

WILTSHIRE COUNCIL

WEST AREA LICENSING SUB COMMITTEE

18 September 2013

Application for Review of a Premises Licence; Club Ice/Players, 26a Quartermaster Road, West Wilts Trading Estate, Westbury, BA13 4JT

1. Purpose of Report

- 1.1 To determine two separate applications for Review of a Premises Licence in respect of Club Ice/Players, 26a Quartermaster Road, West Wilts Trading Estate, Westbury, BA13 4JT made by Mr Richard Gregory and Mrs Susan Capon.

2. Background Information

- 2.1 The applications for Review of Club Ice/Players Premises Licence for the sale of alcohol, regulated entertainment and late night refreshment, has been made by Mr Richard Gregory and Mrs Susan Capon. Following advertisement of the applications no further relevant representations have been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. 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 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 Since 2005 the premise benefits from a Premises Licence issued under the Licensing Act 2003. The original application was to convert and vary the old Justices Licence simultaneously for licensable activities operating from 12:00 hrs to 02:00 hrs Monday to Thursday, 12:00 hrs to 03:00hrs Friday and Saturday and 12:00 hrs to 00:00 (Midnight) hrs, Sunday.
- 2.6 An application for a new Premises Licence was submitted in May 2006. The new premises licence application was to extend the hours for the supply of alcohol, regulated entertainment on and off the premises 24 hours Monday to Sunday and Late night refreshment 23:00 to 05:00 Monday to Sunday. The application also included special outdoor music events on 2-3 occasions each year. No representations were received, therefore the licence was granted as applied for subject to conditions outlined in the operating schedule. A copy of the current licence is attached as **Appendix 1**.
- 2.7 There are conditions currently attached to the licence outlined in the operating schedule under the heading 'Events using Temporary Marquees and Outside Areas' to enable the applicant to promote the licensing objectives when holding these special events.

3. Details of the Grounds for Review

- 3.1 The two separate review applications of the licence have been made on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives of the prevention of public nuisance and the protection of children from harm. The grounds for review are:
- The use of the premises for Regulated Entertainment in the form of playing live and recorded music constitutes a public nuisance, in that the music is clearly audible outside the boundary of the premises; and
 - Prevention of foul and abusive language to minors, (audible outside the boundary of the premises).
- 3.2 The applications for review are attached as **Appendices 2 and 2(a)**. The evidence relied upon in support of the application is contained within **Appendices 2(b)**.

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, County Hall, Bythesea Road, Trowbridge, BA14 8JN. During the consultation period no relevant representations have been received

- 4.2 Wiltshire Police have commented that a number of crimes were dealt with over the weekend of the recent Dawn to Dusk event at Club Ice, Westbury, but that the levels of crime and disorder do not at this stage justify Wiltshire Police in formally joining the review. The Police have indicated that there are number of areas which the premises licence holder needs to address to ensure that the licensing objectives are fully met. In addition Wiltshire Police are concerned that the Police resource level deployed to the event would not be sustainable if the premises licence holder were to repeat the event on a regular basis.
- 4.3 On 19, 20 and 21 July 2013, a special event was held on the premises. During this weekend the Worcester Telecare, out of hours service reported that 6 complaints were received regarding noise from Club Ice and details of these are attached at **Appendix 3** which are copies of their log sheets.
- 4.4 A location maps is attached at **Appendix 4**.
- 4.5 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.

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, the party that applied for the review and any Responsible Authority or other person who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
 - 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
 - 7.3 The Premises Licence Holder and all persons who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.
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Report Author:

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Date of report – 2 September 2013

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

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| 1 | Current Premises Licence |
| 2 & 2 (a) | Applications for a Review |
| 2 (b) | Evidence in support of Application for Review |
| 3 | Out of Hours Report from Worcester Telecare |
| 4 | Location Plan of the premises and surrounding area |