

# WILTSHIRE COUNCIL

## SOUTHERN AREA LICENSING SUB COMMITTEE

7<sup>th</sup> November 2022

---

### Application for Review of a Premises Licence; The Cuckoo Inn, Hamptworth, Salisbury, Wiltshire SP5 2DU

#### 1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of The Cuckoo Inn, Hamptworth, Salisbury SP5 2DU made by Wiltshire Councils Environmental Control and Protection.

#### 2. Background Information

- 2.1 An application for the Review of the premises licence for The Cuckoo Inn, Hamptworth, Salisbury SP5 2DU has been made by Wiltshire Councils Environmental Control and Protection. Following advertisement of the application 8 relevant representations have also 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 necessary 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 suspend the licence for a period not exceeding three months.
  - iv) To revoke the licence.
  - v) 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 necessary 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 necessary and proportionate to the promotion of the licensing objectives".

- 2.5 The premises has held a premises licence LN/000042799 under the Licensing Act 2003 since 25 November 2005.
- 2.6 On 25<sup>th</sup> June 2015, a variation to the licence was applied for and granted, with no representations made. This was to increase the area where licensable activities take place by including the garden area for events and to erect a marquee for the playing of music, dance and drinking during the events and the provision of an additional beer festival during May (two days only).
- 2.7 The current licence holder, The Trustees of the N J M Anderson 1988 Settlement were granted a licence for this premises issued under the Licensing Act 2003 on 19<sup>th</sup> May 2021. At the time of this transfer there was no DPS in place. Mr Amlianitis has held the position as DPS on the licence from 28<sup>th</sup> January 2022. Mr S Moussaieff has an active role in the management of the premises, whilst he is currently not the licence holder or DPS, the Licensing Department have been engaging with him regarding the licence. Wiltshire Councils Licensing department believe that a contract is in place for the premises and the licence to be transferred to Mr S Moussaieff however at this time no licence transfer has been applied for.
- 2.8 A copy of the current premises licence LN/000042799 issued following the application to vary the DPS on 28<sup>th</sup> January 2022 is attached as **Appendix 1**.

### **3. Details of the Grounds for Review**

- 3.1 The review of the licence has been requested on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objective; the Prevention of Public Nuisance. The grounds for review are:
  - The Licence holder's failure to comply with conditions attached to their premise licence, in particular the Noise Management Plan and to promote the licensing objective of Prevention of a Public Nuisance under the Licensing Act 2003
  - Lack of confidence in the management of the premises
- 3.2 The application for review is attached as **Appendix 2**.

3.3 The Environmental Control and Protection Officer seeks for the exemption of the Live Music Act.

The Live Music Act 2012 provides the following exemptions in relation to live music:

Live music: no licence permission is required for:

- A performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.

- A performance of amplified live music between 08.00 and 23.00 on any day provided that the audience does not exceed 500 on premises authorised to sell alcohol for consumption on those premises, Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- At the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- If the music is amplified, it takes place before an audience of no more than 500 people; and
- The music takes place between 08.00 and 23.00 on the same day.

The Live music Act 2012 is attached as **Appendix 3**.

The premises proposed Noise Management Plan from Mr Moussaieff is attached as **Appendix 4a** and proposed conditions for the licence and correspondence are attached as **Appendix 4**.

3.4 The evidence relied upon in support of the application is contained within **Appendix 5**

#### **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, Bourne Hill, Salisbury. During the consultation period relevant representations have been received from 7 members of the public and 1 local councillor.

*List all those who have made relevant representations:*

- *Representation 1 Mr Curruthers and Ms Young*
- *Representation 2 Mr and Mrs Mahoney*
- *Representation 3 Mr Hinge*
- *Representation 4 Mr and Mrs Beer*
- *Representation 5 Mr and Mrs Battle*
- *Representation 6 Mr and Mrs Everett*
- *Representation 7 Cllr Clewer*
- *Representation 8 Mr and Mrs Cook*

The relevant representations are attached as **Appendix 6**

- 4.2 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.
- 4.3 A location map of the premises and relevant representations is attached as **Appendix 7**

## **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 Interested Parties 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 Interested Parties have been informed of the date, time and location of the hearing and their right to attend and be represented.

---

Report Author: Katherine Edge Public Protection Officer –  
Licensing Email: [katherine.edge@wiltshire.gov.uk](mailto:katherine.edge@wiltshire.gov.uk)  
Tel: 01225 713559

Date of report: 26<sup>th</sup> October 2022

## **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 Current premises licence – The Cuckoo Inn**
- 2 Application to review the licence**
- 3 Live Music Act**
- 4 Correspondence and proposed conditions**
- 4a Noise Management Plan for premises**
- 5 Evidence in support of application for Review**
- 6 Relevant representations from members of the public**
- 7 Location plan of the premises and representees**