

LICENSING SUB-COMMITTEE

Monday, 25 July 2022

Attendance:

Councillors:
Cunningham (Chairperson)

Laming

Westwood

Officers in attendance:

Briony Appletree – Interim Licensing Manager
Nathan Mountney – Litigation Solicitor

[Full audio recording](#)

1. **TO CONFIRM A CHAIRPERSON FOR THE MEETING**

RESOLVED:

That Councillor Cunningham be confirmed as Chairperson for the meeting.

2. **DISCLOSURE OF INTERESTS**

There were no disclosure of interests made at this meeting.

3. **APPLICATION FOR REVIEW OF PREMISES LICENCE - WICKS BAR AND GRILL, UNIT D, SOUTH SQUARE, KNOWLE, FAREHAM, PO17 5FL (LR562)**

The Chairperson welcomed all those present to the meeting:

Applicant:

Philip Tidridge on behalf of the Environmental Protection Team for Winchester City Council
Abigail Toms – Environmental Protection Team, Winchester City Council

Wicks Bar & Grill, Knowle:

George Madgwick – Licence Holder & Designated Premises Supervisor
Christopher Dike – Branch Manager

The Interim Licensing Manager introduced the report which set out an application to review the premises licence for Wicks Bar and Grill, Unit D South Square, Knowle, Fareham, PO17 5FL, currently held by Parnells Food Outlets Limited, which had been submitted in accordance with section 51 of the Licensing Act 2003. The premises licence authorised the provision of late night refreshment and the supply of alcohol (for consumption on and off the premises), and was also permitted to provide regulated entertainment between the hours of 0800 hours and 2300 hours on any day for an audience of less than 500 persons. This was a deregulation under the Live Music Act 2012 which the premises benefitted from as it supplied alcohol for consumption on the premises.

The application had been submitted on 30 May 2022 by Mr Philip Tidridge on behalf of the Environmental Protection Team at Winchester City Council, a responsible authority as defined under section 13 of the Licensing Act 2003 and related to the prevention of public nuisance licensing objective, citing noise monitoring from events held under the premises licence during 2022 as evidence to support the applicant's view that the licensing objective was not promoted. The full application was set out in Appendix 1 to the report.

The Sub-Committee were advised that no representations had been received by any other Responsible Authorities. One written representation had been received from one 'Other Persons' in support of the applicant's application, as set out in full in Appendix 2.

In conclusion, the Interim Licensing Manager advised the Sub-Committee that four supplementary agendas had been published on the council's website since the publication of the original agenda pack. These had been circulated to the Sub-Committee for consideration prior to the meeting.

The Litigation Solicitor drew the Sub-Committee's attention to an issue in relation to some of the late representations received potentially by both the applicant and the licence holder. He clarified that there was a 28 day period in which representations can be submitted both for and against the application. Submissions containing additional representations had been made by both parties and clarification was sought on the dates these representations had been made and whether this was out of the prescribed 28 day period.

The applicant had provided two written representations from residents, set out on Pages 5 and 6 of supplementary agenda 1. However, the exact dates of their submission were unknown due to their receipt during a period of officer annual leave and therefore this date could not be confirmed without further investigation taking place.

The written representations submitted by the licence holder had not been published or provided to the Sub-Committee in advance of the meeting due to an understanding that these fell outside of the 28 day period. This was confirmed as accurate by the licence holder.

For fairness and transparency, the Sub-Committee agreed to adjourn the meeting to allow the applicant time to ascertain the exact dates on which the two

written representations he had submitted had been received, prior to consideration of the application.

On the resumption of the meeting, the Litigation Solicitor clarified that confirmation had now been received from the applicant that both written representations received had been submitted after the 28 day deadline period and therefore the content of both representations from residents 1 & 2, set out on pages 5 and 6 of supplementary agenda 1, should be disregarded in their entirety from the proceedings. The Sub-Committee agreed that these representations would not be considered.

At the invitation of the Chairperson, the applicant, Philip Tidridge and Abigail Toms, on behalf of Environmental Protection for Winchester City Council, addressed the Sub-Committee to set out the application, including the history of the premises, previous communications with the licence holder, the acoustic suitability of the listed building to host live music events and the monitoring of the level of impact on residents to promote the licensing objective of the prevention of public nuisance and responded to questions of the Sub-Committee and relevant points of clarification from the licence holder.

The Chairperson then invited the licence holder for Wicks Bar and Grill, George Madgwick, to address the Sub-Committee, in response to the points raised regarding the proximity of residential properties to the premises, the poor attenuation offered by the listed building which had resulted in the sound impact experienced by residents during live music events at the premises.

Mr Madgwick set out the background which had resulted in the application for review being submitted, outlined the number of live music events anticipated at the premises going forward and the measures taken to date to remedy concerns (i.e revised floor plans). He made reference to the omission of a noise abatement order and queried the legitimacy of some of the sound recordings taken by the environmental protection team.

In conclusion, Mr Madgwick responded to a number of questions of the Sub-Committee these included, the mechanisms used to engage with local residents to mitigate the impact during events, the measures in place for patrons leaving the premises, the average attendance numbers for live music events and the locality of attendees.

In response to points raised by the licence holder during his representation, the Litigation Solicitor clarified that the council's statement of Licensing Policy and s182 of the Licensing Act 2003 were both publicly available to view on the council's website and the internet for reference purposes.

The Sub-Committee retired to deliberate in private.

In his closing statement, the Chairperson stated that the Sub-Committee had carefully considered the application, the representations made by Responsible Authorities and 'Other Persons' and the applicant's evidence given at the meeting. It has taken into account the Council's Statement of Licensing Policy, the Public Sector Equality Duty, the Home Office Guidance issued under section

182 of the Licensing Act 2003, the duties under the Crime and Disorder Act 1998, and the rights set out in the Human Rights Act 1998.

In reaching its decision the Sub-Committee carefully considered the review application, the Applicant's evidence and supplementary documents. The Sub-Committee did not consider any late representations received from either the Applicant Licensing Authority or the Respondent Licence Holder.

Factual Findings:

- (a) Supporting evidence of the Applicant for Review, Philip Tidridge of Environmental Protection for Winchester City Council shows:
 - (i) The Wicks Bar and Grill is a listed building and possesses poor acoustic insulation.
 - (ii) The venue is in close proximity to residential premises, in some instances only a few metres away.
 - (iii) The monitoring of volume of music from within the nearby residential premises reveals the events over 10th to 16th December 2021 and 18th March to 23rd April 2022 to have been intrusive and above the recommended levels for rest within a living room or bedroom, as witnessed by qualified Environmental Health officers.
 - (iv) It has been agreed that there were no issues with the calibration of the equipment used to monitor sound levels from various complainants residential premises.
- (b) Evidence provided by the Licence Holder shows:
 - (i) They have a proposal from a sound proof contractor which may result in reduced noise levels experienced by residents outside the venue, though this has not yet been employed.
 - (ii) They have responded to a complaint when received direct.
 - (iii) Though they possess equipment necessary to control the volume within the premises, acts on occasion choose to use their own equipment which cannot be controlled by the licence holder.
 - (iv) There is a proposed floor plan lay out changing number, location and direction of speakers which may further reduce noise levels experienced by residents outside the venue.

RESOLVED:

The Sub-Committee concluded that, based on the findings above and having considered them on balance, the licensing objective of prevention of public nuisance was not promoted and, as a consequence of these findings we find it reasonable and proportionate in all the circumstances to make the statement under s117A(3) of the Licensing Act 2003 that, following a review of the licence,

and finding that the prevention of public nuisance licensing objective was not promoted, that deregulation no longer applies.

Conditions will now apply to the licence as follows:-

PN3

(a) Limiting the number of live music events to:

(i) One event per calendar month finishing by 21:30 hours, with the exception of December which shall have:-

- New Year's Eve finishing by 00:30 hours; and
- Two further events finishing by 21:30 hours, which shall not run consecutively on any two nights

(ii) No single live music event shall run for more than 2 hours in duration

(b) Bottle bins shall not be emptied between 2000 hours and 0900 hours

(c) Signage at the door asking patrons to leave the premises quietly respecting local residents.

(d) The Premises Licence Holder shall ensure that a Noise Management Plan is agreed with the Council's Environmental Health Team prior to the next live or recorded music event after 25 July 2022, which shall include the proposed floor plan set up, as set out on Page 11 of Appendix 6, Supplementary Agenda 4 to the report, unless agreed otherwise with the Environmental Health Officer.

(e) The Premises Licence Holder shall ensure that a Community Engagement Plan is agreed with the Council's Environmental Health Team prior to the next live or recorded music event after 25 July 2022. The plan shall outline the premises licence holder's proposals for engaging with the local community and ensuring that any complaints received from the community are responded to accordingly.

The Chairperson advised that all parties would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of notification of the decision.

The meeting commenced at 10 am, adjourned at 10.14 am and reconvened at 10.23 am and concluded at 13.25 pm.

Chairperson