

**Swindon Borough Council
Licensing Act 2003 – Licensing Panel**

NOTICE OF HEARING

Date of Hearing: Wednesday, 9 October 2013

Place of Hearing: Committee Room 1, Civic Offices

Time of Hearing: 5.00 p.m.

Panel Members:

Conservative Councillors

Andrew Bennett
Michael Dickinson

Labour Councillors

Junab Ali

Liberal Democrat Councillors

Committee Officer: Shaun Banks (Telephone 01793 463606)

Email: email: sbanks@swindon.gov.uk

Address: Swindon Borough Council, Civic Offices, Euclid Street, Swindon SN1 2JH

AGENDA

- 1. Appointment of Chair**
- 2. Apologies for Absence**
- 3. Minutes** (Pages 3 - 10)
To receive the minutes of the meeting held on 1st and 24th July and 29th August 2013.
- 4. Declarations of Interest**
Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.
- 5. Application to [Review the Premises Licence of the Nine Elms Public House, Old Shaw Lane, Swindon together with a copy of each relevant representation made and supporting documents** (Pages 11 - 48)

Date of Despatch: 02 October 2013

Access Arrangements – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

Action following receipt of Notice of Hearing:

A party shall give to the Licensing Panel within the period of time provided for in the following provisions of this regulation a notice (in the form attached) stating: -

- Whether he intends to attend or be represented at the hearing.
- Whether he considers a hearing to be unnecessary.
- In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

The following notice periods apply:

No later than one working day in respect of:

- Cancellation of interim authority notice following police objection, or
- Counter notice following police objection to temporary event notice.

No later than two working days before the first day of hearing:

- Review of premises licence following closure order or review of premises licence following review notice;
- Determination of application for conversion of existing licence;
- Determination of application for conversion of existing club certificate; or
- Determination of application by holder of justices' licence for grant of personal licence.

In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

Right of attendance, assistance and representation:

A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

The hearing will take place in public. However the Licensing Panel may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For these purposes a party and any person assisting or representing a party may be treated as a member of the public.

The Licensing Panel may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit that person to return, or
- permit him to return only on such conditions as the authority may specify.

Any such person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

Representations and Supporting Information:

At the hearing a party shall be entitled to:

- Give further information as appropriate in response to a point upon which the Licensing Panel has given notice that clarification is required (Note – if clarification is required from any party this will have been indicated in the Notice of Hearing);
- If given permission by the Licensing Panel, question any other party; and
- Address the authority.
- Failure of Parties to attend the Hearing

If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing the authority may: -

- Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- Hold the hearing in the party's absence.
- Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned

Procedure:

A summary of the procedure that will normally be followed at the hearing is attached.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all Hearings. However depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to): -

- Whether to proceed in the absence of a party;
- Whether to admit new documents or information submitted at the hearing;
- Whether it is in the public interest to exclude members of the public from the hearing or any part of it;

- Whether any party wished to withdraw representations previously submitted
- Whether to disregard any information given by a party or any person to whom permission to appear at the hearing is given by the authority which is not relevant to:
 - Their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance, and
 - The promotion of the licensing objectives

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**Standard procedure for licensing committee or
licensing panel review hearings**

- 1) The general facts of the review application will be put to the hearing by an officer of the Licensing Authority.
- 2) The applicant for the review will put their case. They will be invited to clarify and support (but not add to) their written submission.
- 3) Members of the Licensing Committee (or Panel) may ask questions arising from this submission, as may any other Member of Swindon Borough Council who is present. The premises licence holder will not be allowed to comment or reply at this stage but may ask the party which applied for the review to give a brief clarification concerning any of the points they have made.
- 4) Ward Members who wish to speak on behalf of constituents who have made representations following the review application or aspects of the review application will be invited to speak. Written notification of those representations must be submitted within the required period of notice.
- 5) Where individuals or organisations have given the required notice that they wish to make relevant representations on the review application, they will be invited one at a time to clarify and support (but not add to) their written submissions. Representations will be heard only from those who have submitted an objection in writing before the deadline given for comments. This restriction applies equally to Members and Officers of the Council.
- 6) Members of the Licensing Committee (or Panel) may ask questions arising from each representation, as may any other Member of Swindon Borough Council who is present. The premises licence holder will not be allowed to comment or reply at this stage but may ask those making representations to give a brief clarification of any of the points they have made.
- 7) Ward Members who wish to speak on behalf of constituents who have made a representation against the review and in support of the premises licence holder will be invited to speak. Written notification of the positive representation must have been submitted within the required period of notice.
- 8) The premises licence holder and / or their solicitor or representative will be invited to make a submission in opposition to the application for review and to respond to points made by

those who submitted the review application or who made representations subsequently. No unreasonable limits will be placed on the right of the applicant to make their case and they may present any documentation they wish, in doing so.

- 9) Members of the Licensing Committee (or Panel) may ask questions arising from the premises licence holder's submission, as may any other Member of Swindon Borough Council who is present.**
- 10) The party which applied for the review and anyone who made representations subsequently will be allowed in turn to ask the premises licence holder to give a brief clarification of any point they have made. They will not be permitted to restate or develop their review application or representation and must limit any further brief comment to issues that arise directly from answers given by the premises licence holder or the premises licence holder's representative.**
- 11) Members of the Committee or Panel hearing the application will then discuss the application in private, accompanied only by non-partisan officers who are there in a support role.**
- 12) Should any person present act in a disruptive manner the Chair will first warn him or her about their conduct and then, if the Chair considers it appropriate, may require the person concerned to leave the meeting forthwith. Where a party to the hearing insists on wasting the time of the hearing by needlessly repeating points that have been well aired and clearly put by earlier speakers, their actions may be judged to be disruptive and they may be asked to leave. It is strongly recommended that any spoken representations from groups of people with common concerns are made through an agreed spokesperson.**

LICENSING PANEL

MONDAY, 1 JULY 2013

PRESENT:- Councillors John Ballman, Alan Bishop and Michael Bray

1. Appointment of Chair

Resolved – That Councillor Mick Bray Chair this meeting of the Panel.
(Councillor Bray took the Chair.)

2. Minutes

Resolved - That the minutes of the meeting held on 22nd March 2013 be confirmed and signed.

3. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

4. Application to vary the Premises Licence in respect of the Queens Tap, 74 Station Road, Swindon

The Panel considered (a) a report of the Council's Licensing Officer setting out details of an application for a variation to the Premises Licence held by the Queens Tap Public House, 74 Station Road, Swindon, (b) local residents, and the Council's Environmental Health Team, (c) oral submissions by Simon Evans (local resident against the grant of the variation of the Premises Licence, (d) submissions received in support of the application received from the applicant and Pearce Warne (Solicitor to the applicant), (e) oral representation by Damon Greed clarifying the submission of the Environmental Health Representation opposing the application, (f) questions from Members to the applicants, Wiltshire Constabulary and the representatives of the applicants and answers received, and (g) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Licensing Policy.

Resolved - After considering: -

1. The application for a Premises Licence made by the Licensee; and
2. Representations and material put forward on behalf of the Objectors;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;
- ii. The prevention of public nuisance
- iii. Public Safety

1. That, subject to the conditions set out in the report and the additional condition

set out below, the Panel determined that the Premises Licence be granted for the following hours:

Provision of Live Music

Monday to Wednesday	08:00 and 00:00
Thursday to Saturday	08:00 and 02:00

Provision of Recorded Music or similar activities set out in the application

Monday to Wednesday	08:00 and 00:00
Thursday to Saturday	08:00 and 02:00

Sale of Alcohol and Hours of Operation

Monday to Wednesday	08:00 and 00:00
Thursday to Saturday	08:00 and 02:00

Reasons

(i) The Panel received no evidence that there was poor or ineffective management at the premises, indeed it was confirmed by objectors that there was good management in place.

(ii) There was no clear evidence submitted to the Panel that the requested hours would cause substantial nuisance to local residents and that the premises opposite the Queens Tap had similar hours of operation.

(iii) The Panel heard evidence that the management wanted to act as a good neighbour and the applicant offered a condition stating that local residents would be provided a "hot line" number to call in the event that any noise reached an unacceptable level.

(2) That Annexe 2 of the current licence reading "Plays, films, indoor spectator sports, boxing, wrestling and the performance of dance are not permitted" be removed from the licence.

Reason

(i) No objection the removal of this condition was received and the Panel found no reason not to approve the request.

(3) That the landlord provide neighbouring properties telephone details to call in the event that they suffer significant disturbance from the premises during entertainment.

Reason

(i) The condition offered by the applicant was deemed to appropriate in assisting in the good management of the premises.

LICENSING PANEL

WEDNESDAY, 24 JULY 2013

PRESENT:- Councillors Andrew Bennett, John Haines and Derique Montaut.

5. Appointment of Chair

Resolved – That Councillor Andrew Bennett Chair this meeting of the Panel.
(Councillor Bennett took the Chair.)

6. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

7. Application for Premises Licence The Brunel Rooms, Havelock Square, Swindon

The Panel considered (a) a report of the Council's Licensing Officer setting out details of an application for a Premises Licence for The Brunel Rooms, Havelock Square, Swindon, (b) written objections to the grant of the Premises Licence from Wiltshire Constabulary, local residents, the Council's Environmental Health Team, (c) oral submissions by PC Mike Diffin, Sian Kalyuka and Inspector Burt (Wiltshire Constabulary) in support of their objection and setting out proposed conditions to be appended to any Premises Licence granted, (d) submissions received in support of the application received from the applicant and Directors of Brunel Rooms, Swindon Limited, (e) oral representations from Mr Gareth Drinkwater (Local Resident) against the grant of the application requested, (f) oral submissions by (f) oral representations from Mr Damian Green supporting the Environmental Health Representation opposing the application, (g) the views of Councillor David Wood on the potential for nuisance to residents within his ward and regarding the inclusion of a condition for a last entry time to the premises, (h) questions from Members to the applicants, Wiltshire Constabulary and the representatives of the applicants and answers received, and (i) the Council's procedure for licensing hearings, Government Guidance and the Council's Licensing Policy.

Resolved - After considering: -

1. The application for a Premises Licence made by the Licensee; and
2. Representations and material put forward on behalf of the Objectors;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;
- ii. The prevention of public nuisance
- iii. Public Safety

1. The Panel has determined that the Premises Licence be granted for the following hours:

Plays

Monday to Sunday 10:00 to 23:00

Boxing/Wrestling

Monday to Sunday 19:00 to 23:00

Sale by Retail of Alcohol (for consumption on & off the premises), Films, Live Music, Recorded Music, Performances of Dance

Sunday to Wednesday 10:00 to 01:00

Thursday 10:00 to 03:00

Friday and Saturday 10:00 to 04:00

Sunday before Bank Holiday Monday 10:00 to 04:00

New Year's Eve, from the end of permitted hours until the start of permitted hours on New Year's Day.

An "all night event" on up to 6 times per calendar year, where Alcohol, Films, Live Music, Recorded Music, Performances of Dance will be provided from 10:00 to 06:00.

Late Night Refreshment

Sunday to Wednesday 23:00 to 01:00

Thursday 23:00 to 03:00

Friday and Saturday 23:00 to 04:00

Sunday before Bank Holiday Monday 23:00 to 04:00

New Year's Eve 23:00 to 05:00

An "all night event" on up to 6 times per calendar year, where Late Night Refreshment will be provided from 23:00 to 05:00.

The hours that the premises will be open to the public will be:

Sunday to Wednesday 10:00 to 01:30

Thursday 10:00 to 03:30

to Saturday 10:00 to 04:30

Sunday before Bank Holiday Monday 10:00 to 04:30

New Year's Eve, from the end of permitted hours until the start of permitted hours on New Year's Day.

An "all night event" on up to 6 times per calendar year from 10:00 to 6:30.

Reasons

(i) The Panel accepted the applicants' offer to reduce their requested hours for musical entertainment on Thursdays from 4:30 am until 3:00am on the basis that the later hours requested on Fridays and Saturdays were for events.

(ii) The Panel considered Police evidence against the opening hours 04:30 on Fridays and Saturdays and in particular the evidence relating to problem hotspots

and potential for breaches of the licensing objectives. However apart from police shift patterns the police failed to provide evidence as to why this situation would be worse at 04:30 when they had offered a 03:00 closing time, subject to the application of conditions on the Premises Licence. The panel noted the police contention that the later people were able to consume alcohol the greater the risk of incidents however the Panel noted that full training was to be given to staff prior to commencement of their duties and that there would be refresher training and that the applicant was aware of their duty not to sell alcohol to inebriated patrons.

(iii) The Panel in reaching its decision took into account that the applicants had shown a willingness to address Police concerns; and that with the exception of the police request to cease entertainment and the sale of alcohol at 03:00 on Fridays and Saturdays the applicant had agreed to all 28 conditions requested by the Police as set out on pages 37 to 40 of the agenda papers. This agreement had included the installation of an ID scanner bought by the applicants following a request from the police.

(iv) The Panel heard evidence that policies and procedures to be operated at the club were to be approved by the company providing the Door Supervisors.

(v) The Panel took into account the potential noise nuisance arising from the club, especially in the early morning and the objections of the Council's Environmental Health Team and local residents. The Panel heard evidence from the applicants that the newly installed speaker system was directed away from the building roof and was calibrated for noise quality and not loudness. It was mindful of the hours of operation other establishments in the town centre area and determined that by conditioning that a noise reduction plan be agreed with the Council's Environmental Health Team within two months of operation that this potential nuisance could be minimised.

(vi) The Panel did not take into account police comments relating to the Director of the Company making the application as it had no power to remove the individual concerned from his position as a Director.

(vii) The Panel considered the experience of the club management in the light of the size of the establishment. The panel heard assurances from the Directors of the company applying for the Premises Licence that the Manager would have full operational control of the running of the premises during the hours of operation of the establishment. It further noted that the manager had been in a deputy or assistant manager role at the premises whilst it operated as the Brunel Rooms and Liquid and Envy.

(viii) The Panel considered Police evidence setting out the potential for incidents in the Havelock Square area. In particular it took account of information set out on police produced maps of "hot spots" and "Red Routes" tabled at the meeting.

2. That the conditions tabled by the police and agreed by the applicants on pages 37 to 40 of the agenda papers shall be imposed on the premises licence with the exception of Condition 7 which shall be amended to the effect that all glasses used on the premises shall be Polycarbonate shatter to safe plastic, paper or other inherently safe container approved in writing with the Licensing Authority.

Reasons

(i) The conditions (with the exception of the hours of operation) requested by the Police were agreed by the applicants.

(ii) The panel determined that the imposition of the conditions agreed by the applicant would assist in the maintenance of the Licensing Objectives.

(iii) The use of Polycarbonate shatter to safe plastic, paper or other inherently safe container approved in writing with the Licensing Authority was seen as beneficial in the maintenance of the Licensing Objectives. The Panel noted the management request to use safe to shatter glass in the VIP area but noted that there were good quality alternatives available to the management.

3. That the Door Supervisor positioned in the smoking area shall be part of the noise monitoring team and shall liaise immediately with management concerning any noise issues arising.

Reason

To reduce the risk of noise nuisance occurring that would affect neighbouring properties.

4. That within one month of the commencement of entertainment the management of the Brunel Rooms will arrange for a full noise assessment, during periods of entertainment by a qualified individual and the report arising from this assessment will be lodged with the Licensing Authority. Within one further month the management shall agree in writing a noise containment policy with the Council's Environment Health team and that this policy once approved shall come into immediate effect.

Reason

(i) To reduce the risk of noise nuisance occurring that would affect neighbouring properties.

(ii) To ensure a suitable policy that is fit for purpose is in operation to prevent noise nuisance affecting neighbouring properties.

The Chair reminded both parties that they had the right of appeal to the Magistrates' Court against the determination of the panel and that any such an appeal must be commenced within 21 days of the determination.

LICENSING PANEL

THURSDAY, 29 AUGUST 2013

PRESENT:- Councillors Junab Ali, Michael Bray and Vera Tomlinson.

8. Appointment of Chair

Resolved – that Councillor Mick Bray Chair this meeting of the Panel.
(Councillor Bray took the Chair.)

9. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting.

Councillor Brian Ford made a non-prejudicial declaration of interest in respect of Agenda Item 4 in his capacity as member serving on the Council's Planning Committee. He noted no application had been made in respect of this site and that should one be received he would consider it solely on the merit of the application.

10. Application for Premises Licence, Morrisons, 47 Devizes Road, Wroughton, Swindon

The Panel considered (a) a report of the Council's Licensing Officer setting out details of an application for a Premises Licence for Morrisons, 47 Devizes Road, Wroughton Swindon, (b) additional papers received from the applicant, within the prescribed time limits, confirming Arkells Brewery were willing to surrender the current Premises Licence issued to the site, (c) written objections to the grant of the Premises Licence from local residents supported by Councillors Wayne Crabbe and Brian Ford (Ward Councillors), (d) oral submissions by Councillor Kennedy (Wroughton Parish Council), Dr. Russell, Mr and Mrs Cane in support of their objection and Councillor Brian Ford (Ward Councillor) in support of constituents who had submitted written objections, (d) submissions received in support of the application received from Clare Johnson, Gosschalks Solicitors (solicitor to the Applicants) and Kelly Nichols (representing Morrisons) (e) questions from Members to the Applicants and Objectors and answers received, and (i) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Licensing Policy.

Resolved - After considering: -

1. The application for a Premises Licence made by the Licensee; and
2. Representations and material put forward on behalf of the Objectors;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;

- ii. The prevention of public nuisance;
- iii. Public Safety;

Resolved - That a Premises Licence be issued to Morrisons for the site at 47 Devizes Road, Wroughton, Swindon for the following hours of operation:

Monday to Sunday – 07:00 hours until 23:00 hours.

Reasons

(1) The Panel discounted objections relating to highway issues, planning issues and competition as it had no legal power to consider them and noted that where applicable these would be the subject of separate applications to the proper authorities..

(2) The Panel considered objections raised in respect of possible underage sales but were content that appropriate safeguards were in operation based on (a) the testing procedures outlined by the representative of Morrisons at the hearing, (b) the existing policies operated by Morrisons, including a Challenge 25 Policy, and (c) the training programme for employees set out at the hearing.

(3) The Panel considered objections based around potential nuisance caused by youths congregating in the car park on the site but found no evidence to support this view and heard evidence from the applicants in respect of management policies to prevent such situations arising.

(4) The Panel considered objections based on potential noise nuisance, particularly in the late evening including traffic resulting from visits to the store. The Panel found that there was no evidence to suggest that there would be significant issues arising from the site and furthermore noted that there had been no reviews brought against other stores in the village on these grounds. It further noted that the site was previously used as a public house with a licence until 2:00am and determined that the use of the site as a supermarket was likely to create less potential nuisance than this former use.

(5) The Panel considered the potential for additional alcohol related problems arising from the grant of a Premises Licence but found no basis to uphold such an argument based on the management experience and history of the management Morrisons stores and given the fact that there were already premises in the village selling alcohol. The Panel heard no evidence that a Morrisons store at the proposed location would create any drunkenness or social disorder.

**Application to review the Premises
Licence for The Nine Elms, Old Shaw Lane, Swindon**

Licensing Panel

Date: 9 October 2013

Author: Licensing Manager

Wards Affected: Shaw

Purpose

- To consider an application made by Mr Dennis Law, 27 Harvester Close, Middleleaze, for the review of a premises licence in respect of The Nine Elms Public House, Old Shaw Lane, Swindon, SN5 5PD.

Recommendation

The Licensing Committee is required to:

- In the light of the application, to determine any action that they deem necessary, having regard to the extensive remedial powers available.

1. Reasons

- 1.1 The Licensing Panel has a statutory duty to undertake the functions of the Licensing Authority, where these have been delegated by the Licensing Committee.

2. The Review of the Premises Licence

- 2.1 The Council must hold a review of the Premises Licence within 28 days after the day of receipt of the application and reach a determination on that review. This must take place even if the Applicant asks to withdraw his/her application or representations.
- 2.2 At the hearing, the Licensing Authority must consider any steps it considers necessary for the promotion of the licensing objectives.
- 2.3 The options available to the Licensing Committee are as follows:-
- The modification of the conditions of the Premises Licence; and/or
 - The removal of one or more of the licensable activities authorised by the licence; and/or
 - The removal of the Designated Premises Supervisor from the licence; and/or
 - The suspension of the licence for a period not exceeding three months; or
 - The revocation of the licence.
- 2.4 The Committee can impose any one or a combination of the above options.

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

Application to review the Premises Licence for The Nine Elms, Old Shaw Lane, Swindon

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- 2.5 Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

3. Summary of the application

- 3.1 On 13 August 2013 The Licensing Authority for Swindon Borough Council received an application for a review of a premises licence relating to the Nine Elms, Old Shaw Lane, Swindon, SN5 5PD. The application to review the premises licence specifically relates to the licensing objective in respect of the prevention of public nuisance.
- 3.2 A copy of the application is attached as Appendix A
- 3.3 The documentation was sent to all responsible authorities and a blue notice was affixed to the premises for 28 days advertising the application as required by regulations. A copy of the blue notice is attached as Appendix B
- 3.4 The application for review application is in respect of the prevention of public nuisance. licensing objective. The application states: *'The premises plays excessively loud 'amplified' music in the garden area of pub, usually from within the marquee. The entertainment usually takes the form of live bands and pre-recorded club, dance music or discos – but they also accommodate acoustic entertainment. The pub's beer garden, with its marquee, is located to the rear of the pub within, and adjacent to a large residential area. It currently has a licence to play music and provide outdoor entertainment from 11am until 11pm 7 days per week but often extends their licence at weekends until midnight. Whilst an event might not be scheduled until later in the day, some entertainers perform sound checks on their equipment too, out of the prescribed licensed entertainment hours. This has resulted in loud music being played for an unacceptable duration usually of about 12 to 13 hours and without respite when an event is being hosted.'*
- 3.5 Full details are contained within the review application submitted by Mr Dennis Law which is attached as Appendix A of this report.

4. Background and operation of the premises

- 4.1 A premises licence was granted in respect of The Nine Elms, Old Shaw Lane, Swindon on 30 August 2005. The current premises licence is attached as Appendix C
- 4.2 The current permitted licensable activities are as follows:

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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- Sale of alcohol 10.00 hours until midnight Monday to Wednesday, 11.00 until 01.00 Thursday to Saturday and midday until 23.30 on Sundays;
- Regulated entertainment 11.00 until 23.00 every day

4.3 There have been previous complaints received by Environmental Health but no noise nuisance has been substantiated.

5. Relevant Considerations

5.1 The Licensing Act 2003 states that the licensing authority can only consider representations if they are relevant to one of the Government's four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

5.2 Members may only consider matters that have been raised with them based on the grounds of the review and representations made by either the premises licence holder, the responsible authorities or 'other persons' within the prescribed consultation period. Members may not consider any other matters when making their decision.

5.3 The review in this case has been requested on the basis of the Prevention of Public Nuisance Licensing Objective.

6 Other Representations

6.1 There have been five other representations from other persons and also a petition. These are attached as Appendix D

6.2 There have also been four letters of support for the premises and these are attached as Appendix E.

7 References/Considerations

In making their decision Members must have regard to the following:-

7.1 Guidance Published by the Government under Section 182 of the Act

7.1.1 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

Application to review the Premises Licence for The Nine Elms, Old Shaw Lane, Swindon

Licensing Panel

Date: 9 October 2013

- 7.1.2 Para 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 7.1.3 Para 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 7.1.4 Para 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence.
- 7.1.5 Members should have regard to the Hearings Regulations published by the Government under the Licensing Act 2003.

8. Human Rights Act 1998

- 8.1 The Human Rights Act provides that “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.” The term “possession” includes a Licence as well as a home and the things it contains.
- 8.2 The Act further provides:
- ” (1) it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

Application to review the Premises Licence for The Nine Elms, Old Shaw Lane, Swindon

Licensing Panel

Date: 9 October 2013

(2) Subsection (1) does not apply to an act if-

as the result of one or more provisions of primary legislation, the authority could not have acted differently; or

in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions."

- 8.3 However, it is recognised that the Council's Statement of Licensing Policy and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore subject to both the Policy and Guidance having been properly and carefully considered, licensing authorities may depart from them if they have a justifiable reason to do so. If doing so, licensing authorities will need to give full reasons for their actions.

9 Legal Considerations

- 9.1 A Premises Licence lasts for the lifetime of the business, unless it lapses due to the death or insolvency of the licence holder, is surrendered by the applicant, is suspended, or is revoked.
- 9.2 However, the Government have introduced a review mechanism where licensed premises are found to be contravening one of the licensing objectives.
- 9.3 The Statutory Guidance issued under section 182 of the Licensing Act states at 11.2, "At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives."
- 9.4 The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Magistrates Court within 21 days beginning with the day on which the appellant was notified by the Council of the decision being appealed against.
- 9.5 The decision of the Council, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.
- 9.6 The Statutory Guidance under section 182 of the Licensing Act 2003 states at 12.10 "It is important that licensing authorities should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

Application to review the Premises Licence for The Nine Elms, Old Shaw Lane, Swindon

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itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of licensing policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

Alternative Options

It would be possible to defer a decision or to defer the hearing itself to a later date but either step should be seen as an exceptional measure

Risk Management

Financial and Procurement Implications

There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to breach of the licensing objectives or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs. The Council provides training for Members who sit on the Licensing Committee, as one of the measures to mitigate financial risk.

Legal / Human Rights Implications A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

The determination of the application will be made in accordance with set legal principles. The exercise of licensing powers by the Panel relates particularly to the LAA outcome of reducing crime and the fear of crime.

Consultees

- No parties other than the responsible authorities have been consulted directly but there was a statutory consultation period of 28 days, following the application for review.
- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

Background Papers and Appendices

•

Appendix A	Review application
Appendix B	Public Notice
Appendix C	Premises Licence
Appendix D	Representations and petition

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

**Application to review the Premises
Licence for The Nine Elms, Old Shaw Lane, Swindon**

Licensing Panel

Date: 9 October 2013

Appendix E Letters of support

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**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Denis Law

(Insert name of applicant)

**apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Nine Elms Pub Old Shaw Lane	
Post town Swindon	Post code SN5 5PD

Name of premises licence holder or club holding club premises certificate (if known) Not known
--

Number of premises licence or club premises certificate (if known) Not known
--

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)



2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates
(please complete (A) below)



(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

Law

First names

Denis

Please tick ✓ yes

I am 18 years old or over ✓

**Current postal
address if
different from
premises
address**

27 Harvester Close
Middleleaze

Post town

Swindon

Post Code

SN5 5GJ

Daytime contact telephone number

07766082004

**E-mail address
(optional)**

scotia001@hotmail.com

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

These licensed premises play excessively loud ‘amplified’ music in the garden area of the pub, usually emanating from within its Marquee. The entertainment usually takes the form of live bands and pre-recorded club, dance music or discos – but they also accommodate acoustic entertainment too. The Pub erected a Marquee approximately 3 years ago (potentially without planning permission – something which is under investigation) and left it permanently sited as their outdoor “Function” venue facility.

The Pub’s garden (with its Marquee) is located to the rear of the pub within, and adjacent to a large residential area. It currently has a license to play music and provide outdoor entertainment from 11 am to 11 pm, 7 days a week - but often extends their license at weekends until midnight. While an event might not be scheduled until later in the day, some entertainers perform sound checks on their equipment too, out with the prescribed licensed “entertainment” hours.

This has resulted in loud/very loud music being played for an unacceptable duration usually of about 12 to 13 hours and without respite when an event is being hosted.

This is in detriment to the local residents entitlement to some quiet leisure time and leaving us unable to enjoy relaxing our gardens, having to retire indoors and keeps doors and windows closed to ‘reduce’ (not remove) the noise pollution. In addition to this, parents of young children and the elderly cannot get to sleep until after midnight on most occasions.

Please provide as much information as possible to support the application (please read guidance note 3)

I have contacted and spoken with the owners (Pub Taverns) who directed my complaint to the pub and so in turn I spoke with the Pub's manager by telephone.

I made him aware of the problem and while he understood my/our complaint, he felt there was nothing he could do because he was only the Manager and was complying with the existing License Conditions. I pointed out that the Landlord could take steps to dampen down the sound levels by using acoustic curtains in the Marquee and perhaps securing an appropriate "directional" sound system to eliminate the sound overspill onto the residential estate. In addition to that I also suggested that the pub could also advertise or make it known to local residents that a function was planned so that we could elect to remove ourselves from the area for the afternoon/evening.

The pub's marquee is now also the subject of a Planning Infringement complaint.

Environmental Health have also been contacted on the matter and received a large number of telephone complaints last weekend regarding a particularly loud event. Diaries will be provided by them for any complainants to record future events with a view to resolving the ongoing issue of noise levels by enforcement action if necessary.

Please tick ✓ yes

Have you made an application for review relating to the premises before

☐

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

N/A

yes

Please tick ✓

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature Denis Law

.....

Date 26 Jul 2013

.....

Capacity Applicant

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

--	--

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) scotia001@hotmail.com

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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Licensing Act 2003: Review of Premises Licence

An application has been made to the Licensing Authority for Swindon for the review of the Premises Licence issued in respect of the Nine Elms Pub, Old Shaw Lane, Swindon SN5 5PD

The application states the grounds for review as follows:

The premises plays excessively loud ‘amplified’ music in the garden area of pub, usually from within the marquee. The entertainment usually takes the form of live bands and pre-recorded club, dance music or discos – but they also accommodate acoustic entertainment. The pub’s beer garden, with its marquee, is located to the rear of the pub within, and adjacent to a large residential area.

It currently has a licence to play music and provide outdoor entertainment from 11am until 11pm 7 days per week but often extends their licence at weekends until midnight. Whilst an event might not be scheduled until later in the day, some entertainers perform sound checks on their equipment too, out of the prescribed licensed entertainment hours.

This has resulted in loud music being played for an unacceptable duration usually of about 12 to 13 hours and without respite when an event is being hosted.

The review application relates to the licensing objective in respect of the prevention of public nuisance.

The application can be viewed at the offices of the Licensing Authority at Wat Tyler House, Beckhampton Street, Swindon SN1 2JH, [licensing@swindon.gov.uk] between 09.00hrs & 16.30hrs on weekdays.

Responsible Authorities, (e.g. Police and Fire Brigade), and/or Other persons (e.g. people/businesses living or working within the vicinity),

can make representations at any time between 13 August 2013 and 9 September 2013. All representations must be made in writing [including e-mail or fax].

It is an offence for anyone to recklessly or knowingly make a false statement in connection with a licensing application. The maximum fine on conviction is £5000.





Licensing Team
Premier House
Station Road
SN1 1TZ
01793 466113
licensing@swindon.gov.uk

Signed

.....
Head of Licensing

Premises licence issued on 30 August 2005

Premises licence number

881050721PREM

Part 1. Premises details

Postal address of premises or if none, Ordnance Survey map reference or description
Nine Elms Old Shaw Lane Post Town Swindon Post code SN5 5PD

Where the licence is time limited, the dates The licence operates for every date from 08 July 2008 onward.

Licensable activities authorised by the licence The licensable activities are the sale of alcohol and the provision of regulated entertainment.

The times the licence authorises the carrying out of licensable activities:
Alcohol sales 11.00hrs until midnight Monday to Wednesday, 11.00hrs until 01.00hrs Thursday to Saturday, noon until 23.30hrs Sunday; an extra hour Friday to Monday inclusive at all Bank holiday weekends, the Thursday before Good Friday, Christmas eve and Boxing Day; straight through to the next session for New Year's Eve.
Regulated entertainment including karaoke 11.00hrs until 23.00hrs 7 days a week.

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies The licence authorises on and off sales of alcohol.

The opening hours of the premises Opening hours when no licensable activities are taking place are at the sole discretion of the proprietor.

Name (registered) address, telephone number and e-mail (where relevant) of holder of premises licence The licence is held by Punch Taverns plc. The Registered address is Jubilee House, Second Avenue, Burton upon Trent DE14 2WF. Telephone number 01283 501600.

Registered number of holder, for example company number, charity number (where applicable) 03752645

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Sheila Isabella Campbell of The Nine Elms

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol The Personal Licence number for Sheila Isabella Campbell is 881060544, issued by Swindon Borough Council

Annexe 1.

Mandatory conditions No supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annexe 2.

Conditions consistent with the Operating Schedule Sales of alcohol shall not be made unless paid for before or at the time when it is sold or supplied, except to a canteen or mess. No child under 14 shall be allowed in the bar unless accompanied by an adult in an area set aside for the service of table meals. Plays, films, boxing, wrestling and the performance of dance are not permitted.

Annexe 3.

Conditions attached by the licensing authority after a hearing Not applicable

Annexe 4. Plans

The attached is a representation of the original plan, held on the licensing register of the Licensing Authority for Swindon.

Harvester Close
Middleleaze
Swindon
SN5 5GJ

Mob:

Kathryn Ashton, Licensing Manager
Swindon Borough Council
Wat Tyler House, 5th floor
Beckhampton Street
Swindon
SN1 2JH

27 August 2013

Dear Ms. Ashton

LICENSE REVIEW – NINE ELMS PUB

Dear Ms Ashton.

I am submitting 20 representations on behalf of a number of residents from Middleleaze with regard to the License Review on the Nine Elms Pub, Old Shaw Lane, Swindon for your consideration.

Their current license allows them to provide outdoor music and entertainment 7 days a week and we would like to have this part of their license removed so that they cannot host 'outdoor' music events in the future. It is the consensus of most of the neighbourhood that no consideration has ever been made by the pub over the years towards the intrusive volume of the music projected from their garden or the duration of it, which often runs from early afternoon to very late in the evening.

Will you please note that there would have been further submissions from the neighbourhood of Middleleaze and Nine Elms, but because of threats and intimidation made over the last few days, neighbours and residents have stepped forward to say that as much as they support our representations, they fear any retaliation by the pub's supporters if their names and addresses were to be published.




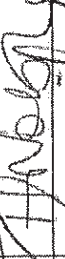





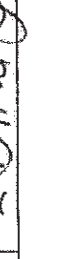
Yours sincerely



Denis Law

LICENSE REVIEW For NINE ELMS PUB, OLD SHAW LANE

We the undersigned wish to make representation and object to the above Public House's current License. We would like their option to play outdoor music removed. The noise levels generated are intrusive and have become a nuisance when music is played because they are having a negative impact on our ability to enjoy outside recreation at home.

DATE	PRINT NAME	ADDRESS	SIGNATURE
21/8/13	LISA SMART	HARVESTER CL SNS SSSJ	
22/8/13	GARY SMART	HARVESTER CL SNS SSSJ	
22/8/13	IAN NOBLE	HARVESTER CL SNS SSSJ	
22/8/13	HELEN NOBLE	HARVESTER CL SNS JGJ	
22/8/13	STEVE WINCHAMORE	HARVESTER CL SNS SSSJ	
22/8/13	PAUL FOWLER	HARVESTER CLOSE SNS SSSJ	
22/8/13	LESLEY LAW	HARVESTER CLOSE SNS SSSJ	
24/8/13	NINE ELMS McCOA MACK	HARVESTER CLOSE SNS SSSJ	
24.8.13	MRS HOLLINGTON	HARVESTER CLOSE SNS SSSJ	
24.8.13	MISS ARMITAGE	HARVESTER CLOSE SNS SSSJ	

LICENSE REVIEW For NINE ELMS PUB, OLD SHAW LANE

We the undersigned wish to make representation and object to the above Public House's current License. We would like their option to play outdoor music removed. The noise levels generated are intrusive and have become a nuisance when music is played because they are having a negative impact on our ability to enjoy outside recreation at home.

DATE	PRINT NAME	ADDRESS	SIGNATURE
20-8-13	DENIS LAW	HARVESTER CLOSE, SWINDON, SN5 5GJ	<i>Denis Law</i>
20-8-13	DARREN SHORT	HARVESTER CLOSE, SWINDON, SN5 5GJ	<i>Darren</i>
20-8-13	WENDY BARNETT	HARVESTER CLOSE, SWINDON, SN5 5GJ	<i>Wendy Barnett</i>
21-8-13	NINA WILSON	HARVESTER CLOSE, SWINDON, SN5 5GJ	<i>Nina Wilson</i>
21-8-13	LYNN WILSON	HARVESTER CLOSE, SWINDON, SN5 5GJ	<i>L. Wilson</i>
21-8-13	YNONE COLLIER	HARVESTER CLOSE SWINDON SN5 5GJ	<i>Y. Collier</i>
24-8-13	DORREN JACKSON	HARVESTER CLOSE, SWINDON SN5 5GJ	<i>Dorren Jackson</i>
24/08/13	ANDREW CHILDS	HARVESTER CLOSE, SWINDON SN5 5GJ	<i>Andrew</i>
24/08/13	ZOE CRACK	HARVESTER CLOSE, SWINDON, SN5 5GJ	<i>Zoe Crack</i>
24/08/13	CHRISTINE MITCHELL	HARVESTER CLOSE SWINDON SN5 5GJ	<i>Christine Mitchell</i>

Shaun Banks

APPENDIX D.

From: E & P Licensing
Sent: 04 September 2013 11:43
To: Kathryn Ashton; Robin Grey
Subject: FW: Nine elms pub music license

Please see below

Thanks

Ashley Wheeler (awheeler@swindon.gov.uk)

Business Support Administrator

Business Support Unit

Wat Tyler House West 5th floor

Swindon Borough Council

Tel: 01793 46 6331

Web: www.swindon.gov.uk

Please consider the environment before printing this email.

From: katherine davis [mailto:
Sent: 04 September 2013 08:12
To: E & P Licensing
Subject: Nine elms pub music license

Hello

I live in Harvester Close in Swindon and one of my neighbours has informed me that the Nine Elms pub has applied for some kind of new license allowing them to play more/louder music. I'm not sure of the details, but I just want to put in an objection to the change. They play music plenty loud enough as it is; I understand they are a business and have parties in their outside area but their noise levels and the durations they play music for are inconsiderate and don't take into account that they are based in a residential area. I'm sure many people will have objected already, but I wanted to email my concerns. I'm not sure you are the correct dept. to contact, but if not could you please forward this to the appropriate person or send me their email address. Thanks.

Kind regards
Katherine

Shaun Banks

From: E & P Licensing
Sent: 02 September 2013 12:54
To: Kathryn Ashton; Robin Grey
Subject: FW: nine elms pub sn5 5pd

Please see below

thanks

Ashley Wheeler (awheeler@swindon.gov.uk)

Business Support Administrator

Business Support Unit

Wat Tyler House West 5th floor

Swindon Borough Council

Tel: 01793 46 6331

Web: www.swindon.gov.uk

Please consider the environment before printing this email.

From: Sandra Lawrence [mailto:]

Sent: 01 September 2013 19:35

To: E & P Licensing

Subject: nine elms pub sn5 5pd

Dear Sirs,

I wish to make a representation and complain about the volume, duration and unsociable hours of music and noise coming from the Nine Elms Pub in a residential area.

Most weekends there are events at the pub that lead to loud music being played until at least midnight. Often music is played outside in the garden and even at the indoor events the music is sufficient to keep my children awake for hours with a lot of foul language over the speakers.

On top of the loud music at anti-social hours there are regular 'lock ins' until about 2 a.m. then people come out of the pub shouting and unbelievably getting into cars they park down the street and driving drunk. Last night my daughter was woken by a motorbike at number [redacted] revving his engines just to show his drinking buddies his bike. This has happened several times before, I find it hard to believe his bike is so interesting every time he has a drink, surely all his buddies must have seen and heard it at about 2 a.m. many times by now! This would not occur if there wasn't all the 'lock-ins' at the pub.

There is a valued neighbour who organises charity fundraising who is moving purely due to the noise contamination from the nine elms pub suffered at her home.

Please can you review the awful situation endured by the pubs neighbours. It is only since a group of owners took over the pub that we have had this problem which has been building for several years and is now intolerable. I do not know how this situation has been allowed to fester for so long without the police intervening!

Please help us!

Yours sincerely,

Shaun Banks

From: E & P Licensing
Sent: 21 August 2013 18:32
To: Robin Grey; Kathryn Ashton
Subject: FW: Licence Review - Nine Elms Pub

From: Chris Maynard [mailto:chris.maynard@epl.co.uk]
Sent: 21 August 2013 16:49
To: E & P Licensing
Subject: Licence Review - Nine Elms Pub

I wish to make representation and complain about the volume and duration of outdoor music being played at the Nine Elms Pub which has become unacceptable due to the 'wide open' terms of its licence.

As you will be aware this pub is very closely surrounded by hundreds of homes and the pub's ability to offer deafening music bookings in an outdoor tent venue for up to 12 hours a day seven days a week is completely unacceptable.

Nine Elms is predominantly a residential area so please do not renew this public nuisance.

Thank You
Christopher Maynard

Cavie Close
Nine Elms
SN55XD

Shaun Banks

From: E & P Licensing
Sent: 27 August 2013 10:56
To: Kathryn Ashton; Robin Grey
Subject: FW: Nine Elms Pub

Please see below

Thanks

Ashley Wheeler (awheeler@swindon.gov.uk)

Business Support Administrator

Business Support Unit

Wat Tyler House West 5th floor

Swindon Borough Council

Tel: 01793 46 6331

Web: www.swindon.gov.uk

Please consider the environment before printing this email.

From: Mike Jarvis [mailto:mike.jarvis@swindon.gov.uk]
Sent: 27 August 2013 10:43
To: E & P Licensing
Subject: Nine Elms Pub

Dear sirs,

As many other people in our neighbourhood I would like to take this opportunity to complain about the sound level and excessive duration of music being played regularly at the Nine Olms Pub. This is having an unpleasant effect on my and many other peoples lives.

Please accept this as a serious and genuine objection to any further licenses granted to this establishment.

An acknowledgement of this objection would be appreciated.

With kind regards,

Mike Jarvis

Javie Close
Nine Elms
Swindon
SN5 5XD

Disclaimer: This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error or are not the named addressee, you should not disseminate, distribute or copy this e-mail. Please notify the author by replying to this e-mail and destroy this email and any attachments.

Shaun Banks

From: E & P Licensing
Sent: 22 August 2013 13:56
To: Kathryn Ashton; Robin Grey
Subject: FW: Nine Elms Public House

From: Libby, Michelle [mailto:michelle.libby@eplicensing.co.uk]
Sent: 22 August 2013 11:50
To: E & P Licensing
Subject: Nine Elms Public House

With regard to the above premises I do not agree that their entertainments license should be removed but a restriction on noise level may be appropriate as it is a residential area and maybe a reduction on the hours they can perform. Everyone has to make a living!

Kind regards

Mike & Michelle Libby

8 Granary Close
Nine Elms
Swindon
SN5 5UE

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Mr J Stacey
Maldwyn Close
Middleleaze
Swindon
SN5 5TG

The Licensing Officer
Swindon Borough Council
Civic Offices
Euclid Street
Swindon

22nd August 2013

Dear Sir

RE: Review of Premises Licence, Nine Elms Pub, Old Shaw Lane, Swindon, SN5 5PD

I am pleased to support the Nine Elms pub after seeing the application for the licence to be reviewed displayed prominently on the majority of street lamps along Middleleaze Drive on the same page as a 'Noise Nuisance' notice.

Initially I felt that it was slightly misleading to print the 'Noise Nuisance' notice on the same page as a copy of the official 'Licensing Act 2003: Review of Premises Licence' notice bearing the Swindon Borough Council logo. However, upon reading the 'Noise Nuisance' side it has clearly been written by the complainant and worded in a manner to encourage further disapproval rather than letters of support.

Although the Nine Elms licence permits outdoor music and entertainment seven days a week for twelve hours a day it should be made very clear that the music/entertainment is certainly not this regular and I assume that the complaint has been lodged following a recent all day music event called 'Elms Stock' at the pub which occurs just once a year. I believe that the only other outdoor music/entertainment occurs during events such as birthday parties and other celebrations held in the marquee within the pub grounds. Based on the number of times I have heard music from the broad direction of the Nine Elms I would estimate the total number of outside entertainment events to be less than ten per year. I certainly do not consider this to be excessive.

The Nine Elms pub has been around for almost a hundred years longer than the vast majority of surrounding properties. Swindon Borough Council must have ratified the original planning applications for West Swindon in the knowledge that the pub already existed – it strikes me as extremely churlish to allow the development of homes nearby and then

change the rules to allow the residents of these to challenge the business of a pub that was established so long ago. All of the residents, even those in houses of a similar age to the pub, must have purchased the properties with full awareness of the existence of the pub and I find it difficult to believe that they then start to complain over a handful of events each year – it should be obvious that a pub will not always be quiet.

Local pubs should represent the lifeblood of communities but this is being gradually destroyed by a succession of events such as the smoking ban, rises in VAT and beer duty, recent recessions and the wide availability of cut price alcohol in supermarkets. Times are very challenging for the pub trade at present which is easy to verify from the number that are forced to close each week. Such small businesses (as tenancies are) should be encouraged by the local council and allowed some leeway, not have the rug pulled from under their feet by the whining minority 'not in my back yard' brigade. I hope that The Nine Elms is not the next casualty.

One final point – I note that there are a number of outdoor events/concerts staged at the nearby Lydiard Park each year where the amplification is almost certainly far greater – I wonder if any of these residents have felt the same need to complain about these too.

Yours faithfully

John Stacey

Shaun Banks

From: E & P Licensing
Sent: 27 August 2013 08:14
To: Robin Grey; Kathryn Ashton
Subject: FW: The Nine Elms public house, SN5

Please see Below

Kind Regards

Ashley Wheeler (awheeler@swindon.gov.uk)

Business Support Administrator

Business Support Unit


Wat Tyler House West 5th floor

Swindon Borough Council

Tel: 01793 46 6331

Web: www.swindon.gov.uk

Please consider the environment before printing this email.

From: TERRY DIXON [mailto:
Sent: 24 August 2013 11:41
To: E & P Licensing
Subject: The Nine Elms public house, SN5

Dear Sir / Madam

I have become aware, by a number of posters around Nine Elms, that someone has made a complaint about the Nine Elms public house, with regard to noise and loud music over an unreasonable amount of time, and on numerous occasions.

I am flabbergasted by these allegations as I am a resident of Nine Elms and have been so for 25 years.

I can count on one hand the number of instances of loud music from the pub. And these usually only occur at the annual 'Elmstock' music festival in the pub grounds. This event is well known, liked and supported by local people, just as the 'Open Gardens' weekend is also so much appreciated by locals.

Whoever is complaining should pop into the pub one evening - he will find no more than a handful of folks there. And NO music whatsoever.

The allegations of continual noise are completely untrue.

Kind regards

Terry Dixon
● Granary Close
Nine Elms
Swindon
SN5 5UE

Shaun Banks

From: E & P Licensing
Sent: 02 September 2013 12:56
To: Robin Grey; Kathryn Ashton
Subject: FW: Premises Licence Review Nine Elms Pub Old Shaw Lane Swindon SN5 5PD

Please see below in support of the Nine Elms pub

Thanks

Ashley Wheeler (awheeler@swindon.gov.uk)

Business Support Administrator

Business Support Unit

Wat Tyler House West 5th floor

Swindon Borough Council

Tel: 01793 46 6331

Web: www.swindon.gov.uk

Please consider the environment before printing this email.

From: elmgrove [mailto:████████████████████]
Sent: 02 September 2013 10:44
To: E & P Licensing
Subject: Premises Licence Review Nine Elms Pub Old Shaw Lane Swindon SN5 5PD

We wish to make representation and write in SUPPORT of the renewal of the premises licence to the Nine Elms Pub SN5 5PD.

In these difficult times it is good to see a non-national chain public house do all it can to try to remain as a viable business and continue to provide a local community spirited meeting place.

Music and noise from a public house are to be expected and if that was a great concern it should be taken into account before setting up home within its vicinity.

The Nine Elms pub has been in existence for longer than probably 90+% of the housing in the local area, so the precedent for noise and disturbance in the area has been long set.

Phil and Sue Mendham
Elm Grove
Nine Elms
Swindon
SN5 5PG

Shaun Banks

From: E & P Licensing
Sent: 09 September 2013 10:41
To: Kathryn Ashton; Robin Grey
Subject: FW: Review of Premises Licence, Nine Elms Pub
Attachments: 1006283_10200731266416692_996268616_n.jpg

From: michael perdikakis [mailto: [REDACTED]]
Sent: 09 September 2013 02:12
To: E & P Licensing
Subject: Review of Premises Licence, Nine Elms Pub

Michael Perdikakis
Harvester Close
Middleleaze
Swindon SN5 5GJ
Tel: 07799 038995

To:
Licensing Authority
Swindon

Dear Sir/Madam

Re: Review of premises Licence, Nine Elms Pub

The recent "Noise Nuisance" complaint against the Nine Elms Pub in Old Shaw Lane was brought to my attention a few days ago, as the individual who raised it has chosen to make his (her) feelings known extravagantly, by putting up posters on almost every lamp post along Middleleaze drive, on which I happen to reside. In response to what my consciousness dictates, I am writing to you in order to help shed some light into a matter which I believe has been outrageously exaggerated by the complainant, whose comments I find not just unfounded but also misleading.

I live within around 250 -300 yards from the Nine Elms pub, which I have frequented since 2001. I witnessed its "flourishing" from 2003 – 2006 and its sharp decline that followed thereafter. Whether this decline was an inevitable result of the economic downturn, or the internal turbulence and management issues the pub has undergone, is beyond the scope of this email, however, it ushers to strong clues regarding the validity of the public notice allegations:

- The number of customers the pub averages and subsequently its generated revenue from Monday to Thursday is no more than 5 – 10% of the ones of the nearby "Village

Inn" and "Brookhouse Farm" pubs. A lot of people have characterised the pub as "a ghost place", speaking in jest.

- The Nine Elms pub has remained shut on Monday nights for almost a year.

- With exception of no more than 3 or 4 live band events in this year's surprisingly warm summer, the occasional karaoke and party events that the pub has hosted have been strictly held inside its premises.

I would, therefore, would like to raise the following questions:

- How can a literally "struggling" pub like the Nine Elms contribute to such disturbance, as the complainant claims?

- Is the Nine Elms pub more noisy than the [REDACTED] Park concerts, held under the auspices of the Swindon Council, whose decibel level is several times higher and distinctly audible within a range of 5 – 6 miles?

If the complainant had the decency of quoting the specific times he felt disturbed and "intruded", you would realise that his attached phrases "12 hours a day, 7 days a week" would no longer be valid, as the function of the Nine Elms doesn't match the one of night clubs or similar drinking establishments downtown, some of which can be both noisome and troublesome. It is my distinct impression that the complainant's underlying motives in this are nothing more than unfounded loathing at the pub's very existence and that in order to achieve his (her) objectives, he (she) has utterly exaggerated and twisted facts. I am sure your investigation will prove this.

I am attaching a picture taken on Saturday 20th of July, during the annual "Nine Elms Stock" festival and I would ask you to look at it very carefully. You will discern the pleasant atmosphere generated by approximately 400 people who were brought together and had fun without causing any trouble. I was there and enjoyed myself immensely. It was a rare outdoors live music event, much needed in the West Swindon community. It is a reminder that entertainment and socialising, although rarely noiseless, do not make our pubs elements of an ailing society, but a rather healthy one.

I have witnessed the practice of people's constant moaning against pubs next to which they live, ignoring the fact that the pubs were there long before they bought their houses. My experience tells me that in the vast majority of cases, the complaints tend to come from the same one or two individuals. I am asking you to muster your wisdom and judgement and look into this matter objectively. The Nine Elms Pub by no means constitutes a "noise generator" in the Middleleaze community. It is what we call a traditional "back street boozer", sustained by the remarkable efforts of individuals who have sacrificed a lot from the personal lives in order to keep it afloat and always within the legal and moral boundaries. Please, let them continue to do so.

Best regards,

Michael Perdikakis



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