

## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 10 SEPTEMBER 2018 AT THE ENTERPRISE NETWORK, (THE OLD FIRESTATION), SALT LANE, SALISBURY, SP1 1DU IN RESPECT OF AN APPLICATION FOR A VARIATION TO A PREMISES LICENCE; THE BANK COCKTAIL LOUNGE & EVENTS, 18 HIGH STREET, AMESBURY, WILTSHIRE, SP4 7DN**

**Present:**

Cllr Trevor Carbin, Cllr Jose Green, Cllr Mike Hewitt

Cllr John Smale (Substitute – non participating)

**Also Present:**

Hannah Hould – Licensing Officer  
Sarah Henry – Environmental Health  
Tony Johnson – Legal Officer  
Lisa Moore – Democratic Services Officer  
Steve Hedge – Objectors' representative  
Nathan Muirhead – Applicant  
Steve Cox - Supporter

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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**

**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**

##### **Application by Keystone Entertainment for Variation to a Premises Licence at The Bank, 18 High Street, Amesbury.**

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

The details of the variation as set out in the Officer report attached to the agenda were read out.

Nine representations had been received as detailed on p61 of the report.

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 Nathan Muirhead of Keystone Entertainment Limited (the Applicant) were:

- The Application could be considered a little controversial by some, however we have taken steps to promote the licensing objectives.
- Originally, we had applied for a variation to extend our opening hours to 03.30 and to include Christmas, Eve, Christmas and New Year's Eve. After consideration that did not seem appropriate so we amended our application.
- The Town Council believe local residents are kept awake until early hours, windows smashed and people urinate on the streets, we feel that this is simply not the case, and if this is happening the it is not coming from our venue.
- We have Pubwatch in operation and have increased our door supervision. We are also the only venue in town that has an ID scanner, which is an excellent piece of equipment.

- The proposed extension to the condition around music, is for when we open on bank holidays and special events.
- As a gesture we have proposed a reduction in our start time from 8am to 12 noon.
- There is currently a Planning condition on noise levels.
- We have been working with Environmental Health to set a reasonable noise level on our first floor.
- Environmental Health had visited on 2 occasions, and failed to take a suitable reading. We have agreed for them to visit again in next few weeks and assess our sound system and put the necessary limits in place.
- They have not given us a specific limit for us to work with – and so we have made our own assessment.
- We have exceeded our Planning Permission by 2 decibels but considering we have not been given a limit by Environmental Health, we feel that this is not bad.
- We have 5 door supervisors and a taxi liaison officer to aid dispersal.
- There are many people leaving our venue and neighbouring venues at a similar time. We had 5000 visitors this weekend.
- There are not scores of people complaining, just a small group of residents – no evidence or reliable source.
- We will continue to work with the Town Council and Environmental Health and Pubwatch.
- This variation will allow us to play music for an additional 12 hours. All other venues have this on their licence.
- We do have empathy for local residents, and work hard to monitor the situation.

Mr Steve Cox spoke in support of the Applicant, key points raised were:

- I am here to represent Keystone Entertainment Limited and local residents. I live 80 meters from the venue. I have read the objections. My family and other residents have spoken to agree that no additional level of noise has been heard.

- The noise is coming from the older venues which were not designed to contain noise. Keystone have gone to extreme lengths to limit the noise coming from its venue.
- I am concerned with the erosion of local business in Amesbury town. We do have some local members supporting the Applicant and its business. Sad to see most of the Town Council not in support of this local business.
- We need to consider the youth of this community and encourage them to stay in the town and having such a venue at least provides them with some entertainment venue.
- Keystone has invested in this project, and done its best to work with local residents and authorities to improved issues which have arisen.

#### Questions – To the Applicant

Panel members:

- Have you increased door supervisors? Answer: We have had 5 from the start, one outside, one in reception and 3 in the building.
- What take-up of the free taxi service has there been? Answer: I pay the taxi £5 to take people within Amesbury, so £100 a weekend at £5 a ride = 20 people used the service a week.
- As the noise of the music is one of the planning conditions, is there a certain decibel where it cuts out? Answer: Its built into our amplifier, we can set each individual speaker and the noise cannot go above that level.
- What do you mean when you refer to Community focus? Answer: We tried to set up a Community Focus Group through Pubwatch. 200 letters were sent out through people's doors inviting them to attend a meeting. Only one person came. In addition, through the licensing process and planning process we had an initial meeting with the public. There is nothing more formal we can do until the Town Council get back to us.
- What are the changes to the layout? Answer: Building control came in and said we should have a fire exit in a certain place (from the VIP room) and so we have made those changes. Upstairs would be for a lounge area for non mainstream music.

Questions from Environmental Health:

- No questions.

Questions from the Representative: (Mr Hedge)

- I was invited to the focus group meeting. I had several conversations with the Applicant where he said he would invite 13 people, He wanted me to go and canvas the streets to get a street representative. Answer: In the letter I put a list of the streets in each area, and made a suggestion of having a group rep for each area.
- The decibel level for a cocktail bar is 40db, it does not state whether that reading is in or outside? As a resident, we have all different figures thrown at us. What is correct? Answer: No level has been put to us.
- Do you have a noise cut off limiter on each floor? Answer: There are settings on each floor, the upstairs limiter is less technical.
- There has been an escalation of events in the street.

Key points raised by the Responsible Authority, Sarah Henry of Environmental Health were:

- We are currently investigating complaints from music coming from the Bank, at this time we are not able to support the application for an extension.
- Discussions are ongoing with Mr Muirhead on how to control music levels.
- It is more of a nightclub atmosphere with associated noise levels emanating from the premises. There was large levels of background noise from people in the street when we took readings, which made it difficult to get an accurate readout. We need to re-visit when the background level noise is less.
- When the new door from the VIP room is opened the noise will escape. We strongly object to the new door to the smoking area being implicated as an access route.
- Noise escaping from the front of the building could be dealt with by putting in a type of lobby area.
- The variation came in quite soon after the premises opened, so our team has had difficulties getting out in the time frame to work with the Applicant to reduce noise levels.

Questions from the Panel:

- Do you have concerns on access to smoking area from the side door? Answer: Noise from the premises is our concern. There are also issues of people queueing on the side to get in.
- A noise level has not been set, is that correct? Answer: A colleague attended on 31<sup>st</sup> August to monitor and assess the noise levels. That is where we found concern due to the base level.
- Can you confirm what that level it will be set at? Answer: Not as yet. 40db was set from Planning, before 23:00, then between 23:00 and 02.00 it should be below 35db.
- The Panel is not permitted to consider anything set by Planning as we are a separate tribunal. Would there be protection for residents if the Planning conditions set were breached? Answer: We would need to investigate in future as we would with any complaint.
- How long do you expect your investigations to take? Answer: To be complete within a month or so.

Questions from Applicant:

- With regards to the ongoing noise complaint, how many formal complaints do you have? Answer: One currently; for us that is sufficient to start an investigation.
- You thought there would be a small DJ booth downstairs, can you define what you mean by small? Answer: The plans made it look like there was a small booth upstairs. That was one of the sources of the complaint.
- Do you agree that it is difficult for us to achieve compliance without having any level set? Answer: Yes, but we have had residents come to us with concerns, we would still be trying to work with you.
- Why did Environmental Health not visit in the 9 weeks since we opened to set the limit? Answer: We have tried to monitor the noise level. There were pressures in the summer, which have meant that we have not been able to get there sooner.
- In terms of monitoring over the 9 weeks – what evidence do you have to support that we have not been complying with our licensing objectives. Answer: Not able to say – some of the levels did reach the set level when visited on 31<sup>st</sup> August.

Key points raised by those who made a Relevant Representation. Mr Hedge (who also spoke on behalf of Adam Woods & Mrs Madeley, who had been unable to attend) were:

- I am now in my fourth property in Amesbury, I currently live in the High-street, and have been there for the last 10 years.

- We are trying to balance the benefits of the night time economy against the negative affects some of the residents are experiencing. It comes down to 2 things, the noise from music, audience and the street and antisocial behaviour.
- The side door is used at all times, but is held open whilst people queuing.
- We approve of the additional door supervisors from 4 to 5. The plans need to be updated to bring them up to current status.
- There was confusion as the original request was to increase hours to 3am but now back to 2am on some nights. The verbal agreement with Amesbury TC to reduce the opening hours from 8.00am to 12.00 noon, this has no effect on the night time problems.
- The main issue is that he is asking for non-standard hours over Christmas Eve, Christmas Day and New Years Eve, and bank holidays. Still the same effect on residents even if they do not have to work the next day.
- On New Years Eve, they want to open from 08:00 on the morning of 31<sup>st</sup> December, all through to New Years Day and through to 02:00 on 2<sup>nd</sup> Jan. We don't know what type of music will be played during these hours, it has not been defined. Our main objection is over the holidays as they are our holidays as well.
- Reducing noise levels after midnight, it would be better to be quieter late at night so we can stop these arguments. Noise and music are different things, need to separate the two. It all adds up. When the building was tested there wasn't an audience in there.
- Since original tests done from JSP consultants, they have rebranded themselves as a cocktail bar. No one has been back to test again.
- Noise is a public or statutory nuisance.
- I was invited to an informal meeting with residents, but it was felt that there were already so many other parties involved, why do we need a focus group.
- There was concern at the Town Council meeting this week not to go ahead with this.
- Response: The Licensing Officer then noted that Amesbury Town Council had withdrawn its representation so in effect they had not objected to this application.

- We have had a few variations posted on the venue – these have been very vague and not stated clear details of what was being changed? We have to go to Chippenham to view it as not available online.
- Response: The Licensing Officer noted that she and Mr Hedge had had a number of conversations about the notices. It was explained that the Council did not currently have the facilities to provide full detailed information locally, however, the Licensing Officer was able to email Mr Hedge the complete document whilst he was on the telephone with her. Adding that the application was not started again, it was a case of thins being removed and not added. All of the details were emailed out to all who had made representations.
- I objected to items 1, 3 and 4, until improvements could be made by the owner. There needed to be a plan of action ahead of the returning service men to the area.
- We questioned whether he could use the front lobby as a holding area, to prevent the overflow of people coming out whilst waiting for taxis. To reduce the noise on the street.
- There has been a lack of councillors out on the street at 02:00, they could hear it first hand then.
- Could the residents have an independent focus group?

#### Questions from the Panel:

- You are currently already part of a focus group – residents' association – Answer: It is so informal basically a cup of tea and a discussion. Some are from Salisbury Street and one from Church Street. We talk about general antisocial issues, not just from the Bank. Lots of residents have journals.
- Planning allows for 40db and 35db after a set time – I heard a reference to 60db. Eventually it has to be a maximum of 40db and 60db is irrelevant as you have to comply to the conditions from planning. Answer: Environmental Health added that they would be looking to 40db.

#### Questions from the Applicant:

- Why are you objecting when you frequent our premises? Answer: I am trying to be balanced, I cannot moan about what is going on if I have not been in to experience it.



- Would you agree that since we opened, that our door supervision is visible out on the streets – Answer: Yes they are, and was impressed with one who asked me if I had a way of getting home. No issues with them at all.
- Why make reference to the Domino pizza window smashed, where is that shop? – Answer: It is not near your building it is down Salisbury Street. I did not mean to say it was one of your customers.
- Given the proximity of our venue – would you agree that the noise that is visible on the street is not all directly involved with the Bank? – Answer: Well it is the nearest building to me, and I would not be able to hear from the others as you are closest to me. Most of it is the voices and the laughing of people out the front.
- From a noise level prospective, when you are taking noise readings, how do you differentiate from one building to another? Answer -Environmental Health - my colleague noted that after 00:30 they could no longer hear the New Inn, they moved down another room, and noted the New Inn had stopped and they were satisfied that the noise they were recording was from the Bank. The octave band that relates to base was showing up.
- You said there had been a deluge of complaints but then you said there was only one. Answer: We had had daily emails and calls so had to filter the type of noise these were about and have now fielded those to make sure they go to the correct people. They are all from the same persons, probably around 5 or 6 residents in total.
- The focus group in terms of support, if there was so much objection why has the focus group not come together – Answer: It is in its infancy, a maximum of 6 people who came together. We did not want to hold the meeting in the Bank.
- Do you have intention of future monitoring in Sep/Oct – would it make more sense to do it unannounced? – Answer: Yes we will be making unannounced monitoring visits.

Environmental Health then gave a summary of their case:

In our opinion the Bank has only been open only a few weeks – the variation has been put in quite soon after opening and not given us enough time to fully assess the impact and hope to work with the Applicant to move forward.

Mr Hedge gave a summary of his case:

I am not trying to shut the Bank down. Hopefully with this focus group starting up this will be a good thing.

The Applicant gave a summary of his case:

I feel disappointed if we have to wait for Environmental Health to come out before we can have the extra hours. Two years in and still no noise limit next door.

I have agreed to a cordoned off area at the back, and to have a lobby. We are ready and waiting to adjust our noise levels. We feel that we are working with all involved and essentially feel that we have been penalised.

This is a business decision. This is a community facility not just a cocktail bar, the Bank should not be discriminated against if the other venues are allowed the same consideration.

Hannah Hould – I spoke to The Town Council and it was felt that a focus group was the way forward, not to be held at the bank. For all residents to air their views.

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

The Sub Committee retired to consider the application at 12.00 noon.

The Hearing reconvened at 1.00pm

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:

Legislation relating to ASB had been explained as well as the review process available to address matters if complaints were received in the future.

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 Southern Area Licensing Sub-Committee resolved to part grant variations 1 to 6 to the licence, for The Bank, 18 High Street, Amesbury, as applied for, as follows:**

**1. Granted - Update the plans as submitted with works to the lobby area as outlined by the Applicant to be completed by the Premises Licence Holder by 31<sup>st</sup> October 2018.**

**2. Granted - Amend two of the conditions on the licence, as follows:**

**Condition 1 currently states: The entrance of the building will be relocated to the side door on a Friday and Saturday night, and for major events.**

**Amend to read: The entrance of the building will be relocated to the side door at all times.**

**Condition 2 currently states: A minimum of four Door Supervisors will be provided from 2200 hrs on Thursdays, Fridays and Saturdays, until 30 minutes after close, to ensure the quiet dispersal of patrons, from the area.**

**Amend to read: A minimum of five Door Supervisors will be provided from 2200 hrs on Thursdays, Fridays and Saturdays, until 30 minutes after close, to ensure the quiet dispersal of patrons from the area.**

**3. Refused – to remove one of the current conditions on the premises licence:**

**Currently states: Amplified sound will be reduced in the main pub from 0000 hrs. (Noting that we (the Applicant) are committed to keeping noise levels below 40 DBL in line with planning conditions.)**

**This condition will be retained.**

**4. Granted - Include non-standard timings for recorded music (indoors) to reflect the current non-standard timings for alcohol on the premises licence:**

**Bank Holidays & Christmas Eve 0800 - 0200  
New Year's Eve 0800 to start of business the following day.**

**5. Granted – To reduce the current start time for the sale of alcohol (ON and OFF Sales), but not extend the terminal hour. The current start time on the premises licence is 0800 Monday-Sunday, including non-standard timings:**

**To amend the opening hours to 1200 hrs Monday-Sunday and to include non-standard timings, as agreed by the Applicant.**

**6. Granted – To include an additional condition on the premises licence:**

**No entry or re-entry after 0130 hrs other than for use of the smoking area. (As agreed by Wiltshire Police Licensing and the Applicant)**

**With the following condition:**

- **That the Premises Licence Holder complies with any conditions imposed by Environmental Health, once the appropriate Noise Level evaluation had been carried out. This evaluation is to be carried out and communicated to the Premises License Holder, by 30<sup>th</sup> September 2018.**

**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 the Applicant, the applicant's representative, Environmental Health and One of the objectors who also spoke on behalf of two other objectors, and raised concerns about the variation application. These concerns related primarily to noise created by the patrons of the premises, and the music levels within the premises.***

The Sub Committee noted that although the parties raised concerns relating to public nuisance, the applicant had and would take steps to limit the noise levels in accordance with the set levels once Environmental Health had set them.

**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.

7 **Appendix 1 - Original Application Form**

7 **Appendix 2 - Updated Premises Licence Plans**

- 8     **Appendix 3 - Current Premises Licence and plans**
- 9     **Appendix 4 - Decision Notice - Hearing 21 February 2018**
- 10    **Appendix 5 - Relevant Representations**
- 11    **Appendix 6 - Applicant response to representations**
- 11    **Appendix 7 - Location plan of premises and other licensed premises in the vicinity**

(Duration of meeting: 10.30 – 13.35)

The Officer who has produced these minutes is , of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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