

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

DATE OF MEETING: 19 AUGUST 2014

**Application for a Premises Licence; The Black Pearl, 5a Church Street,
Trowbridge, Wiltshire, BA14 8DR**

1. Purpose of Report

- 1.1 To determine an application for a Premises Licence in respect of The Black Pearl made by Martin Richard Paul Hinds.

2. Background Information

- 2.1 An application for a Premises Licence in respect of The Black Pearl has been made by Martin Richard Paul Hinds for which one relevant representation has 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 18 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers appropriate for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy.

- 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 grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
- ii) To exclude from the scope of the application any licensable activity.
- iii) To refuse to specify a person as the designated premises supervisor.
- iv) To reject the application.

- 2.5 On 30 June 2014 an application for a New Premises Licence was received and accepted as a valid application. This was due to the Licensing Authority

having been informed of the previous Licence Holder, Tammatha Newbury's declaration of bankruptcy on 3rd June 2014 and so consequently the licence ceased to exist.

The previous licence was held from March 2012 until 03rd June 2014. The previous premises licence is attached as **Appendix 1**.

During consultation for the original application two relevant representations were received from Wiltshire Police and Wiltshire Council's Environmental Health Team. A hearing was held in March 2012 and the licence was granted with additional conditions and reduced hours. The decision notice of this hearing is attached as **Appendix 2**.

A review hearing was then held in June 2012 which was applied for by Wiltshire Police under the grounds of Crime and Disorder, Public Safety and the Protection of Children from Harm. The result of this being that the licence were to be suspended for a month. The decision notice of this review hearing is attached as **Appendix 3**.

Ms Newbury appealed against this decision and the case was heard at the Magistrates Court in November 2012. The appeal was dismissed and the decision of the licensing committee came into effect on 12th December 2012. The Magistrates reasons in the matter of The Black Pearl licensing appeal and order are attached as **Appendix 4**.

From June 2012 until the licence ceased in June 2014 Wiltshire Council have received four alleged complaints of loud music breaking out from the building. Where it was established that the noise was coming from the premise in question and not neighbouring premises appropriate action was taken.

2.6 The new application applies for the following:

Licensable Activity	Timings	Days
Indoor sporting events	19:00 hrs – 00:00 hrs 19:00 hrs – 01:00 hrs	Sunday Monday
Live music (indoors)	12:00 hrs – 22:00 hrs 19:00 hrs – 23:00 hrs 19:00 hrs – 00:00 hrs	Sunday Thursday Friday & Saturday
Recorded Music (indoors)	12:00 hrs – 23:00 hrs 12:00 hrs – 23:30 hrs 12:00 hrs – 01:30 hrs	Sunday, Monday, Tuesday & Wednesday Thursday Friday & Saturday
Anything of a similar description (karaoke, Indoors)	16:00 hrs – 23:00 hrs 12:00 hrs – 23:00 hrs 19:00 hrs – 00:30 hrs	Sunday Monday Friday & Saturday
Late Night Refreshment (indoors)	23:00 hrs – 00:00 hrs 23:00 hrs – 00:00 hrs	Monday Tuesday, Wednesday, Thursday, Friday & Saturday

Sale by retail of alcohol (on the premises)	12:00 hrs – 00:00 hrs 12:00 hrs – 01:00 hrs 12:00 hrs – 02:00 hrs 12:00 hrs – 02:30 hrs	Sunday Monday & Tuesday Wednesday & Thursday Friday & Saturday
Seasonal Variations: Anything of a similar description (karaoke, Indoors)	12:00 hrs – 22:00 hrs	Bank Holidays
Non standard timings: Live Music (indoors)	18:00 hrs – 00:30 hrs 18:00 hrs – 01:30 hrs	Christmas Eve & New Years Eve New Years Day
Recorded Music (indoors)	12:00 hrs – 01:30 hrs	Christmas Eve, New Years Eve & New Years Day
Anything of a similar description (karaoke, Indoors)	16:00 hrs – 00:30 hrs	Christmas Eve, New Years Eve & New Years Day
Late Night Refreshment	23:00 hrs – 01:30 hrs	Christmas Eve, New Years Eve & New Years Day
Supply of Alcohol (indoors)	12:00 hrs – 01.30 hrs 12:00 hrs – 03:00 hrs	Christmas Eve New Years Eve & New Years Day

A copy of the application and plan of the premise from Martin Richard Paul Hinds is attached as **Appendix 5**.

2.7 There are three other premises in Church Street which are currently licensed as follows:

The White Swan Supply of Alcohol & Recorded Music Exhibition of films Performance of Live Music, Provision of facilities for making music & Provision of facilities for dancing	12:00 hrs – 01:30 hrs 20:00 hrs – 23:30 hrs 20:00 hrs – 00:00 hrs	Monday - Sunday Monday – Sunday Wednesday - Saturday
The Charcoal Grill (Late Night Refreshment)	23:00 hrs – 03:00 hrs 23:00 hrs – 04:30 hrs	Monday – Thursday & Sunday Friday & Saturday
@The Loft (Previously known as Harvey’s Nightspot) Supply of alcohol, Live Music, recorded Music & Performance of Dance Late Night Refreshment	12:00 hrs – 22:00 hrs 12:00 hrs – 23:00 hrs 12:00 hrs – 01:30 hrs 23:00 hrs – 02:00 hrs	Sunday Monday – Thursday Friday & Saturday Friday & Saturday

A map showing the locations of the other licensed premises in relation to the location of The Black Pearl is attached as **Appendix 6**.

3. Consultation and Representations

3.1 The application process requires the application to be advertised, by the Applicant, in a local news publication within 10 working days, starting on the day after the authority receives it and for a public notice (on pale blue paper) to be posted on the premises. In addition the Licensing Authority advertises the application on its website, for a period of 28 consecutive days, starting the day after the authority receives the application.

3.2 During the consultation period one relevant representation has been received.

3.3 Representations Received from a Responsible Authority

- Wiltshire Police, Polebarn Road, Trowbridge, Wiltshire BA14 7EP

3.4 A summary of the representation made is detailed in the table below:

Representation	Licensing Objective	Accepted	Comments
The applicants ability to manage the premise	Prevention of Crime and Disorder	Yes	

3.5 The relevant representation is attached as **Appendix 7**.

4. Legal Implications

4.1 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.

4.2 The Applicant, 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.

4.3 At the hearing all those who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

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

6. Right of Appeal

- 6.1 It should be noted that the Applicant and those persons 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.
- 6.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.
- 6.3 A Responsible Authority or any person may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by a person other than a Responsible Authority it will not normally be granted within the first 12 months except for the most compelling circumstances.
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Report Author: Teresa Bray
Teresa Bray, Public Protection Officer (Licensing)
Date of report: 5 August 2014

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 Previous Premise Licence**
- 2 Decision notice of hearing held in March 2012**
- 3 Decision notice of review hearing held in June 2012**
- 4 The Magistrates reasons in the matter of The Black Pearl licensing appeal and order**
- 5 Application for a new premise licence and plan of premise**
- 6 Map of other licensed premise**
- 7 Relevant representation**