

## WESTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 18 SEPTEMBER 2013 AT THE USHER SUITE - CIVIC CENTRE, ST STEPHENS PLACE, TROWBRIDGE. BA14 8AH IN RESPECT OF AN REVIEW OF A PREMISES LICENCE - CLUB ICE/PLAYERS, 26A QUARTERMASTER RD, WEST WILTS TRADING ESTATE, WESTBURY**

**Present:**

Cllr Desna Allen, Cllr Sue Evans and Cllr George Jeans

**Also Present:**

Wiltshire Council

Linda Holland (Licensing Officer)  
Lisa Pullin (Democratic Services Officer)  
Paul Taylor (Senior Solicitor)

Review Applicants

Mrs Pauline Fleming on behalf of Mrs Susan Capon  
Mr Richard Gregory

Premises Licence Holders

Mr Stephen Jones  
Mr Barrie White

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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. The correct procedure summary was circulated at the hearing to all the parties.

### 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**

#### **Applications by Mr Richard Gregory and Mrs Susan Capon for a Review of the Premises Licence in respect of Club Ice/Players, 26a Quartermaster Road, West Wilts Trading Estate, Westbury**

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

In accordance with the procedure detailed in the agenda, the Review Applicants and the Premises Licence Holders were given the opportunity to address the Sub Committee.

Key points raised by Mr Richard Gregory, Review Applicant were:

- On Friday 19 July 2013 it was a hot evening and the windows were open at his home when he became aware of the sound of music which appeared to be coming from Club Ice, Westbury;
- He had lived at his current property since 1985 and had never had a cause to complain about any disturbance from Club Ice – it was only when they ran this special event that they suffered with noise nuisance;
- He was also disturbed by loud music on Saturday 20 July at around 3am (on Sunday 21 July) and at that point followed the noise and felt that it was coming from Club Ice;
- He knew of a private party taking place over the other side of the woods near to his property but as far as he was aware that party was not that noisy;
- When he arrived at Club Ice he admitted it was not in the best of moods because of the disturbance caused to him and his family and he asked to speak to a manager. He spoke to a man called Mark (Taylor) who advised him that he was running the event and that they had a licence in place and that they were doing nothing wrong;

- The noise from the fairground rides was so loud that that they had to shout to have a conversation and Mr Taylor then told Mr Gregory agreed to turn down the volume; and
- Mr Gregory would request that the ability to hold special events be removed from the premises licence or that the events be restricted so that they end by 1am and are not held for two consecutive days so as to reduce disturbance to him and his family.

Key points raised by Mrs Pauline Fleming (on behalf of the Review Applicant, Mrs Susan Capon) were:

- That complaints were received from their customers (campers at Brokerswood County Park) of foul and abusive language that could be heard by their children which appeared to be coming from someone talking with a microphone on the evening of Friday 19 July;
- That the campers were advised that a neighbour was having a 21<sup>st</sup> birthday party nearby on Saturday 20 July and that there may be some noise disturbance; and
- They were not disturbed by Club Ice's similar event held last year, but this year they had a number of complaints about the loud noise disturbance that went on for so long and the foul and abusive language that was heard.

The following questions were asked of the Review Applicants by the Sub Committee members and the Premises Licence holders:

*When did the party on the neighbour's land finish?*

They were all gone by 3.30am (Sunday 21 July).

*Did you hear the Dusk till Dawn event last year at Club Ice?*

I heard it, but it did not cause me a problem.

*Did Mr Gregory hear foul and abusive language when he attended at Club Ice?*

I didn't hear any foul language; I heard rapping over the music, but not the actual words spoken.

*From our (Club Ice) sound checks we heard the party continuing past the early hours – why are there not any complaints from the campers included in the papers?*

Complaints were received from the campers and emails could be produced if required. Mr Gregory said that he saw no sign of the party when he drove by at approximately 4am.

Key points raised by Mr Stephen Jones (Premises Licence Holder) were:

- That he had been running Club Ice since 1988 and had a good working relationship with the Police and Wiltshire Council;
- This was the second time they had held this type of event and it was run by the same promoter with the same equipment as last year. Music was played from 6pm on Friday 19 July to 4am on Saturday 20 July and from 8pm on Saturday 20 July to 6am on Sunday 21 July;
- A Task Force meeting was held with all relevant authorities prior to the event and he had assumed that that the duty Police would be notified that the event would be taking place;
- Four Designated Premises Supervisors and himself and the other Premises Licence holder (Barrie White) ran and managed the event;
- They carried out their usual sound checks with their calibrated sound monitor;
- That they had previously been advised that if noise was a problem on the Friday evening, they would be contacted by Wiltshire Council on the Saturday and adjustments could be made – no call was received from a Wiltshire Council Officer on Saturday 20 July;
- At 8pm on Friday 19 July, I drove to Tesco's and on my way back I stopped at Hawkeridge and I could not hear the sound of any music;
- At approximately 10pm on the Friday, I received a call from Mrs Capon saying that noise from our club was disturbing her campers. Following this I ensured that our sound level was turned down gradually by 11.15pm;
- A colour version of the map provided in the supplement was circulated and Mr Jones indicated the areas at which he took sound readings;
- There was no outside marquee playing music at this event;
- The main club has a capacity of 1000 people, and there are 3 other rooms which also have their own sound system;
- MC's do rap over the music but they speak so fast that they cannot hear/understand what they are saying;
- They were using their beach bar area outside which has a sound system, but this has been used about 12 times before. In the car parking area some fairground rides were there, but they were not playing music;

- At approximately 5pm on Saturday 20 July I spoke to a WPC from Wiltshire Police who was responding to a complaint about the language being used by DJ's on the Friday evening. I was not aware of any bad language being used but said I would speak to the promoters to remind them about that. I had not received any complaints from any of my customers about bad language;
- Mr Fred Nutley from Wiltshire Council did attend for an inspection but reported that he was happy with the sound levels around the premises and would drive round the surrounding areas and call if there were any issues – we did not receive any calls;
- Mr Gregory said that the music was being played until 6am on Saturday 20 July, but this was not possible that any noise was coming from Club Ice at that time as our music was switched off at 4am;
- Ben Parrett carried out our sound checks and has since spoken to residents and it is clear to us that the noise disturbance was coming from Pixie's Party. We have been informed that the party was playing chart music and had a live band which is totally different to the music that Club Ice were playing; and
- We find it completely unbelievable that the party that is much nearer to Mr Gregory and Mrs Capon was not heard by them and that Club Ice over 3km away was the cause of the disturbance.

The following questions were asked of the Premises Licence Holders by the Sub Committee members and the Review applicants:

*At what time does your music end on a normal weekend?*

Around 4am/5am.

*Have you received complaints on a normal weekend?*

No.

*Could you hear foul language when you were in the nightclub coming from the MC's?*

I didn't hear any and wouldn't imagine that there was any as the whole event was broadcast live on radio. The Police were circulating the area all night and we did not have any complaints from them about foul language coming from the nightclub.

*Who managed the event?*

We (the Premises Licence Holders) were present for the entire duration of the event.

*What time do you normally open?*

We normally open at 9pm and most people come in around 11pm. This event was different as we had people camping in the field for the weekend. We had a queue of people waiting to get in when we opened at 6pm and we were at capacity at 10pm.

Mr Gregory made the following summation point:

- He requests that the ability to hold special events on the Premises Licence be removed or if this is not possible that the events be curtailed at a reasonable hour.

Mrs Fleming made the following summation point:

- We have a business to run too and a two day event causes too much disturbance to us.

Mr White made the following summation points:

- That they have provided employment to the area for 22 years and don't want to upset the community whilst running their business; and
- From looking at the map that is part of their submission they are 3km away from Mr Gregory and Mrs Capon and residents that are nearer have not made complaints. Surely if there had been foul language those nearer by would have heard it and complained?

Mr Jones made the following summation points:

- I accept that the music may have been too loud on the Friday evening, but we responded to the complaint and turned the music down; and
- The Police had no issues with us – we would say the issues had to be with the private party taking place.

The Sub Committee then retired to consider the application at 11.25am and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

All parties confirmed that they did not wish to return to hear the outcome of the hearing and would be happy to receive a phone call notifying them of the outcome instead. The Licensing Officer ensured that contact telephone numbers for the parties were taken.

### **Resolved:**

Having heard all of the evidence, the Western Area Licensing Sub Committee determined that it was not appropriate to take any steps in relation to the Premises Licence to promote the licensing objectives.

### **Reasons**

The Sub Committee noted that there was a conflict of evidence between the parties as to the cause of the noise disturbance and the alleged foul and abusive language on the weekend of 19 to 21 July 2013.

The Sub Committee felt that the evidence presented was not conclusive to show that Club Ice were responsible for the noise disturbance or for the alleged use of foul and abusive language heard by residents and visitors to Brokerswood Country Park.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

The Sub Committee have also considered the written evidence presented in the agenda and the supporting evidence provided orally. After thorough consideration of the evidence the Sub Committee felt that on balance it was not appropriate to take any of the steps available to it under s. 52(4) of the Act.

### **Informative**

It is hoped that at future events of this type there would be improved communication between the licence holders and local residents to reduce the likelihood of disturbance.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. This decision does not come into effect until the appeal period has elapsed or, if an appeal is made, until that appeal has been finally disposed of.

(Duration of meeting: T10.30am to 11.25am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services,  
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