

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 17 JANUARY 2014 AT WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE: HARVEY'S NIGHT CLUB AND SPORTS BAR (FORMERLY PUTTERS MINI GOLF BAR) 35 CHURCH STREET, TROWBRIDGE, BA14 8DN

Present:

Cllr Trevor Carbin (Chairman), Cllr Dennis Drewett and Cllr Pip Ridout

Also Present:

Linda Holland (Senior Licensing Officer), Roy Bahadoor (Licensing Officer), Teresa Bray (Licensing Officer), Lisa Grant (Licensing Officer), David Parkes (Democratic Services Officer), Kieran Elliott (Senior Democratic Services Officer), Paul Taylor (Senior Solicitor), Caroline Doyle-Wiaczek (Trainee Solicitor), Richard Francis (Senior Environmental Health Officer), Steven Hunt (Environmental Health Officer), David Skinner (Person who made a relevant representation), Melanie Carter (Person who made a relevant representation), Jason Norris (Applicant), Alison Samver (On behalf of applicant), Jason Harvey (On behalf of applicant)

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 welcomed all those present and introduced all officers and members of the public in attendance.

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**

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**

Application by Mr Jason David Norris for a Variation of a Premises Licence at Harvey's Nightclub and Sports Bar (Formerly Putters Mini Golf Bar), 35 Church Street, Trowbridge, BA14 8DN.

Prior to the introduction of the officer report, Mr David Skinner (Person who had made a Relevant Representation) requested permission to play a sound recording from his property to demonstrate noise levels, which had not previously been submitted as evidence. The Chairman invited the applicant to comment upon the request, and the applicant disputed the relevance of the recording, stating it would have been taken before the latest mitigating measures were in place. In open session the Sub-Committee discussed the request and determined that given the proposed evidence was disputed and therefore contentious, it would not be permitted to be a late submission.

The Licensing Officer then introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration as detailed in the report, explaining that it had been confirmed that the historical permitted use of the property as a nightclub granted in 1978, was still valid.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities who had made a representation (Environmental Health) and members of the public who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Mr Jason Norris, Applicant, and Ms Alison Samver and Mr Jason Harvey on behalf of the Applicant included:

- The applicants held a wide experience in nightclubs and their management, and have demonstrated their willingness to make accommodations as necessary to avoid public nuisance.
- No more than ten persons would be permitted to leave the premises at a time to avoid congregation and accompanying public nuisance outside the premises, and staff would ensure crowds did not gather outside.
- The impact of the bass speakers which had raised concerns with Environmental Protection and those making representations had been reduced through it being elevated from the floor as requested, and the amp had been downgraded.

- Additional soundproofing had been installed at significant cost.
- The amp would limit the noise level to 80 decibels, below the level requested by Environmental Protection at 85 decibels and well below the reported nuisance level of 90 decibels.
- Other establishments in the area produced more intrusive noise levels, with the pubs across the street even more audible in the properties sharing the premises building than the nightclub given their lack of soundproofing.

There were questions put to the applicant as follows:

- In response to queries it was stated the sound level would be limited to 80 decibels as the amp would not be powerful enough to exceed this, but that the applicant was willing to purchase a noise limiter.
- It was confirmed the latest measures to mitigate noise levels, the elevated bass and altered speakers, had been installed three days prior to the meeting.
- In response to queries about noise levels from other establishments and how the applicants could be sure late night levels were from those establishments and not the nightclub given the other establishments had earlier closing times, it was alleged by the applicant that the other establishments were breaching their licence regarding how late live and recorded music was taking place.
- In summary, the applicant stated that they had complied with everything they had been asked to limit public nuisance, and was offering even more measures.

Key points raised by the Responsible Authority (Mr Richard Francis and Mr Steve Hunt of Environmental Protection, Wiltshire Council) included:

- The change of use from a sports bar to nightclub had taken place in a very short period, and Environmental Protection had not therefore been able to advise the applicants as to the suitability of the changes and mitigating measures prior to its operation.
- The presence of residential properties in the same building as the nightclub, several sharing walls with the premises, necessitated robust measures to avoid public nuisance.
- As it had been established that the premises had a valid licence to operate as a nightclub as a historical permission to turn the building into eleven properties had not been completed, with only three constructed, Environmental Protection were not able to comment on the structure of the premises, only observations of the impact on the area.
- The work of Environmental Protection to investigate the noise levels emanating from the Nightclub were detailed, including observations from the alleyway adjoining the premises, and taking readings from the objecting properties while other staff monitored the levels within the club itself following initial work to reduce public nuisance. It had been

determined that 85 decibels could be heard clearly within the adjoining properties, and anything below was barely audible.

- However, the officers explained that it was their experience that nightclubs generally required a volume of at least 90 decibels for the enjoyment of the intended audience, and to limit to below that, while not a public nuisance, could negatively impact the applicant more than they would anticipate.
- The recommendations of the Environmental Protection team were presented as detailed in the report papers, and that the applicant had accepted all but recommendation four, which concerned reducing the hours music could be played.

There were questions put as follows:

- In response to queries regarding the possibility of soundproofing sufficient to prevent nuisance at more than 85 decibels, it was stated it was not possible to say if this was achievable without a technical assessment of the property.

Key points raised by those who made a Relevant Representation (Mr David Skinner and Miss Melanie Carter) included:

- Work to transform the premises into a nightclub had taken place without prior notice or communication with occupants, and the initial noise levels had been unbearable.
- Following soundproofing work the level of nuisance had reduced, but was still excessive, and they did not believe the applicant had been restricting the bass level to 50% as they had stated they would, as the level of vibration in their property had matched that of the test undertaken by Environmental Protection when it had been set at 100%.
- Limiting the numbers leaving at one time or who could smoke outside at any one time made little difference as it still entailed large numbers of people coming and going, with frequent anti-social behaviour witnessed.
- While the other premises in the area could be heard from their property, their earlier closing times limited the impact, and if they exceeded their licence that was also a matter to be pursued.

There were questions put as follows:

- The applicants pointed out that the alleyway alongside the nightclub was a public thoroughfare, and although they could ask people not to congregate outside the club, they were not responsible for a public walking route, and that anti-social behaviour had taken place there prior to the nightclub operating.

All parties were given the opportunity to ask questions of the Applicant, Responsible Authority, those who made a Relevant Representation and Wiltshire Council Officers, as detailed above.

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

The Sub Committee retired to consider the application at 14:15.

The Hearing reconvened at 1600.

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:

The Western Area Licensing Sub Committee has resolved to grant the application for a variation of the Premises Licence Harvey's Nightclub and Sports bar (formerly Putters mini Golf Bar) Church Street Trowbridge, BA14 8DN for the provision detailed below:

Licensable Activity	Hours
Live Music	Monday to Thursday 12.00 hrs – 23.00 hrs Friday to Saturday 12.00 hrs – 01:30 hrs (Next Day) Sunday 12.00 hrs – 22.00 hrs
Recorded Music	Monday to Thursday 12.00 hrs – 23.00 hrs Friday to Saturday 12.00 hrs – 01:30 hrs (Next Day) Sunday 12.00 hrs – 22.00 hrs
Performances of Dance	Monday to Thursday 12.00 hrs – 23.00 hrs Friday to Saturday 12.00 hrs – 01:30 hrs (Next Day) Sunday 12.00 hrs – 22.00 hrs

Late Night Refreshment	Friday to Saturday 23.00 hrs – 02.00 hrs (Next Day)
Supply of Alcohol	Monday to Thursday 12.00 hrs – 23.00 hrs Friday to Saturday 12.00 hrs – 01:30. hrs (Next Day) Sunday 12.00 hrs – 22.00 hrs
Hours premises are open to the public	Monday to Thursday 12.00 hrs – 23.30 hrs Friday to Saturday 12.00 hrs – 02.00 hrs (Next Day) Sunday 12.00 hrs – 22.30 hrs
Non Standard Timings	Bank Holiday Weekends, Sundays 12.00 hrs – 01.30 hrs (Next Day)

And subject to the following additional or varied conditions:

1. No Persons under 16 years old will be permitted on the premise.
2. Staff will not be permitted to sell alcohol until they have completed training to prevent under age sales and prevent the sale of alcohol to a drunk, management will ensure that this training is regularly refreshed. A record of training will be maintained and kept at the premise and will be produced to a Wiltshire Council Officer or Police Officer on request.
3. The premise will operate a 'Think 25' policy.
4. Polycarbonate, shatter-to-safe, plastic, paper or other inherently safer types of drinking vessel container will be used after 22:00hrs.
5. All glass bottled drinks will be decanted into polycarbonate, shatter-to-safe, plastic, paper or other inherently safer types of drinking vessel.
6. All door supervisors will wear high visibility clothing when on duty outside the premise.
7. A written record will be maintained of the door supervisors deployed on the premise. The record will include names of the door supervisors, dates and times of deployment and the registration number of each door supervisor.

8. An incident book will be maintained on the premise, all incidents will be recorded. The record will state the date, time, brief details and the names of staff who dealt with the matter. The book will be kept on the premises and will be produced to a Wiltshire Council Officer or Police Officer on request.
9. CCTV equipment will be installed and fully maintained to cover all trading areas, smoking areas, entrances and exits when the premise is open to the public. The CCTV will be of sufficient quality so as to produce images which enable identification; images will be securely stored for a minimum of 28 days. CCTV images will be produced to a Wiltshire Council Officer or Police Officer on request.
10. 4 Door supervisors will be deployed on a Friday and Saturday from 21.00 hours.
11. The Designated Premises Supervisor (or nominee) will belong to the Pub watch scheme and any alternative area network designed to promote the licensing objectives.
12. The premise will produce and adopt a drugs policy in consultation with Wiltshire Police.
13. Numbers will be restricted to 200 persons including staff.
14. The music level inside the club is required to be limited to a maximum of 85dB(A) SPL (sound pressure level) at the premises, measured at the centre of the dance floor. This should ensure that the music in the adjoining flats is barely audible; however this may not eliminate all bass elements of certain tracks. This would have to be undertaken through the installation of a music noise limiter with work completed by a competent person.
15. Live music is restricted to acoustic set only i.e. acoustic guitar, vocalists, singer with backing track with all amplification being passed through the noise limiting device.
16. Elevate and isolate the bass speakers from the floor with acoustic resilient material and fixings.
17. All music shall stop at 01.30 hours Friday and Saturday, Monday through to Thursday 23.00 and Sundays 22.00.
18. No Karaoke.
19. Fire doors shall remain closed at all times.
20. Smokers are limited to 10 patrons at a time and are dissuaded from standing in the roadway leading to the car park beneath the adjacent flats.

21. No smokers are allowed outside the premises after 01.00 a.m.
All other existing conditions still apply to the Premises Licence.

Reasons:

The Sub Committee took into account the written representations from Environmental Health, the applicant and those making a relevant representation, in addition to oral arguments presented at the hearing. The conditions suggested by Wiltshire Police and Environmental Health were agreed to be appropriate to mitigate concerns regarding public nuisance, with some amendments. It was also considered that the mixed use of the building as well as the hours of operation and musical entertainment in the area necessitated the hours of live and recorded music being reduced from those applied for, with an accompanying reduction in hours of operation.

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.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence.

(Duration of meeting: 1.00 - 4.15 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

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