, as detailed below and subject to the following conditions:

#### Recorded Music

Monday – Sunday	12.00 to 02.00	Indoors only
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#### Live Music

Thursday and Friday	20.00 to 23.30	Indoors only
Saturday and Sunday	12.00 to 23.30	Indoors only

#### Provision of facilities for entertainment of a similar description

Wednesday – Friday	20.00 – 23.30	Indoors
Saturday – Sunday	12.00 – 23.30	Indoors

#### Late Night Refreshment

Monday – Sunday	23.00 – 02.00	Indoors
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#### Conditions

1. The area identified as a function room on page 35 shall not be used for the performance of live music or karaoke.
2. A suitable noise limiter to be installed in the function room after consultation with the Council's noise pollution team to be used when recorded music is played.
3. All windows and doors shall remain closed (save access and egress) during the provision of regulated entertainment.
4. A suitably competent member of staff should monitor noise levels when live or recorded music events are taking place and record whether or not the noise is audible from adjacent premises.

5. It shall be clearly stated within the pub to whom complaints can be made about noise and a log of any complaints received and the remedial action taken should be available for inspection by Wiltshire Council Licensing Officers.
6. The fire exit stairway, leading from the first floor function room, shall not be used for access or egress except for in the event of an emergency.
7. Posters shall be displayed in the premises to ask patrons to leave quietly respecting the neighbours.

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**Evidence and Reasons:**

The Sub-Committee considered the written evidence attached to the Agenda. In addition the Sub-Committee heard all the evidence on behalf of the Applicant from Mr Wormald and Ms Kidd, and also from the following individuals who had made written representations objecting to the application:

- Lady Newson-Smith
- Mr Pulford
- Mrs Abbott
- Cllr A Davis (Wiltshire Council)
- Mr Sharp (Public Protection Team – Wiltshire Council)

The Sub-Committee have listened carefully to the evidence in particular the views of the local residents who have made written representations. Those representations in large part relate to complaints about noise nuisance emanating from the premises as a result of live music and general disturbance from the noise of customers whilst at or leaving the premises.

The Sub-Committee take into account that the premises operate under an existing licence which already provides for almost all permissions that are being sought in the present application. The Sub-Committee must therefore bear in mind that the Rose and Crown would be able to continue to operate under their existing licence even if this application was refused in its totality.

The significant change being sought is for the licensing of the area referred to as the function room on the plan at page 35 of the Agenda. This area has been used recently for band practice and the Sub-Committee accept that significant noise nuisance has been caused by this to local residents in particular, Mrs Abbott, whose premises directly overlook the function room.

There is a likelihood that further noise nuisance would be caused by live music being performed in this area. The Applicant has volunteered that a condition be imposed that the function room should not be used for live music or karaoke. The Sub-Committee have adopted this condition as detailed above. However, this area may be used for recorded music.

The Sub-Committee are satisfied that public nuisance has been caused by live amplified music (band practice) but feel the Applicant should be offered an opportunity to use the function room as far as reasonably possible. In order to prevent public nuisance from recorded music being played in the function room, which the Sub-Committee note has only single glazed windows on both sides, the Sub-Committee have decided to impose a condition that a noise limiter be installed and operated as described above.

In addition to noise from the function room the evidence both written and oral supports the view that there has been some noise nuisance from performances of live music under the existing licence. Lady Newson-Smith has described it as “awful” and Mr Pulford said that he could “hear noise with his windows and doors closed and TV on”.

However, this evidence has to be set against the evidence from the Applicant that there have been no complaints directly to Ms Kidd with regard to noise nuisance and no recorded complaints to the Council’s Noise Pollution Team. For this reason the Sub-Committee have decided to place the conditions outlined above relating to noise monitoring.

The Sub-Committee note the complaints about anti social behaviour affecting a number of residents. The Sub-Committee are satisfied that on the evidence they have heard that such incidents have occurred. However, it was acknowledged in evidence that these incidents cannot be definitely attributable to customers of the Rose and Crown.

However, the Sub-Committee would wish to forcefully remind the DPS, Ms Kidd that the conduct of patrons whilst on and within the vicinity of the premises is her responsibility. In this context the Sub-Committee take note of Sections 2.38 and 2.39 at page 22 of the Guidance issued under Section 182 of the Licensing Act.

### **Right of Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.