

# APPENDIX D

**Stone, Derek**

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**From:** Stone, Derek  
**Sent:** 21 August 2020 17:44  
**To:** Jon Wallsgrove; Richard Dewhurst  
**Cc:** Robson, Debra  
**Subject:** RE: The Wellington Pub  
**Attachments:** Wellington PL\_Redacted.pdf

Jon

Thanks for copying me into your reply to Richard

Richard

If you need clarification on any point I am happy to advise you.

Of note which might assist you is that the applicant is only in this position due to an administrative error.

Had this not occurred, the Premises Licence (PL) would simply have been transferred over to the new owner with the exact same times and with the same conditions in annex 2 of the Premises Licence.

I have attached a copy of the old PL and you will see the seven conditions at annex 2 which are probably the most basic you will ever see on any PL.

I would think it highly unlikely that a Licensing Sub-Committee would alter the hours applied for but that would be for the panel to decide if this was justified.

Mr Wallsgrove is correct in his response in relation to the rubbish. It would not be possible to specify times as every time the collection times change they would need to vary the licence.

Also of note is the following which might assist you.

This is a new applicant so all the past issues with the previous DPS / Owner are now in the past.

The Licensing Act 2003 makes it clear that if at any stage following the grant of a Premises Licence, a responsible authority, or any other person, 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. This is a key protection for the community, plus any breaches of Premises Licence conditions is an offence under section 136 of the Licensing Act.

I make this clear to the panel in my report and also when I address them at the hearing.

This is so they have some comfort in knowing that if they grant a PL having had undertakings made, that if the applicant fails to comply with them, a review is possible and the ultimate sanction is revocation of the licence. There are other options for example adjusting the conditions or removal of the DPS depending on what the issues are.

EHO have proposed the times for the garden and have also set a suggested noise limit on the compressor which they are happy with as this should resolve that particular issue.

Finally it is considered best practice for the applicant or their agent to attempt mediation to avoid a hearing in the hope that agreement can be made to address or reduce any concerns.

The conditions that have been offered would automatically go on to the Premises Licence should all persons making Representations withdraw.

In the event that Reps are not withdrawn the matter will proceed to a Licensing Sub-Committee hearing.

At this hearing the panel will listen to all the evidence and place whatever weight they decide upon what is presented to them.

The fact that this is a new applicant completely different from the previous, who has offered conditions to help resolve previous conflict will be a significant factor in their deliberations.

The panel could grant without any conditions being attached should they feel that is appropriate.

Their determination should be evidence based, justified as being appropriate and proportionate to what it is intended to achieve.

The panel should consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives.

I am in the process of setting up a Licensing Sub-Committee hearing which looks like it will be at 10:00 on Wednesday 2<sup>nd</sup> September 2020 subject to securing three councillors to sit on this hearing.

Once I have confirmation you and any other party who wish their representations to stand will receive a formal notice of hearing. The meeting will be a virtual hearing due to Covid restrictions placed on meetings and you will be forwarded a link in order to join this meeting.

If however once you have digested what the applicant has offered and you feel that this is reasonable, together with all of the above safeguards that are in place, should you feel that you would like to withdraw your representation please let me know at your earliest convenience.

I hope this is of some assistance to you.

Kind regards

Derek

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**From:** Jon Wallsgrove  
**Sent:** 21 August 2020 12:27  
**To:** Richard Dewhurst  
**Cc:** Stone, Derek ; Robson, Debra  
**Subject:** RE: The Wellington Pub

Dear Mr Dewhurst,

Thank you for your email, I think it is a great shame you do not think those conditions go far enough. In my view my client has made generous concessions with a view to mediating the licence. If you want to have a chat with them I can get Steve Hudson to give you a call.

However, my client is not prepared to reduce the hours the premises are open. If this is a matter you wish to address the Committee on then my client will not be agreeing the other conditions and the matter will simply have to be determined by a Committee.

With regard to the Garden you say it will be open earlier. Had my client transferred the old licence there is no restriction on the opening hours of the garden whatsoever. There was a previous abatement notice served on the former tenant restricting the hours but that abatement notice does not apply to the current owners. So restricting it to 9am to 10pm with a condition agreed by EHO is a significant concession.

The 9am start has been agreed with the Environmental Health Officer.

With regard to the condenser the condition specifies the Db level – there is no need for any detail to be provided on how that will be achieved that is a matter for my client. Again that was what the EHO said was acceptable.

With regard to the rubbish we cannot specify any times in the licence conditions because if they changed we would have to vary the licence.

I would re-iterate the extraction smells will be addressed by my client but that is nothing to do with this application.

Overriding all the above comments I can reassure you my client will ensure no nuisance is caused going forward and I would emphasise my point regarding the power to review the licence. The conditions in my view are more than sufficient to address your concerns.

Finally I would like to inform you that the Committee will have to attach weight to the fact the EHO are happy with simply a condition on the Garden and so going to a Committee will be a risk for you in that those conditions will not be imposed.

Kind Regards

Jon

**Jon Wallsgrove**  
Partner



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From: Richard Dewhurst <[REDACTED]>

Sent: 21 August 2020 12:00

To: Jon Wallsgrove <[REDACTED]>

Cc: Stone, Derek <[REDACTED]>; debra Robson <[REDACTED]>

Subject: The Wellington Pub

Dear Mr Wallsgrove

Thank you for your email. While we welcome the fact that it addresses some of our concerns, it is in many respects inadequate. For this reason, we are not prepared to withdraw our representations at this stage.

A summary of the main areas causing us continuing concern is as follows:

**A) Pub Closing Time.** This point is vital but has not been addressed.

**B) Pub Garden.** It is noted that the garden will be closed from 10.00 p.m. However, it is now proposed that the garden will open earlier, from 9.00 a.m. Details regarding action to be taken to control noise from the garden are required, supported by conditions in the licence.

**C) Condenser.** More detail and clarity is needed on how and when action will be taken to resolve the longstanding problems of noise from the condenser. Conditions regarding this and also requiring regular maintenance of the condenser are required.

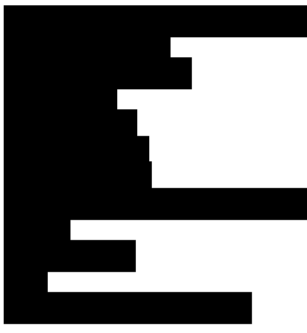
**D) Rubbish Management.** The attention to this is welcomed but more detail is required in the conditions with regard to timings, the removal of bins from the pavement after collection and clearing up any residual mess.

**E) Cooking, Extraction Smells.** This remains a significant ongoing problem and we look forward to early positive action.

We hope that we can continue to move forward to achieve an acceptable outcome for all concerned.

Kind Regards

Mr & Mrs Dewhurst



Partners: Tim Shield (569713) | Michelle Hazlewood (569714) | Christopher Grunert | Jon Wallsgrove  
Associates: Paul Henocq | Patrick Robson  
Practice Manager: Jonathan Pupius

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