

Wiltshire Council

Western Area Licensing Sub-Committee

26 June 2014

Application for a Variation of a Premises Licence; K'S Cafe, 9 Weymouth Street, Warminster, BA12 9NP

1. Purpose of Report

- 1.1 To determine an application for a variation of a Premises Licence in respect of K'S Cafe, 9 Weymouth Street, Warminster, BA12 9NP made by Miss Katarzyna Jepiszko.

2. Background Information

- 2.1 An application for a variation of a Premises Licence in respect of K'S Cafe has been made by Miss Katarzyna Jepiszko 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 35(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 modify the conditions of the licence.
- ii) To reject the whole or part of the application.
- iii) To grant the application as applied for.

- 2.5 On 1st May 2013 an application for a variation of the existing premises licence, was received and accepted as a valid application.

- 2.6 The variations applied for are summarised as follows:

- To include the basement in the licensed area in order to utilise it for licensable activities.
- Add live and recorded music to the basement level.
- Increase capacity in line with the fire officer agreement.
- Remove the condition 'there will be no amplified music' for the basement level only.

A copy of the application form is attached as **Appendix 1**.

- 2.7 Since December 2010, the premises benefits from a Premises Licence issued under the Licensing Act 2003. The original licence allowed the following:-

Licensable Activity	Hours
Late Night Refreshment (Indoors)	Monday to Sunday 23:00hrs-01:00hrs (Next Day) New Year's Eve till 02:00hrs
Sale by retail of Alcohol (On and Off)	Sunday to Wednesday 09:00hrs-22:00hrs Thursday to Saturday 09:00hrs-01:00hrs (Next Day) New Year's Eve till 02:00hrs

The Premises Licence was subsequently varied in August 2013 to extend the hours of Late Night Refreshment and sale by retail of alcohol and to add recorded music to the licensable activities on the premises licence, as shown in the following table. A change to the layout of the premises was also included in the variation application.

Licensable Activity	Hours
Late Night Refreshment (Indoors)	Monday to Sunday 23:00hrs-02:00hrs (Next Day)
Sale by retail of Alcohol (On the premises)	Monday to Sunday 09:00hrs-01:30hrs (Next Day) New Year's Eve & Bank Holidays till 02:00hrs (Next Day)
Recorded Music (Indoors)	Monday to Sunday 09:00hrs-02:00hrs (Next Day)

The current Premises Licence is attached as **Appendix 2**

3. Consultation and Representations

- 3.1 The application process requires a public notice (on pale blue paper) to be posted on the premises for a period of 28 days together with a publication of

notice in a local news paper within 10 working days, starting on the day the authority receives the application. During the consultation period one relevant representation has been received from one Responsible Authority.

3.2 Responsible Authorities

- Environmental Health – Noise Team

3.3 Interested Parties

- None

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

Representation	Licensing Objective	Accepted	Comments
Increased Noise Nuisance	Public Nuisance	Yes	

3.5 The relevant representation is attached as **Appendix 4**. Attached as **Appendix 5** is a plan, which shows the location of the premises

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 Responsible Authority 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 the applicant and the Responsible Authority who have made representations are entitled to address the Sub Committee and to ask questions of the other 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 Premises Licence Holder, and the Responsible Authority 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 will not normally be granted within the first 12 months except for the most compelling circumstances.
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Report Author: Hannah Hould, Public Protection Officer (Licensing)

Date of report: 6 June 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 Variation Application and Plan of Premises**
- 2 Existing Premises Licence**
- 3 Environmental Health Representation**
- 4 Location Plan**