

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

6 AUGUST 2015 / 1 SEPTEMBER 2015 / 4 NOVEMBER 2015

Application for a Premises Licence; 1 Bratton Road, Westbury, BA13 3EN

1. Purpose of Report

- 1.1 To determine an application for a Premises Licence in respect of 1 Bratton Road, Westbury, BA13 3EN made by Mr Refki Ibisi

2. Background Information

- 2.1 An application for a Premises Licence in respect of 1 Bratton Road, Westbury has been made by Mr Refki Ibisi for which 5 relevant representations 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 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 12 June 2015 an application for a premises licence was received and accepted as a valid application.

2.6 The application as applied for is as follows:

| Licensable Activity | Timings | Days |
|-------------------------------------|----------------|--------------|
| Provision of late night refreshment | 23.00 – 00.00 | Mon/Tue/Wed |
| | 23.00 – 02.00 | Thur/Fri/Sat |
| | 23.00 – 23.30 | Sun |

A copy of the application from Mr Ibisi is attached as **Appendix 1**.

2.7 Background Information

- Environmental Protection & Control have issued a noise abatement notice in respect of the noise emanating from the extractor fan at 1 Bratton Road.
- There are 2 other venues in Westbury that have a premises licence for Late Night Refreshment:

| | | |
|--|-----------------------------|----------------|
| New China Garden, (Westbury Market Place) | Tue/Wed/Thur/Sun Fri/Sat | 23.30 00.00 |
| The Olympia (Westbury Market Place) | Sun – Thur Fri/Sat | 00.00 01.00 |

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 5 relevant representations have been received from 4 local residents and 1 from a Responsible Authority.

3.3 Representations Received

- Mr and Mrs Loudoun
- Mr and Mrs Dixon
- Mr and Mrs Ardrey
- Mr Garrett

3.4 Responsible Authorities

Wiltshire Council - Environmental Protection & Control

3.5 A summary of the representations made is detailed in the table below:

| Representation | Licensing Objective | Accepted | Comments |
|------------------------------------|----------------------------|-----------------|--|
| Mr and Mrs Loudoun | Public Nuisance | Yes | Noise and odour from the extractor fan. Increase in litter |
| Mr and Mrs Dixon | Public Nuisance | Yes | Noise and odour from the extractor fan. Increase in litter. Antisocial behaviour |
| Mr and Mrs Ardrey | Public Nuisance | Yes | Noise from extractor fan. Increase in litter. Antisocial behaviour |
| Mr Garrett | Public Nuisance | Yes | Noise and antisocial behaviour |
| Environmental Protection & Control | Public Nuisance | Yes | Statutory Noise nuisance caused by extractor fan |

3.6 The relevant representations are attached as **Appendix 2**. Attached as **Appendix 3** is a plan which shows the locations from where representations have been made.

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.

7. Update to Licensing Officer's Report – 21 October 2015

- 7.1 The hearing on 6 August 2015 commenced with the usual Election of Chair for the hearing and at the point when the Chair asked all those present to introduce themselves, I (Public Protection Officer – Licensing) raised a concern that over the identity of the applicant. The Sub Committee took legal advice and it was agreed by them to adjourn the hearing until such time that the Applicant and his associates could provide adequate identification to Wiltshire Council. Once the Applicant had satisfied the Council of his identification, the hearing was re scheduled for 1 September 2015.
 - 7.2 At the reconvened hearing on 1 September 2015, Proactive Learning on behalf of the Applicant - Mr Ibisi gave an account of the works that had been carried out at 1 Bratton Road in a bid to address the representations that had been made.
 - 7.3 Mr Loudoun (a neighbour who was present at the hearing) disputed the works that had been carried out and stated the noise from the extractor fan was still excessive and the applicant had also not done anything about the oil and waste from the premises that is on the pavement outside.
 - 7.4 The Wiltshire Council Environmental Protection and Control Officers commented that the latest noise monitoring still resulted in the noise from premises being audible from the nearby car park over general daytime noise. It was also stated that the certificate provided in regards of the work carried out did not provide sufficient detail to explain what standard the work were carried out to.
 - 7.5 Proactive Learning on behalf of the Applicant requested a further adjournment to allow the Applicant additional time to satisfy the requirements of the abatement notices issued by Environmental Protection and Control.
 - 7.6 Following deliberations, the Licensing Sub Committee agreed to a further adjournment.
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Report Author:

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August 2015 and 21 October 2015

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 Application for a premises licence**
- 2 Representations**
- 3 Plan locating premises and representations**