

## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 17 JULY 2013 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE; EASTERN CHILLOUT, 99 FISHERTON STREET, SALISBURY, SP2 7SP**

**Present:**

Cllr Trevor Carbin, Cllr Leo Randall and Cllr Jose Green

**Also Present:**

Kieran Elliott (Senior Democratic Services Officer), Lisa Moore (Democratic Services Officer), Debbie Mulvey (Senior Public Protection Officer), Paul Taylor (Senior Solicitor), Peter McMillan (Senior Environmental Health Officer), Jemma Kemaneler (Applicant), Hannah White (Salisbury Journal), Nathaniel Dalley (Salisbury Journal), Rhiannon Croker (Salisbury Journal)

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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 Trevor Carbin 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 – 6 of the Agenda refers).

**3 Chairman's Announcements**

Details were given 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 by Mrs Jemma Kemaneler for a Variation of a Premises Licence at Eastern Chillout, 99 Fisherton Street, Salisbury, SP2 7SP**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

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 Mrs Jemma Kemaneler, Applicant were:

- The applicant wishes to expand and enhance the current offer of the restaurant by offering an experience not only a meal, and the extension of live music and dance performances would add to atmosphere.
- There had been a single complaint from a previous performance of live music, and in future all music would be acoustic in nature as it was more in keeping with the intended quiet atmosphere preferred by existing clientele, and would not disturb neighbouring properties, as the applicant would take measures to consult neighbours where a performance was planned.
- The extension to the premises area was to take advantage of the large garden of the property and permit occasional events to take place, and extended times were to permit flexibility and not to rush people out the door; there were no plans to regularly hold events late at night.
- The property had previously been a public house, so nearby residents were used to a certain amount of activity in the garden of the property, which was also a city centre property used to a certain amount of noise.

Key points raised by the Responsible Authority, Mr Peter McMillan of Wiltshire Council, (Environmental Health) were:

- The lack of sufficient noise suppression for 'The Barn'.
- The sheer proximity of neighbouring residential properties, and impact of events outside the current restaurant area from smell and in particular noise leading to public nuisance.
- The application for extension to hours on every day of the week, leading to potential of extensive disruption.

The parties were given the opportunity to ask questions of the Applicant and Responsible Authority. A debate ensued in which the Sub Committee discussed points including the following:

- The insulation of the structure known as 'The Barn', which in an update to the papers did now contain doors, but had not been assessed for noise cancellation.
- The impact of even light music on the outdoor structures and tents given the closeness of residential properties.

- Intended operation with extended hours and frequency of dance and music performances.

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 1130.

The Hearing reconvened at 1300.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

That no specific legal guidance had been given.

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:**

**That the Application for a Variation of a Premises Licence at Eastern Chillout, 99 Fisherton Street, Salisbury, SP2 7SP be granted as detailed below:**

The Southern Area Licensing Sub Committee has resolved to MODIFY the premises licence for Eastern Chillout, 99 Fisherton Street, Salisbury as follows:-

1. To amend the area covered by the premises licence to that shown on the plan submitted with the variation application on 22 May 2013.
2. To approve the structural alterations as shown on the plan submitted with the variation application on 22 May 2013.
3. To amend the permitted licensable activities as follows:

<b>Licensable Activity</b>	<b>Days and Timings</b>	<b>Non- Standard Timings</b>
<p><b>Live music</b></p> <p>(This activity is no longer a licensable activity on premises licensed for the sale of alcohol for the consumption on the premises if it is unamplified and takes</p>	<p>Friday &amp; Saturday in the restaurant area only 08:00 to 23:30</p>	<p>Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day, Midsummer's Day and Valentine's Day in the restaurant area only</p>

place between 08:00 & 23:00 and amplified between 08:00 & 23:00 and as long as the audience is of no more than 200)		
<b>Recorded music</b>	Friday & Saturday from 20:00 to 21:30 only in conjunction with a performance of dance	Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day, Midsummer's Day and Valentine's Day in the restaurant area only
<b>Performance of dance</b> (This activity is now <b>not</b> licensable between 08:00 & 23:00 as long as the audience is of no more than 500)	Friday & Saturday 08:00 to 23:30 in the restaurant area only	Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day, Midsummer's Day and Valentine's Day in the restaurant area only
<b>Anything of a similar description</b>	Monday to Thursday 11:00 to midnight Friday & Saturday 11:00 to 02:00 Sunday Noon to Midnight	None
<b>Provision of late night refreshment</b>	Sunday to Thursday 23:00 to 01:00 Friday & Saturday 23:00 to 02:00 in the restaurant area only	Between the hours of 23:00 and 02:00 the following day on Boxing day, New Year's Eve, Christmas Eve, Midsummer's Day and Valentine's Day
<b>Sale by retail of alcohol (on and off sales)</b>	Sunday to Thursday 08:00 to Midnight Friday & Saturday 08:00 to 02:00	New Year's Eve until start of business on 1 <sup>st</sup> January
<b>Opening times</b>	Sunday to Thursday 08:00 to 01:00 Friday & Saturday 08:00 to 02:00	Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day,

		Midsummer's Day and Valentine's Day
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4. To amend the existing condition relating to entry to the premises to read:-  
'There will be no entry to the premises after 23.00 hours.'
5. To amend the existing condition relating to recorded music to read:  
'Other than where specifically allowed in conjunction with a performance of dance, recorded music will be limited to background music – i.e. not regulated entertainment, which will not be audible outside the premises.'
6. To add a condition to read:- 'CCTV will be installed to cover all licensed areas, and the system will be of sufficient quality to ensure that identification of individuals will be possible. CCTV will be securely stored and images will be retained for a period of not less than 30 days. CCTV images will be produced to a Police Officer or a Wiltshire Council Licensing Officer on request.'
7. To remove the existing condition that provides that Persons under 16 will not be permitted on the premises after 18.00 hours.

### **Informative**

1. For the purposes of this licence, 'the restaurant area' is not to include any outside area, the tents, or the additional structure known as 'the barn'.

### **Reasons**

The Sub Committee considered that the modifications to the premises licence as set out above would enable the licence-holder to expand and develop the range of facilities offered to patrons, whilst seeking to protect the amenity of nearby residents. In particular the Sub Committee were concerned at the likely disturbance of residents by live and recorded music late at night and for that reason did not approve the requested addition of recorded music as a licensable activity (other than in the limited circumstances allowed); the increase in hours of live music; or the provision of late night refreshments other than in the restaurant area. The Sub Committee accepted the comments of the Environmental Health officer that the acoustic properties of the restaurant area had not been significantly improved since noise complaints last year. They also accepted that the acoustic properties of the barn were inadequate, or at best untested, and that the tents would not contain any noise at all.

The Sub Committee accepted that performances of belly-dancing needed to be accompanied by recorded music and therefore agreed that such music could be permitted, in the restaurant area, during the limited hours of those performances on Friday and Saturday evenings. They also felt that both live and recorded music would be acceptable on non-standard days.

The Sub Committee saw no reason to restrict the presence of persons under 16 on the premises, but accepted the need to have appropriate CCTV in place, to prevent crime and disorder.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35 ); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Evidence**

The Sub Committee heard evidence from Mrs. Kemaneler, the licence-holder. She explained the nature of the business currently operated at the Eastern Chillout and how they wished to offer more services to their patrons, including being able to cater for weddings. She said that works had been carried out to the barn to improve its acoustic properties and that advice had been taken from an acoustic engineer. They had had a live music event last year at the premises which had led to complaints. Since then that had been no further events.

Mr. McMillan, for the Environmental Health Team, explained the concerns that his Team had with some of the proposed variations to the licence. There were residential properties very close to the premises and the occupants of those properties would be disturbed by both music noise and by the noise of people talking in the garden area late at night. The tents were particularly near to other properties and, in his view, it was inconceivable that there could be music in the tents that would not be audible beyond the premises. He had not seen details of any acoustic works to the barn, but in any event, would be concerned at the inevitable escape of music from the buildings, when doors were opened.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of this decision.

(Duration of meeting: 10.45 am - 1.00 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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