

## NORTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 20 MAY 2019 AT COUNCIL CHAMBER - WILTSHIRE COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE, THE OLD LANE, LODGE ROAD, CHIPPENHAM**

**Present:**

Cllr Allison Bucknell, Cllr Peter Evans and Cllr Ian Thorn

**Also Present:**

On behalf of the Applicant

Andrew Cooper – Area Manager, Marstons  
Michelle Hazlewood – Solicitor, John Gaunt & Partners Solicitors  
Robert Morton – Designated Premises Supervisor

Those who made a relevant representation

David Stovell

Wiltshire Council

Roy Bahadoor - Public Protection Officer – Licensing  
Councillor Sue Evans (Substitute)  
Sarah Marshall (Senior Solicitor)  
Lisa Pullin (Democratic Services Officer)

Also in attendance

Cllr Richard Bambury – Chippenham Town Councillor

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8 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

**Resolved:**

**To elect Councillor Allison Bucknell as Chairman for this meeting only.**

9 **Apologies for Absence/Substitutions**

There were no apologies for substitutions.

10 **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 – 12 of the Agenda refers).

11 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

12 **Declarations of Interest**

There were no interests declared.

13 **Licensing Application**

**Application by Marstons Plc in respect of a Variation of a Premises Licence at The Old Lane, Lodge Road, Pewsham, Chippenham**

Roy Bahadoor (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Mr Bahadoor highlighted the following:

- This was an application for a variation to the Premises Licence which was granted on 24 November 2005 in respect of The Old Lane, Lodge Road, Pewsham, Chippenham;
- The application sought to:
  - i) Extend the hours for licensable activities for Friday and Saturday evenings to 01:00
  - ii) Extend the opening hours of the premises to 01:30 in respect of Friday and Saturday evenings
  - iii) Add to the Licence the licensable activities of dancing and recorded music to be undertaken to the same hours as the retail sale of alcohol – Sunday to Thursday 10:00 to 00:00 and Friday and Saturday 10:00 to 01:00
  - iv) Remove the nonstandard timings which operate on Friday and Saturday of Bank Holiday weekends

- v) Extend hours under nonstandard timings for New Year's Eve so as to permit the premises to operate from opening on 31 December to closure on 1 January
  - vi) Delete and amend conditions to enhance the promotion of the licensing objectives
  - vii) Update the plan of the premises to show the changes that have been made to the layout of the premises and to extend the licensing areas within it.
- Two relevant representations were received from local residents in objection to the application. Their representations were made over concerns about public nuisance.

In accordance with the procedure detailed in the agenda, the Applicant's representative was given the opportunity to address the Sub Committee. Michelle Hazlewood from John Gaunt & Partners Solicitors highlighted the following.

- No Responsible Authorities had raised any objections to the application;
- The premises are situated on a large housing estate and there had been a number of different owners over a number of years. There had been no investment made to update the premises in some time and Marstons had taken the decision to acquire a number of community premises and so bought The Old Lane in January 2019 and commenced major refurbishment works in March 2019;
- The works were now completed, and the premises are looking lovely (photographs of the premises and menus had been circulated within Agenda Supplement 1);
- This application sought to tidy up the licence that was originally granted in 2005 and make it fit for purpose in 2019 and in line with the other Premises Licences held by Marstons;
- It was the intention to make The Old Lane a family venue and to continue to increase the food trade. Previously food sales were around 9% and they had already increased to 25% and it was hoped that they would continue to increase further;
- Marstons had been in communication with the Senior Environmental Health Officer following his concern regarding the potential impact of the variation application without offering any further measures and then offered the following condition to be added to the application;

*When live or recorded music is being provided the DPS or Licence Holder is to ensure that noise from the premises is monitored outside the premises on at least three occasions. When noise is found to be at a level likely to*

*cause disturbance to people living in the vicinity, immediate steps are to be taken to reduce the noise level plus when regulated entertainment is undertaken all external doors and windows to be closed save for access and egress.*

- The extension to the trading/opening hours to 01:00/01:30 was to ease the flow of people leaving the premises as the Licence Holder had found that patrons tended to come out later on Friday/Saturday evenings and eat and relax and if patrons didn't have to be "pushed out" at 00:00 and they were able to carry on serving past then this would enable the gradual dispersal of patrons;
- To further reduce noise disturbance the Licence Holder planned to shut down the front door as an exit route at the end of trading hours and patrons would need to exit onto the car park side of the premises, this was part of measures put in place to operate the premises in such a way to ease noise disturbance for neighbours;
- The premises were already able to play recorded music until 23:00, but wished for this to be included within the licence so it is clear for anyone viewing it and not just rely on being able to carry out this activity under the de-regulations;
- The premises did not previously have any nonstandard timings in respect of a New Years Eve extension and Marstons wished for this to be added in for clarity;
- The premises did not previously have an age verification scheme in place (other than the mandatory condition) and wished for the Challenge 21 scheme to be included within the operating schedule;
- Regarding the concerns raised by Mrs Stanley – these incidences were during the World Cup 2018 period whilst the premises were not under the management of Marstons. It was understood that the then Designated Premises Supervisor (DPS) lost control of this and the patrons spilled out onto the roundabout and surrounding areas;
- When Marstons took over the premises the decision was taken to put in place a new DPS (Mr Morton) with 31 years' experience and moving forward it was the intention for the venue to be come a dining community premises and not a "football only local". Marstons have a lot of experience in managing the showing of major sporting events at their premises and actively worked with the Police to manage events and there were no significant problem reported at Marston's premises. It was of note that there had been no reported since March 2019 when Marstons and Mr Morton were in place;

- It was Marstons intention to provide regulated entertainment, but this would not be the primary focus. It was not planned to host musicians/bands during the summer when it was hoped that the premises would stand on its own feet with the food sales. Ideally, they proposed to have some live music events from Halloween to around January or February with maybe a DJ/disco on the payday weekends;
- Repairs to the roof had been carried out with internal works to ensure there would be no noise escape from any events in the premises. Details of where the music events would be held in the premises were explained to the Sub Committee and this area had been specifically chosen for its noise attenuation;
- Marstons have good policies in place to deal with any issues that may arise, and they are confident that they and the DPS have good experience of running well managed premises; and
- The premises were not planning to become a late-night venue, more a premise to attract sporting teams (e.g. pool) to use the premises and host charity events and maybe bingo/quiz evenings.

The Sub Committee Members then asked the following questions of the Applicant:

Q You have applied to have dancing included with you licence – is it your intention to have dancing?

A Although the premises doesn't really lend itself to be a venue for dancing, it may take place when music is being played and Marstons have a belt and braces approach to include all possibilities on their licences.

Q What days/times do you intend to sell food?

A Food will be available 7 day a week from 12 noon to 9pm (last orders to the kitchen).

Q What public transport is available near to the premises – is it on a bus route and how do patrons get home?

A If requested we will call for taxis for our customers. There is a nearby bus stop, but it doesn't run late into the evening and ends at 14:00 on Saturdays. Patrons either drive, use a taxi or walk to leave the premises.

Q What is the capacity for the “function” area?

A Up to 100 or 75 if with the furniture in place so the maximum number to disperse at the end of an event would be up to 100.

Q Will the DPS remain at the premises once up and running – they sometimes don't tend to stay for long?

A It is not Marstons intention to have a high turnover for DPS's. They feel it is important for the landlord/lady having a good relationship with residents which is built up over time and Mr Morton has no plans to move from this premises for a good number of years.

Q Is it the intention for the premises to be a sports bar?

A We do have screens in the bar area and our intention is to broaden the interest in sport and show other sporting events that would attract families to watch whilst they are dining in the premises. Marstons intend to use their food offer to drawn in families.

Mr David Stovell (who had made a relevant representation) was then given the opportunity to ask questions of the Applicants. At this point he made the following statement:

The area you are proposing to hold events in is where it was previously and where my property is situated I will still be affected by noise from the property.

Mrs Philippa Stanley who had made a relevant representation was not present at the meeting.

Mr Stovell was then given the opportunity to address the Sub Committee and highlighted the following:

- We live across the roundabout from the premises. I leave for work at 7am and so I need to be able to sleep, it is important for us and others in the area to get our rest;
- When bands have played before at the premises we can hear a dull thud in our living room and in the back bedrooms of our property. The risk to me and my family is that music will be playing to 00:00/01:00 and will disturb our sleep;
- I take into account the plans for the premises to extend the timings to allow for patrons to leave the premises gradually, but I would like for the music to stop at 23:00 so that we can sleep; and
- I was surprised to hear from a school mum that her husband came home after 00:30 from the premises last night when no extension has been granted yet.

The Sub Committee Members then asked the following questions of Mr Stovell:

Q Have you got double glazing at your property?

A Yes.

Q When you have heard noise from the property – is it that you are hearing the bass and not the actual music?

A Yes, it is mostly a bass noise I hear.

The Applicant's representatives were when given the opportunity to ask questions of Mr Stovell:

Q You said that you heard a bass noise previously. We have been told about incidents of youths playing music in the car park, could that have been what you had heard?

A What I heard was definitely from a band playing.

The Applicant's stated that this should not happen in the future by the way the premises bass bins are situated, and Mr Morton has experience of managing noise. It may have been the type of music that had played previously. Mr Morton doesn't have "rock" bands at his premises and it was the intention to have a family feel pub. At music events Mr Morton would monitor the noise himself and if it was too loud he would turn it down. The new sound system installed automatically gets switched off at 23:00 and this is the same for all Marstons premises and cannot be overridden. We don't intend to have rock bands and would be looking at local singers/groups. If you had a problem during an event and gave me a call I would turn the music down if it was a problem for you.

Mr Bahadoor (Public Protection Officer – Licensing) asked the Applicant's representatives the following questions:

Q Have you booked any music events?

A No not yet.

Q Since the refurbishment works have been completed have you completed any noise checks?

A No as we have only had on the background music or sport on TV's. Marstons wish for this to become a food and craft beer venue with maybe hosting a pool league. We have had no entertainment so far as we feel this will be more important in the winter months. If the changes were to be allowed there would be a level of internal policy to manage the premises.

Councillors asked the following questions of the Applicant's representatives:

Q You say that you will put controls in place when there is live music on – how do you intend to manage this?

A On at least 3 occasions I will be checking the noise levels around the premises and keep checking and will reduce the noise if it is too loud. Happy for the condition to be added that we will go out and check the noise levels at events.

Mr Stovell stated that the levels are noise are subjective and that he was concerned at the levels the volume could go up to. What should be a db. limit?

Mr Bahadoor reported that whilst he was not a noise expert he understood it was difficult to get a correct db. limit for a premise.

Mr Stovell did not wish to make any further points in summation.

Michelle Hazlewood on behalf of the Applicant's made the following points in summation:

- We accept that the premises are in a noise sensitive area, but we would say that the improvement works that have been carried out will have reduced the likelihood of noise escaping from the premises;
- No events have been booked at the premises yet and a good experienced DPS is now in charge of the premises. The telephone number of the DPS has been offered for residents to contact if there are concerns to report;
- At events the monitoring of noise will be logged and if there are problems these logs can be reviewed – we will this is an appropriate and reasonable response to control the possible public nuisance;
- Environmental Health have not made a representation;
- You will be aware that under the Secretary of State's guidance that you can impose conditions that you feel are necessary to promote the Licensing Objectives, but these should not be burdensome on the premises; and
- Marstons have heavily invested in the premises to change the feel of the venue and changed the DPS swiftly to ensure that the premises are run to Marstons standard and level. They want this to become a place that is important to the community.

The Sub Committee then adjourned at 12:10 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 12:25.



Following the deliberations of the Sub Committee Members, it was

**RESOLVED THAT:**

**The Northern Area Licensing Sub Committee resolved to GRANT the application for a Variation of a Premises Licence as follows:**

**1. Layout**

The amendments to the layout of the premises as identified on the attached plan (JMDA1468/116) are agreed by the Sub-committee in order to bring both the patio areas and the pub garden within the licensed areas of the premises. The external area is limited to retail sale of alcohol and late-night refreshment.

**2. Licensable activities/Hours**

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Films (indoors)	10:00 – 00:00 10:00 – 01:00	Sun to Thurs Fri & Sat
Indoor sporting events	10:00 – 00:00 10:00 – 01:00	Sun to Thurs Fri & Sat
Live music (indoors)	10:00 – 00:00 10:00 – 01:00	Sun to Thurs Fri & Sat
Recorded music (indoors)	10:00 – 00:00 10:00 – 01:00	Sun to Thurs Fri & Sat
Performance of dance (indoors)	10:00 – 00:00 10:00 – 01:00	Sun to Thurs Fri & Sat
Late night refreshment	23:00 – 00:00 23:00 – 01:00	Sun to Thurs Fri & Sat
Sale of Alcohol (ON and OFF sales)	10:00 – 00:00 10:00 – 01:00	Sun to Thurs Fri & Sat
Hours premises open to the public	07:00 – 00:30 07:00 – 01:30	Sun to Thurs Fri & Sat

a) The Sub Committee agreed that the nonstandard timings and seasonal variations for live music, late night refreshment (on and off sales), and the sale of alcohol (on and off sales) to be 10:00 to 01:00 on the dates of 1 January, 25 January, 14 February, 1 March, 17 March, 31 October, 26 – 30 December inclusive and 10:00 to 02:00 on 24 December.

b) Grant the extension of hours in respect of New Year's Eve in order to permit the premises to operate from opening on 31 December to closure on 1 January.

**3. Amendment to Conditions – Annex 2b Operating Schedule**

a) PREVENTION OF PUBLIC NUISANCE

- Notices are to be prominently displayed at all exits from the premises requesting that patrons respect the needs of people living in the area and to leave the area quietly.
- When live or recorded music is being provided the DPS or Licence Holder is to ensure that noise from the premises is monitored outside the premises on at least three occasions. The monitoring data should be logged and retained for a minimum of 30 days and made available on request. When noise is found to be at a level likely to cause disturbance to people living in the vicinity, immediate steps are to be taken to reduce the noise level plus when regulated entertainment is undertaken all external doors and windows to be closed save for access and egress.

b) PROTECTION OF CHILDREN FROM HARM

- The premises to operate a Challenge 21 scheme.
- Staff to be trained in respect of underage sales on an annual basis and such training records to be retained and made available for inspection by the Licensing Authority and Police.
- No adult entertainment is permitted at these premises.
- Children under the age of 16 are not permitted to enter the premises after 22:00 hours unless attending a pre-booked function or dining.

c) PREVENTION OF CRIME AND DISORDER

- Sufficient door staff as determined by a Risk Assessment of the premises will be employed.
- The Designated Premises Supervisor will actively participate and support local Pubwatch Scheme so long as the same exists.
- A Closed-Circuit Television recording system shall be installed at the premises and the number and position of cameras determined by a risk assessment of the premises.
- The CCTV shall be maintained in full working order and used at all times when any licensable activity is taking place.
- Recordings taken from the CCTV system are to be kept for a minimum of 28 days and are to be made available to any authorised officer of

the Licensing Authority, Police or Weights and Measure Authority upon request.

The Sub Committee considered that the re-writing of the operating schedule will significantly enhance the promotion of the licensing objectives and the proposed conditions will provide a more readily understandable framework for compliance by staff going forward particularly through the removal of references to those conditions which are now covered by the mandatory conditions.

#### **4. Reasons**

The Sub Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from the Applicant's representatives, Council Officers, and those that made relevant representations.

Those concerns related to the perceived public nuisance arising from increased music noise to the proposed extension of licensed hours and the perceived increase of anti-social behaviour due to the proposed extension of the licensed hours.

The Sub Committee noted the concerns of a resident who had made a relevant representation regarding noise from a previous live music event and accepted that a degree of noise disturbance had likely occurred when the premises was under control of the previous owners.

The Applicant's representative confirmed to the Sub Committee that their vision for the future of the premises was to be a community premises with food and entertainment, suitable for families, such as bingo, quizzes and charity events.

The Applicants accepted that the premises were located in a noise sensitive environment and that live music was only expected to take place once a month during the winter months. A new sound system with automatic shutdown had now been installed at the premises. Additionally, there had been changes to the management of the Premises including a new Designated Premises Supervisor with the experience of managing premises successfully.

The Sub Committee welcomed the addition of a condition for the DPS or Licence Holder to monitor noise from the outside of the premises on at least 3 occasions when live or recorded music is being provided and agreed that these findings should be logged and retained for inspection upon request.

In reaching its decision the Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 11.15 am - 12.30 pm)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk), of Democratic Services

Press enquiries to Communications, direct line (01225) 713114/713115