

# **West Wiltshire District Council**

## **Licensing Sub-Committee**

**for the application for Variation Premises License**

**of The Horse and Groom, Alfred Street, Westbury**

**Held on:** Friday 23 September 2005

**Held in:** Council Chamber, Bradley Road, Trowbridge

**Present:** Bob Brice – sub-chair (BB), Gerry Burnan (GB), Tony Phillips (TP)

Leigh Pickering – Applicant (LP), Jacqui Gallimore – Police (JG), Maureen Oliver – Respondent (MO), Martin Turner – Respondent (MT), Carol Porter – Respondent (CP), Clare-Marie Bazalo – Respondent (CB) and Georgina Denison-Pender – Respondent (GDP)

**Officers:** Policy & Licensing Officer – Maggie Jones (MJ), Lawyer – Nigel Musgrove (NM), Member Support Officer (Licensing) – Janette Massey (JM)

### **1. Declarations of Interest**

BB opened the hearing and there were no declarations of interest.

MO placed new documents before the Committee stating that these were new documents and supporting documentation to their representation.

BB asked if LP would be happy to accept these as evidence. On examination of the documents LP stated that he did not accept them.

BB stated that the documents must be part of the original representation and specific to the Horse and Groom and the application for extended hours and not in reference to any other hours.

MO pointed out that LP did not have a current PEL so their representation was not just pertaining to the extended hours.

### **2. Hearing Procedure**

BB read through the hearing procedure, this was understood by all present.

### 3. Application for determination

MJ read through the Summary Report outlining the application as follows:

Sale of alcohol (on and off sales)

- Monday to Saturday 1100 to 2300
- Sundays and Good Friday 1200 to 2230
- 1200 to 1500 and 1900 to 2230 on Christmas Day
- 1100 New Years Eve to 2300 New Years Day

The variation applied for is, in summary:

- Extend the hours for the supply of alcohol
  - ◆ Monday – Sunday 1200 to 2400
  - ◆ Partners birthday celebrations, anniversary of our time at the pub, very special national days (jubilee type events, coronations etc.), major sporting events involving UK teams only, patron saint days and Saturdays preceding bank holidays 0100.
- To include regulated entertainment
  - ◆ Live music – Monday to Sunday 1200 to 2400
  - ◆ Recorded music – Monday to Sunday 1200 to 2400, non standard timings, New Years Eve 36 hrs, partners birthday celebrations, anniversary of our time at the pub, very special national days (jubilee type events, coronations etc.), major sporting events involving UK teams only, patron saint days and Saturdays preceding bank holidays 0100
  - ◆ Performances of dance – Monday to Sunday 1200 to 2400
  - ◆ Anything of a similar description (quiz evenings, race nights, raffles etc. – Monday to Sunday 1200 to 2400
  - ◆ Provision of facilities for making music (karaoke events) – Monday to Sunday 1200 to 2400
- Hours open to the public Monday to Sunday 1100 to 0030 the following morning

Representation was received from Wiltshire Police and Westbury Market Place and Environs Residents Association. The Police notified the Council that, by agreement with the applicant, all references to “partners birthday celebrations, anniversary of our time at the pub, very special national days (jubilee type events, coronations etc.) major sporting events involving UK teams only, and patron saint days” be deleted from the application and that their representation would be withdrawn on these conditions.

MJ then outlined the steps the applicant proposes to take that would be applied as conditions, and these are:

- Off sales only permitted until 2300
- Continued support of Westbury Area Pub Watch
- Required signage relating to fire exits, fire extinguishers, all staff trained in evacuation, hazard analysis obligations fulfilled
- Door and windows closed from 2300 when live music being played. Front doors of both pub and function room rooms to have auto closer installed
- No customers to leave carrying alcohol purchased from us after 2300
- No children permitted in bars after 2030 unless eating

- No adult comedy acts/strippers etc. permitted
- Restaurant area non-smoking

MJ notified the Committee that areas of concern for the Residents Association were the hours for the sale of alcohol on Monday, Tuesday, Wednesday and Sunday. The hours specified by the applicants for regulated entertainment. Non-standard timings. Out-of-doors regulated entertainment and non-standard timings.

LP informed the Committee that he had met with representative of the Residents Association and offered to reduce his hours for the sale of alcohol to 2300 hrs on Sundays and reduce the hours for regulated entertainment to 2300 hrs on Mondays, Tuesdays, Wednesdays and Thursdays and to 2200 hrs on Sundays also that he would not have any music in the garden or patio area.

LP also informed the Committee that he would be putting up signs asking patrons to leave quietly and agreed to keep the doors and windows closed after 2200 hrs.

LP agreed with Residents Association that he would e-mail them a list every quarter advising them of events which may cause extra noise, also that once a month he would make himself available for a meeting to address any concerns local residents may have.

LP further stipulated that he would ask performers to only use the in-house PA system, and not their own, and require performers to keep things quieter.

BB asked if LP had notified the Council of these further conditions and MJ replied that they had not.

LP then supplied the Committee with a copy of the agreement. LP then went on to say that the application was intended to allow more flexibility and not to turn the pub into a "night club". He also pointed out that the new legislation made it easier for him to be 'punished', then went on to say that although he had received 4-5 letters from Environmental Protection complaining of noise these complaints had not been upheld and that none of the complainants were present at the hearing.

LP was aware that at first there had been problems with the skittle alley when holding certain events but that these events had now been stopped, also that in future he would be limiting the number of events and the noise levels.

LP also stated that, although he wanted to use the Licensing Act 2003 to apply for a licence until midnight, the pub was mainly a food pub and popular with older families, that he wanted the new hours to be beneficial to his customers but also wanted it to be less likely to cause problems for his neighbours.

BB then invited questions from the respondents.

MO asked if LP had ever been approached by the Environmental Protection team.

LP replied that he had, they had 5 separate discussions and about 3 or 4 letters and that the result of this had been that Environmental Protection stated they would be monitoring the premises but he had heard nothing further from them.

MO asked if Environmental Protection had suggested that the skittle alley was suitable for music events.

LP replied that that Env. Prot. had advised the use of smaller speakers and that these had been installed.

MO asked if there were any plans for further sound proofing.

LP stated that after he had taken out the ceiling and exposed the beams in the roof that this had reduced the sound proofing of the building, he also pointed out that it was an old building and was a protected building. LP also stated that he knew how to sound proof the building if it proved necessary.

MO asked when LP would personally be in charge and how often he would be present in the premises.

LP replied that he felt this question was irrelevant but that he would answer. LP advised those present that he was always in charge, that he was present in the premises about 4 days of the week and his wife about 2 days.

BB then invited questions from the Committee.

BB asked if LP had a copy of the agreement with the Residents Association and if LP would be happy to have the agreements as extra conditions on his licence.

LP replied that he did have a copy and was very willing to have these as extra conditions.

BB then asked if LP currently had a Public Entertainment Licence (PEL).

LP replied that he did not as he had only held 8 – 10 events in the last year and that all he really required of the new Act was the ability to carry on as before.

BB asked who would carry out any monitoring required by a PEL.

LP replied that he had received a letter from the Council outlining his obligations.

TP asked what the average number of people attending an event is.

LP replied that he normally had about 50 people, the public bar could cater for 40 – 45 and that the Fire Officer had suggested the skittle alley could hold around 60 people.

GB asked if LP could clarify his proposals for the skittle alley in terms of entertainment and meetings.

LP stated that it was not his intention to use the skittle alley every Friday and Saturday and that it would only be used for family orientated events – discos, Christmas carols, and special and private functions.

BB stated that he was aware that most bands and disc jockeys were deaf and that he appreciated that using smaller speakers would be beneficial. BB then invited comments by interested parties.

MO started by saying that the premises were, generally speaking, well run and was a well thought of family pub. MO further stated that the Association had been started in response to other pubs opening until 0200 hrs and that this had resulted in substantial disturbance for local residents and requested clarification from the Police on the applicants request for a licence until 0100 hrs on the Saturday immediately prior to a Bank Holiday.

JG stated that the Police's objections had been withdrawn in relation to the request for extra hours on "partners birthday celebrations, anniversary of our time at the pub, very special national days (jubilee type events, coronations etc.) major sporting events involving UK teams only, and patron saint days" and that they were happy with the applicants request for 0100 hrs license on the Saturday immediately prior to a Bank Holiday.

MO went on to say that at the hearing on 26 April 2004 at the Magistrates Court it was acknowledged that this was mainly a residential area with not many businesses and that there would be witnesses speaking later detailing what life was like now

MO then went on to detail the responses received by the Association to a mailshot, stating that they had received 43 replies and of these 41 were against any late night opening. MO outlined the 3 main areas of concern being the use of the beer garden, the patio and the skittle alley and stated that local residents were opposed to LP's request for these areas. MO also stated that, in connection with the main building, the Association were happy with the agreement reached with LP on the hours for Thursdays, Fridays and Saturdays but not the rest of the week and thought that Sundays should be restricted to 2230 hrs and 2300 hrs for other nights.

MO also pointed out that there were 55 new units being built on the site of a mill nearby and that this would mean more people being disturbed.

MO went on to say that the patio area between the front door and Alfred Street was an area of concern as people would sit out there making noise after the pub had closed and pointed that there were many families in the area and many people were unable to sleep because of the noise.

MO requested that a condition be imposed on the applicant to install CCTV cameras in the patio area as it was difficult for bar staff to monitor the customers there due to lack of visibility of the area from the bar.

MO stated the Association are opposed to the skittle alley area having a PEL and want the PEL for the bar area restricted to 2230 hrs Monday to Wednesday, 2330 hrs Thursday to Saturday and 2230 hrs for Sunday, also that they did not agree with the application for 0100 hrs on the Saturday immediately prior to a Bank Holiday. The Association also thought it appropriate that doors and windows were kept shut at all times during regulated entertainment and after 2200 hrs when there was no entertainment.

BB then asked for other respondents to speak but requested that they restrict their comments to issues regarding the extra hours.

MT told the Committee that he lived in The Old Vicarage, which was next door to the skittle alley, and reported an apparent lack of control over children, in this area, who would run riot in terms of noise and climbing over the fence. MT also stated that he was having problems with people throwing glasses, litter, bottles etc. over his wall, also footballs, which they would then climb the fence to retrieve. MT further reported that it was not possible to use his garden on evenings when there was music being played in the skittle alley, as the noise was too loud.

MT also stated that other items were thrown over the fence in an attempt to knock conkers from one of the 6 Horse Chestnut trees in his garden. MT also reported that his partner had been racially abused by patrons in the Horse and Groom and acknowledged that this was a Police matter, he also referred to an incident when a man drove part of the way through his fence.

BB sympathised with MT but stated that most of this was irrelevant as it did not relate to the last two hours of being applied for in the licence.

CP then spoke saying that she lived opposite the pub and across from the skittle alley, in Alfred Street. CP stated that she was not sure how much of what she had to say was relevant but stated that the biggest problem was people congregating outside the pub until the early hours. CP went to say that she was going to move because the noise was intolerable and that she could not sleep unless she was wearing ear-plugs.

CB stated that she also lived in Alfred Street and that her concerns were similar to those outlined by CP and MT. CB stated that she has made numerous complaints to Environmental Health and felt that if the hours for licensing were increased then the problem would only increase. CB stated that frequently children would be heard in the car park/patio area swearing and using the "f word"

GDP told the Committee that she too lived in Alfred Street and reported a similar instance but this time with three children being out of control outside the pub. GDP reported that on three separate occasions, recently, people had been heard outside the pub swearing so much that her children were frightened. GDP stated that the language used was hideous.

BB then asked for a summing up from the respondents as there were no questions from LP for them.

MO stated that they wished for the premises to be dealt with and conceded that, in line with the Licensing Act 2003, the main building should have a licence until midnight for the sale of alcohol but that it should only be allowed a licence until 2330 hrs for Monday to Wednesday and until 2230 on a Sunday, also that they were totally opposed to any times being granted after midnight.

MO also stated that the Association felt the patio and beer garden should be cleared by 2230 hrs every evening and that no music be allowed in the skittle alley in its current state but that it may be appropriate once sound-proofing had been carried out.

LP then addressed the Committee thanking MO for the nice comments earlier in the proceedings, he went on to say that any references to the Ludlow Arms' hearing and the evidence gathered for it was irrelevant to his application. Also LP felt that the survey undertaken by the Association was not to gather support but done to generate bad feeling.

LP then supplied statistics for the amount of use the beer garden and patio got, being not more than 2-3 hrs every evening and stated that the skittle alley had been used on no more than 15 separate occasions which started about 2000 hrs and finished by 2300 hrs.

LP agreed that CCTV might be appropriate but only if there were problems with drug taking and fights breaking out. LP stated that most of the noise was generated by people going to the take-away and wondering back after closing time.

LP felt that the new houses would be good news as it would mean more residents and meant that he should have more services to offer the new residents. LP went to say that he felt closing the windows and doors after 2200 hrs would not be feasible every night as the main area was used for dining and for playing cribbage but would be happy to do so when there was regulated entertainment taking place.

LP also stated that he would ensure bins were in place at the beginning of the next season, he also stated that providing outside music was a seasonal requirement, that it was difficult to police what happened after closing time and pointed out that most of his customers were aged between 50 and 60 years old and did not cause much of a problem.

LP closed by saying he felt the extended hours would not make things worse but would reduce the amount of trouble, and reiterated that he did not want to turn the pub into a "night club", he just wanted more flexibility and hoped that the premises would be seen as a flagship to the Licensing Act 2003, showing that it could work.

The Committee then retired to make their decision.

On returning BB asked NM to advise those present of any legal advice he had given the Committee.

NM responded stating that he had advised the Committee that under Regulation 18 of the Hearing Regulations the representations referring to the Ludlow Arms hearing was inadmissible, also that any evidence must be relevant to a specific premises, further the documentation presented was not authenticated as documentation from the hearing for the Ludlow Arms.

NM also advised the Committee that any evidence relating to the new residences was also irrelevant as the Association does not represent people who are not yet residents of the area. Further the Committee cannot put conditions on the applicant pertaining to the conduct of customers once they have left the applicants premises.

NM advised that all conditions must be reasonable and proportionate given admissible evidence presented to the authority.

NM then invited questions on his advice.

CP asked if the 'premises' included the patio and car park

NM replied that it did.

MO asked if all the precedents under the previous licensing act were now not applicable

NM replied that this was the case.

BB then read the decision of the Committee to grant the licence but with the following extra conditions:

- the sale of alcohol be permitted until:  
0000 hrs Monday to Saturday  
2300 hrs on Sunday  
0100 hrs on the Saturday immediately preceding a Bank Holiday.
- Regulated entertainment to end at:  
2300 hrs Monday to Thursday  
2200 hrs on Sundays  
2330 hrs Fridays and Saturdays  
0030 hrs on the Saturday immediately preceding a Bank Holiday
- No regulated entertainment will take place outside
- Signage be put up asking customers to leave quietly and in the outside area to respect neighbours
- Installation of litter bins and signs requesting their use
- Doors and windows to be kept closed after 2200 hrs when regulated entertainment is provided
- Applicant to keep the Westbury Market Place and Environs Residents' Association informed as to forthcoming events which may cause extra noise
- Applicant to make himself available for regular liaison meetings with the Westbury Market Place and Environs Residents' Association
- Noise limiters to be used on any amplification system to be used for Regulated Entertainment, the noise limit to be set with expert advice.