

Information to support an application for the review of the premises licence

Premises: White Hart Hotel, 125 Dunstable Street, Ampthill, Beds .

Officer: Alan Stone

Date: 7th December 2012

I am a Technical Officer in the Public Protection Team of Central Bedfordshire Council and therefore considered to be a representative of the responsible authority. I seek a review of the above premises licence as I consider that those responsible are causing a public nuisance and failing to promote one of the four licensing objectives.

1. Premises Licence Details

The current premises licence for the White Hart was granted on the 19th April 2012, following a minor variation to the layout, to Punch Taverns plc, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire DE14 2WF. The designated premises supervisor (DPS) is a Mr Salik Miah.

The permitted activities for this premises are: Indoor sporting events; Live and recorded music; Performance of dance; Late night refreshment (indoors); Facilities for making music; Dancing (indoors) and similar and; the supply of alcohol (on and off premises). The premises license authorises the carrying out of licensable activities between the following hours:

- Monday to Thursday 10.00hrs to 00.00hrs
- Friday 10.00hrs to 02.00hrs
- Saturday 10.00hrs to 01.00hrs
- Sunday 11.00hrs to 23.30hrs

The opening hours of the premises are:

- Monday to Thursday 10.00hrs to 00.30hrs
- Friday 10.00hrs to 02.30hrs
- Saturday 10.00hrs to 01.30hrs
- Sunday 11.00hrs to 00.00hrs

The premises licence was granted following a hearing in 2005 and a number of conditions relating to public nuisance were imposed on the license in Annex 3. These conditions include:

- No noise from music should be audible within adjacent noise sensitive premises;
- All doors and windows to be kept closed during regulated entertainment events;
- No admission or re-admission to the premises is allowed after 23.30;
- A minimum of 3 SIA registered door supervisors will be on duty on Friday and Saturday nights from 21.00 hours to the terminal hour and;
- The provision of live/recorded music, performance of dance, the provision of facilities for making music or providing dancing is limited to the interior of the premises

2. Location of the Premises

The premises are located to the south of the double mini roundabouts serving Church Street, Dunstable Street, Bedford Street and Woburn Street in Ampthill. The main access to the premises is offered from Dunstable Street via an alleyway leading to the cellar bar, main bar and car park. To the immediate East, North and West of the premises are commercial properties, at ground floor level although there is some living accommodation above. Slightly further afield than this, there are many residential properties along all roads leading from the junctions and from these residential premises Public Protection has 4 main complainants:

Complainant A – Dunstable Street, approximately 75m to the south west

Complainant B – Dunstable Street, immediate vicinity

Complainant C – Dunstable Street, immediate vicinity

Complainant D – Woburn Street, approximately 50m to the north west

A plan of the site is attached to this information.

3. Complaint History of Premises from 2006 up until 2012

The White Hart Hotel has been the subject of many complaints over the recent past. Some have resulted in evidence being gathered to substantiate a problem, whilst others have been resolved with an initial contact either by the Council or the complainant and some were

unsubstantiated. A brief summary of the complaints received from 2006 to 2012 are detailed below.

Complaint of 17th July 2006 by Local Resident (Complainant A)

A complaint was received alleging loud music emanating from the cellar bar building on Friday and Saturday nights. Following an investigation into the allegation, a noise abatement notice was served on the DPS requesting that the nuisance be abated. The noise was mainly escaping via the roof structure of this part of the premises and as a result, ultimately resulted in works being undertaken to reduce noise breakout. A false ceiling was constructed and insulation placed on top. As a result of these works, the noise from music emanating from the premises was reduced, however, on occasions we still received complaints. This was found to be a result of the door to the cellar bar being propped open when events were in progress. On meeting with the DPS this matter was resolved at this time.

Complaint of 9th October 2007 by Local Resident (Complainant B)

A complaint was received by the Council alleging loud music from a disco in a room adjacent to the main bar (the Tudor Room) of the White Hart Hotel mainly on Friday and Saturday nights. It was agreed that the complainant approach the designated premises in pursuit of a resolution to the matter. This approach seemingly worked as the complainant did not wish to pursue the matter at this stage.

Complaint of the 26th February 2008 by Local Resident (Complainant B)

A further complaint was received from Complainant B alleging that the situation has deteriorated. They advised that on the weekend that had just passed noise was audible in their property on both Friday and Saturday nights and they thought that approaching the DPS again would be futile. I made contact with Mr Miah and a meeting was arranged between Mr Miah, the police licensing officer, the local beat officer and myself. This duly occurred on 5th March 2008 and I explained what actions I could take and offered advice on noise mitigation measures that could be employed to improve the situation. As a result, some works were undertaken to a window adjacent to the complainant's property to reduce the amount of noise escaping. Further investigations

found that these works, allied to a reduction in volume and bass levels, resulted in the noise issues being resolved at this time and the case was closed.

Complaint of the 3rd December 2008 by Local Resident – (Complainant C)

A complaint was received from complainant C alleging noise and disturbance from music, people on the premises and from people leaving the premises. I advised that I would visit to discuss with the DPS and the Police licensing officer whilst also requesting that the complainant keep a note of when they were disturbed by any noise from the premises. This meeting was duly arranged on 9th December 2008 and all matters were discussed. The DPS asserted that improvements would be made.

When the complainant was contacted in January they claimed that the noise from the premises had improved and that they were satisfied with the situation as it currently stood.

Complaint of the 2nd April 2009 by Local Resident– Complainant B

Complainant A complained again regarding noise from music from the main bar area on Friday and Saturday nights. Following a brief investigation, no evidence was gathered to substantiate the complaint and the complaint was duly closed.

Complaint of the 16th September 2010 by Local Resident– Complainant B

A further complaint was received about music from recorded music in the Tudor Room and following an investigation in to this allegation it was considered that noise amounting to a statutory nuisance was witnessed and a noise abatement notice was duly served on the DPS. On this occasion, it was found that noise was emanating from the treated window serving the Tudor room again and the window in the kitchen area. Advice was given in this regard and works were undertaken to address this matter. Following the works, the noise situation improved and no further complaints were received.

Complaint of the 5th June 2011 by Local Resident– Complainant A

A complaint was received via the out of hours service at 02.50 hours on 5th June 2011 alleging loud music from the White Hart public house. There was a temporary event notice in place for this event which was due to finish at 03.00 hours. The officer on duty

on this occasion did not attend but on calling the complainant after 03.00 hours ascertained that the noise had indeed stopped. Following this event, contact was made with both the DPS and the area manager for Punch Taverns plc who were advised and reminded of their responsibilities. No further complaints were received at this time.

4. Complaint of the 4th March 2012 – Complainant A

Summary of Complaint & Investigation of Public Protection

March 2012

A complaint of loud music was received by Central Bedfordshire Council at 00.30 hours on the 4th March 2012 regarding the White Hart Hotel in Ampthill via the out of hours service. The complainant alleged that the music had been ongoing since 22.30 hours on the 3rd March 2012 and that it was preventing the complainant from sleeping. The officer on duty was unable to attend but telephoned the public house a couple of times but the call was not answered. The complaint was referred to the public protection team on the Monday morning.

The complainant lives in a property in Dunstable Street in Ampthill, bedroom windows are at the rear and face the cellar bar and there is direct line of site situated some 75m away.

Public Protection were aware that a Temporary Event Notice was in place for the following weekend which was for recorded music until 03.00 hours and so the complainant was contacted and asked to call the out of hours number for a call out should noise from the event be a problem. A complaint was duly received at 23.30 hours on the 10th March 2012 and I arrived at the White Hart Hotel premises around 1.10am. The music was extremely loud with loud bass being prevalent and there is no doubt that this represented a statutory nuisance in my opinion. I approached the complainant and spoke with her at the rear of her property at 0115 at which point the music was still very clearly audible with extremely loud bass levels – and this was around 75 metres away. I visited the White Hart Hotel and spoke with Salik Miah at the entrance to the premises at around 1.25am and requested that the music volume be reduced. Having waited at a monitoring location (the car park to the rear of 111 Dunstable Street) for around 5 to 10 minutes there was no noticeable difference in volume or bass levels. I approached the premises and spoke with Mr Miah again at 1.35am and again requested that the volume be reduced and specifically the bass element. He

stated that he would and re-entered the premises. I waited in the car park to the rear of 111 Dunstable Street until 0151 am and no significant change in levels were noticed. The levels witnessed were considered likely to amount to a nuisance and it was not considered necessary for internal monitoring to be conducted within the complainants property. As the noise was considered such I left site with the intention of serving a noise abatement notice under the Environmental Protection Act 1990 the following week.

I served a noise abatement notice on 16th March 2012 by hand and I met with Mr Miah and discussed the levels of noise at the weekend and why the noise had become a problem at the moment following a reasonably extended period of no complaints.

June 2012

During June 2012 complainant A called to advise that noise levels had been increasing recently and following a quieter period following the service of the notice. It was therefore arranged for the out of hours officers to visit on Friday 22nd June 2012 and monitor noise levels. At 22.45 hours, on entering the premises they noted that the doors to the cellar bar were propped open allowing noise to escape. They reminded the door staff and barman of the conditions on the premises license relating to the doors being kept closed and advised them to do so. This was reported to public protection on the next working day. As a result of this breach of premises license conditions and the persistent recurring complaints, I arranged a meeting with Mr Miah, Chris Carey (the police licensing officer at the time) and myself to discuss the recent breach of conditions and noise which was duly held on 29th June 2012.

At this meeting, I put forward a 'three strike' rule for Mr Miah for which the breach of conditions already witnessed (doors being propped open) represented the first strike. I indicated that any further transgressions in terms of conditions attached to the premises license or noise emanating from the premises amounting to a statutory nuisance would lead to the second strike and, following that the submission of an application for a review of the premises license. I advised that careful management of the volume and bass controls alongside keeping the doors and windows closed should be undertaken to ensure no further problems occur. It was also advised that I would be placing the premises on the out of hours priority list and requesting officers to proactively visit every weekend throughout the summer where possible. This proposal as discussed at the meeting was put in writing and sent to Mr Miah the following week.

I also installed noise monitoring equipment in the complainant's house in an attempt to obtain recordings of any noise break out from the White Hart Hotel.

July and August 2012

Routine monitoring by the out of hours officers indicated that the noise was kept under control in the main during this period. Discussions held with complainant A during this time corroborated this. This routine monitoring provided an opportunity to observe activities at The White Hart Hotel, Ampthill. It was noted on numerous occasions that large numbers of people congregate in the alley way alongside the premises, whether for al fresco drinking or to escape the loud music inside the premises and offering space to talk, the result of which is noise disturbance from loud talking, shouting and laughing. The music from the premises is quite loud in the alleyway directly outside the premises which results in people talking loudly to be heard - the inclusion of alcohol exacerbates this problem. Whilst the noise from the people can be heard in the car park to the rear of 111 Dunstable Street and hence the residents beyond this, it is much more noticeable along Woburn Street (the main entrance directly faces up this road). It must also be very noticeable in the residential properties above ground floor level on Church Street, which overlook this court yard/alleyway as these are very close indeed. In my opinion, and the opinion of my fellow officers, the noise from the people in the external areas of these premises causes undue disturbance to the residents of Ampthill on occasions especially in the early hours of Saturday and Sunday mornings when the premises are most busy and other background noise is minimal.

September 2012

At 00.54 hours on Saturday 8th September 2012 complainant A called in again to advise of further problems with noise. They could hear music in their home and the noise was preventing them from getting to sleep, whilst also being concerned about the effect it was having on their children whose bedroom window also faced the premises. The officers on duty that weekend did not attend on this occasion but, as I was on duty the following week I arranged to visit the following Friday. On Friday 14th September around 1100 hours I witnessed elevated noise levels as monitored in the car park to the rear of 111 Dunstable Street and adjacent to the complainants house and considered that the music would be audible in that house. I then entered the public house premises and noted that the doors adjacent to the stair case leading to the upstairs restaurant/bar were propped open allowing music noise escape. There were also a large amount of people making a lot of noise in this

area. This noise could be heard very clearly outside the main entrance to the premises and along Woburn Street. I advised the security staff on duty on this evening that that door should be closed when events were in progress and left the premises. A colleague visited the following week on Friday 21st September 2012 and on entering the premises again noted that the doors adjacent to the stair case leading to the upstairs restaurant/bar were propped open again allowing music noise escape.

Having witnessed a breach of conditions on two occasions, even after staff had been warned about the matter, I wrote to Mr Miah and informed him that I considered this to represent the 'second strike' and that any further transgressions would lead to the submission of an application to review the premises license. This letter stated that I was to request that the out of hours officers make continued visits to the White Hart, Amptill on nights when there is regulated entertainment to check that conditions on the Premises License were not being breached for the foreseeable future. A copy of this letter was sent to the area manager at Punch Taverns plc via email.

October 2012

Public Protection then received a further complaint from complainant D who advised that they had been disturbed by noise from music and people noise (they lived in Woburn Street) on the 12th/13th October and 19th/20th October 2012. As a result of these persisting allegations further visits were arranged to check against conditions on the premises license. On speaking with the complainant they alleged two further matters which they said added to the problems experienced. They alleged that people were admitted and re-admitted after 23.30 hours on a regular basis and that at 03.00 hours on 21st November 2012 empty bottles were tipped into the outside waste receptacles causing a 'colossal noise'.

As a result of these allegations further visits were undertaken in the early hours of the 10th, 17th 24th November 2012 and on 1st December 2012. On all these occasion customers were seen to be readily admitted up to 00.30 hours. Some of these late arrivals came by taxi and some walked, mainly along Dunstable Street. This meant that additional noise was being generated from the vehicles themselves, doors slamming or talking shouting and laughing along the road which may not have otherwise happened, subjecting the residents of the town centre to additional noise. Additionally, I entered the premises at 0030 hours on 17th November 2012 and the doors adjacent to the stair case leading to the upstairs restaurant/bar were propped open with a metal hook allowing music noise to escape. Whilst we were there the doors were unhooked and the doors closed. There were many people

outside talking loudly, shouting and laughing. On standing at certain points along Woburn Street, noise from these people along with faint music noise could be quite clearly heard.

The nature of the complaints alongside the observations made throughout the investigation points to limited management of the premises with regards to noise and little regard for the neighbouring residents of Ampthill. In my opinion, the noise experienced by residents around this premises, both people noise and music, represents a public nuisance. I believe that every opportunity has been given to the DPS to prevent this public nuisance and manage the issues highlighted, but unfortunately, they have not been satisfactorily addressed. It is for this reason, allied to the persistent breach of conditions and ongoing noise breakout that we have chosen to seek a review of the premises license.

Conclusions

In seeking this review I have had consideration of the 2003 Act and associated guidance, made judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences. My consideration solely relates to 'preventing public nuisance', one of the 4 licensing objectives and those specific activities which are the subject of complaint and what are deemed to be having a disproportionate and unreasonable impact on persons living in the vicinity of the premises.

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low level nuisance perhaps affecting a few people living locally as well as a major disturbance affecting the whole community.

It has to be remembered the disturbances noted and observed usually occur during the latter part of the evening until the early hours of the morning when residents in neighbouring properties and surrounding area may be attempting to go to sleep or are sleeping. On Saturday and Sunday mornings this noise disturbance can go on until all the patrons have left at 02.30 hours and 01.30 hours respectively.

I have also been careful in my observations to ascertain that it is in fact the White Hart Hotel that is responsible for the aforementioned nuisances. Obviously, at times noise from people other than those at the White Hart Hotel are responsible for a level of disturbance e.g. customers of other public houses or the general public walking past etc, but this was considered

insignificant. Discussions with the complainants have identified that it was accepted that some noise would be characteristic of the area in which they lived. Indeed many other noises observed are typical of a town centre environment and the complainant accepts these. However, it is the frequent and persistent impact from the White Hart Hotel that they do not accept, particular given the distance from their home where it would not be unreasonable to expect such to be inaudible or not to alter the perception of the ambient noise.

The observations made by officers during visits to both the wider area and complainants provide evidence of the existence of a public nuisance. The noise, from the music and also those utilising the external areas is clearly audible a considerable distance from the premises, considered likely to be intrusive at residential properties and likely to either prevent the complainants getting to sleep or lead to sleep disturbance.

In addition to this there appears to be a blatant disregard or ignorance of the conditions already attached to the premises license as repeated breaches of these conditions have been witnessed over a number of weeks. The conditions were placed onto the premises license by a committee hearing in 2005. These conditions were placed on the license as it was considered that they were instrumental the promoting the four licensing objectives, in this case 'the prevention of public nuisance.

It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. As an officer I have attempted to seek co-operation in this regard having brought the matters of concern to the attention of those responsible more than once. It is the failure to respond by those responsible to such warnings which has lead to a decision to request a review. I consider that the following actions are required:

1. That the licensable activities which give rise to these complaints, namely live or amplified music are suspended for a period of three months.
2. That within a period of three months from the date of any hearing that a noise control scheme is submitted to and agreed by the Local Licensing Authority. This should consider, the suitability of the venue, its limitations and subsequent recommendations to control noise from live and/or recorded and from people using the external areas. Any mitigation and/or control measures arising from such shall be implemented within 1 month of approval and thereafter maintained in perpetuity in accordance with the approved details.

3. That the terminal hours for live music and recorded music be reduced to 24.00hrs on Friday and Saturday nights.
4. That suitable conditions are imposed preventing the use of the external areas beyond 23.00hrs. (For example: The use of areas external to the premises for the consumption of alcohol, other refreshment or food must cease by 23:00 hours).
5. The placing of bottles into receptacles external to the premises must not take place between 19:00 and 09:00 hours.

I believe that this response is proportionate in terms of protecting Public Nuisance and promoting the licensing objective.