

Wiltshire Council

Western Area Licensing Sub Committee

25 June 2012

**Application for Review of a Premises Licence; Black Pearl 5a Church Street
Trowbridge BA14 8DR
Premises Licence Holder Tammatha Newbury**

1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of the Black Pearl 5a Church Street, Trowbridge, made by the Wiltshire Police.

2. Background Information

- 2.1 An application for the Review of the Black Pearl's Premises Licence for the supply of alcohol and regulated entertainment, has been made by Wiltshire Police. Following advertisement of the application, no additional representations from responsible authorities or interested parties have been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 52 (3) of The Licensing Act 2003, the Licensing Sub Committee is required to take such steps as it considers appropriate for the promotion of the licensing objectives.
- 2.3 The licensing objectives are:
- i) The Prevention of Crime and Disorder;
 - ii) Public Safety;
 - iii) The Prevention of Public Nuisance; and
 - iv) The Protection of Children from Harm.
- 2.4 Such steps are:
- i) To modify the conditions of the licence.
 - ii) To exclude a licensable activity from the scope of the licence.
 - iii) To remove the designated premises supervisor.
 - iv) To suspend the licence for a period not exceeding three months.
 - v) To revoke the licence.
 - vi) To determine that no steps are necessary

Government Guidance issued under s.182 of the Licensing Act states that:

"Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of

the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives.”

- 2.5 A new premises licence was granted to Ms Newbury at a hearing of her application on the 20 March 2012. The hearing was called following representations received to the application, from the following Responsible Authorities:
 - 2.5.1 Wiltshire Police on the grounds of crime and disorder, public safety and protection of children from harm.
 - 2.5.2 An officer of Wiltshire Council, with responsibility for environmental health, on the grounds of public nuisance.
 - 2.5.3 A copy of the hearing decision notice issued on the 20 March 2012 is attached as **Appendix 1**.
 - 2.5.4 A copy of the current Premises Licence is attached as **Appendix 2**.

3. Details of the Grounds for Review

- 3.1 On the 1 May 2012, an application for a review of the Premises Licence was served on the premises and the Licensing Authority. The review of the licence has been requested by Wiltshire Police on the following grounds:

- 3.1.2 Crime and Disorder

Incidents of violence and disorder have taken place on the premises.

- 3.1.3 Public Safety

Members of the public involved in disorder at the premises have sustained injuries which required hospital treatment.

- 3.1.4 Protection of children

Children have been present on the premises and exposed to a serious incident of violence and disorder.

- 3.1.5 In addition, there have been numerous breaches of the premises licence and other concerns in respect of the management of the premises, which together further undermine the above licensing objectives.

- 3.2 Further detail of the grounds for review, together with back ground and incident detail is given as follows:

- 3.2.1 Tammatha Newbury has until recently been the licence holder and designated premises supervisor (DPS) at The Carpenters Arms, Roundstone Street. She held this position for twelve months. During this period the premises was the subject of violence, disorder and anti social behaviour.
- 3.2.2 In December 2011 Ms Newbury was cautioned for offences under the Licensing Act 2003. In addition she was dealt with formally by Wiltshire Fire and Rescue and Wiltshire Council Environmental Health Officers.
- 3.2.3 The landlord of The Carpenters gave notice for her to quit the premises on 29th of March 2012.
- 3.2.4 At the same time Ms Newbury made application to take over the premises formerly known as PEEWEES, Church Street, Trowbridge. Police objected to this application and her taking the role of DPS.
- 3.2.5 On the 20th of March 2012 Wiltshire Council Licensing Committee granted the Licence following negotiation between Police and the applicant.
- 3.2.6 Ms Newbury moved the DPS position to a Steven Phillip JAMES. The premises opened as the Black Pearl on or around 30th of March 2012.
- 3.2.7 On granting the licence the Committee attached twelve conditions. Each condition addressed specific concerns Police had in relation to in particular the 'the prevention of crime and disorder' and 'public safety'. Police find that there have been several breaches of one or more of these conditions.
- 3.2.8 Since opening there have been a number of incidents of disorder, including two incidents of serious violence at the premises, one on the 13th of April 2012 (log 0280 refers) which involved three males fighting on the premises, injuries were sustained including a deep laceration which required stitches and a broken nose, this was witnessed by five children on the premises. At least one person involved is named on the Trowbridge Pubwatch ban list.
- 3.2.9 On the 19th of April 2012 (log 0354 refers) two males were involved in a fight on the premises; injuries were sustained including a cut to the face and a laceration to the wrist. Police believe glass or bottles were used as weapons in this fight.
- 3.2.10 On the 20th of April 2012 Police were advised that the DPS had left the premises. On the same day the Police Licensing Officer attended the premises and Ms Newbury was spoken to under caution regarding the unlawful sale of alcohol since the departure of the DPS.
- 3.2.11 On the 25th of April 2012 Police attended the premises to retrieve CCTV footage and carry out of licensed premises check. The premises licence holder was not available due to sickness, but her partner who is involved in the day to day running of the premises was able to provide details, which highlighted a number of further breaches of the premises licence.
- 3.2.12 On the 25th of April 2012 an Ann ROBSON applied to become the Designated Premises Supervisor. Police interviewed Ms ROBSON and found that there

were no grounds to object to her application, advice was given in relation to the premises licence, it was explained the full compliance was essential. We emphasised that she should be present during all key trading times and that she would be required to familiarise herself with the premises licence.

- 3.2.13 On the 29th of April 2012 at 02.00 hours Police attended the premises and found that regulated entertainment was in progress, music was being played through amplification and patrons were dancing. At hearing the Licensing Committee restricted these activities to a terminal hour of midnight.
- 3.2.14 On the 30th of April 2012 Police contacted Ms Newbury to remind her that she was due to meet with Police in the afternoon of the same date, she failed to attend this meeting.
- 3.3 The application for Review is attached as **Appendix 3(a)**. The evidence relied upon by the Police in support of the application is contained within **Appendices 3(b)**.
- 3.4 A location map of the premises and surrounding area is attached as **Appendix 4**.

4. Consultation and Representations

- 4.1 The review process requires a public notice to be posted on the premises for a period of 28 days, together with a copy of the notice posted at the offices of Wiltshire Council, 165 Bradley Road, Trowbridge, Wiltshire, BA14 0RD. During the consultation period no additional relevant representations have been received.
- 4.2 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.

Note: The Police may not raise matters at the hearing unless they have already referred to them in the review application. The Licensing Authority may nevertheless take into account documentary or other information produced by the Police in support of their application, if it is provided to the Licensing Authority before the hearing, or at the hearing with the consent of all the other parties.

- 4.3 The Police have specified the following reasons for calling the Review:
- 4.4 Police have grave concerns regarding the fitness and suitability of this premises licence holder to promote the licensing objectives. The lack of regard for conditions specifically designed to reduce disorder, violence and injuries demonstrates a blatant disregard for the Licensing Act 2003.
- 4.5 Police have concluded that although the premises has only been open a short time the level of risk to public safety requires them to act swiftly in calling for a review of the premises licence.

4.6 Having reviewed the previous licensing history of this premises licence holder and having reviewed the incidents at The Black Pearl, Police find that only the revocation of the licence would now fully promote the licensing objectives.

5. Legal Implications

5.1 This Hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

6. Officer Recommendations

6.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

7. Right of Appeal

7.1 It should be noted that the Premises Licence Holder and the Responsible Authority may appeal the decision made by the Licensing Sub Committee at the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.

7.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee is suspended until any appeal is heard and any decision made by the Magistrates Court.

7.3 The Premises Licence Holder and all Interested Parties have been informed of the date, time and location of the Hearing and their right to attend and be represented.

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13 June 2012

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Decision Notice**
- 2 Current Premises Licence**
- 3a Application for Review**
- 3b Evidence in support of Application for Review**
- 4 Location plan of the premises and surrounding area.**