

## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 5 OCTOBER 2017 AT THE ENTERPRISE NETWORK, SALISBURY OLD FIRE STATION, SALT LANE, SALISBURY SP1 1DU IN RESPECT OF AN REVIEW OF A PREMISES LICENCE: QUEENS ARMS, IVY STREET, SALISBURY, SP1 2AY**

**Present:**

Cllr Trevor Carbin, Cllr Mike Hewitt and Cllr Robert Yuill (Substitute)

**Also Present:**

Mr Pugh – Resident  
Ms Hubbard – Resident  
Ms Gurd - Resident  
Cllr Jose Green  
Asifa Ashraf – Legal Officer  
Lisa Moore – Democratic Services Officer  
Ian Garrod – Licensing Officer  
Trish Morse – Public Protection Officer  
Gary Tomsett – Public Protection, Team Leader

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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 Apologies for Absence/Substitutions**

Cllr Jose Green was substituted by Cllr Robert Yuill.

**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 1 – 6 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**

Review of a Premises Licence for the Queens Arms, Ivy Street, Salisbury, SP1 2AY

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.

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

- The grounds for review related to failure to comply with licensing conditions in relation to noise. The Public Protection Team had brought the review and details of their proposed conditions were listed in the agenda.
- During the consultation 3 representations had been received from members of the public. Details of these were included as Appendix 7
- A revised variation application had been granted
- A noise management plan had been put into place

Public Protection Officer, Trish Morse highlighted the background to the review and showed photos of the premises to the committee:

- Members of the team had investigated complaints of noise and a notice had been served on Christopher Brown.
- A representation has been made by the Environmental Health Team as detailed in the report.
- The premises was a grade 2 listed building, surrounded on all 4 sides by residential properties.
- There had been a history of complaints after the pub had changed hands in 2014, in Dec 2015 Mr Brown took over.

- Investigations began in February 2016 following substantial complaints from residents.
- Up until the beginning of 2016, the Queens Arms had been a quiet public house and had no history of noise complaints
- In February 2016, a noise abatement order was served on Adrian Sainsbury.
- In April 2016, further conditions were attached to the premises licence and the noise management plan updated, so that no further music was to be played in the barn area.
- No formal action was taken at that time due to notice suspended.
- A resident in Ivy Street made a complaint, after they called the pub to request the music be turned down. A lady believed to be bar manager was rude and swore down the phone.
- We met with Mr Sainsbury. A follow up letter was sent on 1 Feb (p161).
- Feb 2017 – July 2017 complaints received from members of the public.
- On Saturday 29<sup>th</sup> April, both residents had independently contacted the out of hours service to make further complaints, Mr Tomsett attended the location.

Public Protection Team leader, Gary Thomsett

- Visited on 29 April, from 9pm – 12pm, also visiting Mr Pughs property opposite the Queens Arms. The music from a live band was clearly audible from street and inside the property. The noise included people outside having conversations and a bass guitar all clearly audible. The noise levels were extremely excessive.
- Following swearing and loud voices, at 9.22pm we received a further complaint from Mrs Hibberd.
- Following the objections and having listened to the noise from Mr Pugh's, he went to Mrs Hubbards. At this time (9.30pm) there were a number of taxis outside, with people talking and chatting.
- The music was audible from the dining room. The volume increased after 10pm, the bass and drums were audible.
- He visited twice, that evening, and when he left Trinity street, into Gigant Street, the bass was clearly audible at 100yards away. In his professional opinion, the noise constituted as a public nuisance.

Trish Morse

- On 4<sup>th</sup> May I telephoned Mr Pratt to advise him that we were still receiving complaints. He seemed dismissive of the complaints. On the same day I rang Mr Sainsbury, he did not answer his phone so I left him a message. He never returned my call.
- 10<sup>th</sup> May – 2 complaints were received regarding fights.
- 20<sup>th</sup> May a complaint regarding loud music was received. The Duty officer Sarah Weadon attended to record the sound. She claimed that the

level of the music was unacceptable and that she could hear the music above the complainants tv.

- At the beginning of June, we were notified that Adrian Sainsbury had left his role and that Sandra had taken over.
- I attended Mr Pugh's home and installed noise recording equipment. The property is 13m from the front of the Queens Head. The lounge window and secondary double glazing were closed as were the curtains, when the recording equipment was set up.
- 11 recordings were made that evening, the sound of the bass were intrusive and easily heard over the TV. I was of the opinion that the noise levels were in breach of what was permitted.

A sample of these recordings were played at the hearing.

- As there had been a change of designated premises supervisor, I served a premises abatement notice and one on Sandra Oates
- In July further complaints were received of the noise. A section 80 was served on Mr Brown.
- There had been no music since July 2017.
- Due to quick change of DPS, this department was not able to consider legal action in respect of breach of the notice.

Questions from the Members:

- When you made the recording what was the condition of the public house? Answer: The windows were closed, curtains closed and door pushed to. If they were open it would have been louder.
- What happened with the noise abatement notice? Answer: The difficulty was that originally it was only served on Mr Sainsbury, there had been a rapid change in people at the premises. Could not pin any one person down to hold accountable.

Questions from residents:

- There were none.

Questions from Licence holder:

- There were none.

Presentations from the Residents:

Mr Pugh

I represent myself as live opposite the pub and I represent other elderly people who live in local community who do not feel confident enough to come forward. I have spoken to them and I know it has a wider impact

I moved in when the previous manager Neil was there and this was a very quiet pub. He had no intention to put live music there as he felt it would not be fair on the residents.

Unfortunately, after the change of management, our lives changed quite dramatically. I tried to speak to the new manager to try and find a way forward, but they were not interested. I contacted the council and their officers have put together the case and helped to get us here to trial.

It has not just been noise problems, it includes people outside, intoxicated shouting and fighting. Has been badly managed.

That old building is not currently suitable to play live music. Not sure how they could alter the building to enable this. There is associated noise after the music stops of people and a band.

Since July the noise level has been of a manageable level.

The noise impacts on my sleep, have to sleep in different rooms in my house. Not helpful, my routine is broken, I get tired. I want to maintain a healthy routine.

Its been forced upon the local residents by the owner of that pub. I want to thank Trish Morse for the work of her team for the tranquil peace we have had since July.

#### Ms Hubbard

I only met Mr Pugh today. I live on site at Trinity Hospital, I cannot move away. Residents at the hospital in alms house are elderly in their 80's and cannot get away from the noise late at night. There are 2 ladies who did not want to come today for fear of repercussions. I work shifts and am on call, I do suffer migraines, and had ill health, sometimes felt like I could not cope.

#### Mr Gurd

I live in Brown Street next to the barn. I did have the worse of it and had asked my carer to get me out of bed so that I could go and ask the pub to turn the music down, I was met with abuse and threats from people drinking there. I have not been out again. I get people knocking on my windows late at night. There is no way I can move away and once I have been put to bed at night there was no way I could get out of bed again to get away from the music.

I am grateful for the fact that it is much quieter now since July, but I still get people knocking on windows and shouting through the letter box. When using the barn people would be near my windowsills. Some of the people who were abusing or threatening are now the ones who are banging on the window.

I feel vulnerable as a disabled person. After my first letter I have kept my head down as felt vulnerable.

### Questions from Cllrs to residents:

- When the pub had been licensed, were you in anyway made aware of the change and that it now could have music? Answer: Before I purchased the property, I was told by estate agent to do my homework. I spoke to owner then, and for the 4 years he was the manager there, there was ever an issue.
- When you moved in, was there a juke box in there? Answer: No.

There were no questions from the Officers.

### Licence Holder

When we first took over we were all directors, Sandra Oats and Mr Sainsbury. In July I resigned as the director of that company and took over myself as the licence holder.

Since then I have not had any music, I am just a sole trader on my own just trying to earn a living.

We had some guideline to follow, we bought a CCTV system yesterday, and now have no smoking out the front.

### Questions from Councillors

- Since you have had no music, do you consider you still a viable business? Answer: We have a juke box in the bar, we have no plan for any other music, and we now serve food. With the Christmas period coming up customers had asked for a small disco, would that be ok?

Response from Mr Pugh – the building is not suitable for live music, the Environmental Health team had had difficulty in trying to pin down who was responsible. If we allow a disco and it gets out of hand, we would be back at square one.

- What will the barn be used for? Answer: If we use it, then it would be used for food.
- Is the fire door used for access? Answer: The only reason the fire door would be used was in case there was a fire or on a Tuesday morning for deliveries to the cellar.

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 11:20am

The Hearing reconvened at 12:00noon.

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:

“No legal advice was sought by the Sub committee members.”

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 Southern Area Licensing Sub-Committee having considered the review resolved to add the following conditions to the Premises Licence:**

- 1. The provisions of the Live Music Act 2012 be dis-applied to this premises with the juke box to be permitted as incidental background music only.**
- 2. That both live and recorded amplified music be removed from the premises licence.**
- 3. CCTV cameras to be installed inside of the premises (subject to planning consent). Recordings to be kept for a minimum of 28 days and made available to Officers on request.**
- 4. Outside area to the front and side of the premises to be checked hourly between the hours of 8pm and closing. Any patrons using these areas either be moved on away from the premises, or asked to use the designated smoking shelter. Written records of all checks to be recorded and made available to local authority Officers on request.**
- 5. No glasses or drinks permitted outside. Smoking to be restricted to the designated smoking area in the court yard.**
- 6. Noise levels will be controlled by the Designated Premises Supervisor (or Nominee) at all times.**
- 7. Noise Management Plan to be reviewed and updated. Any changes to be agreed in writing with the Licensing Authority and Wiltshire Council Public Protection.**

**Reasons:**

***The Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.***

***The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from***

Appeals

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.

(Duration of meeting: 10:30 – 13:15)

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