

Exeter City Council

**REPORT TO LICENSING COMMITTEE HEARING:
10/11/2008**

APPLICATION FOR REVIEW

APPLICATION FOR; Review of a Premises Licence

REPORT BY Principal Licensing Officer

PART I

1. THE APPLICATION

- 1.1 **Applicant** Ms Helen Samways
- 1.2 **Premises** Imperial New North Road exeter EX4 4AH

- 1.3 **Application:** To seek a REVIEW of the premises licence granted to this premises following a Hearing by a Licensing Sub Committee held on 16 August 2005. The details of the application for review relate primarily to the prevention of Public Nuisance the details of which are attached at **pages 4-9.**

- 1.4 Additionally Ms Samways has submitted a diary of events running from May to August 2008 **page 10**

- 1.5 The Notice of Determination setting out the decision made on the 16 August 2005 is attached for information.
Pages 11-13

- 1.6 Detail of Licensable Activities permitted shown on **page 14**

PART II

2. RELEVANT REPRESENTATIONS

- 2.1 Representations relating to the review have been received from :
- 2.2 Ms Helen Samways. **Pages 4-9**
- 2.3 Dr. Trevor Wiggins **page 15**
- 2.4 Ms Vivienne Wells **pages 16-17**
- 2.5 C. Dampney **page 18**

3 OTHER RELEVANT INFORMATION

- 3.1 Wetherspoons have responded to the Interested parties and the Environmental Protection Unit who are a Responsible Authority by attending meetings called to discuss the issues and subsequently issuing an action plan that identifies the issues raised and makes proposals on how to tackle those issues. **Pages 19-22**

All documents previously copied to representatives of Wetherspoons and the Interested parties.

PART III

4. RELEVANT LICENSING POLICY CONSIDERATIONS **Licensing Objectives**

- 4.1 The statement of licensing Policy refers to the Prevention of Public nuisance and states in part at paragraph 17.1 *If the Licensing Authority is engaged through relevant representations, applicants will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of the interested parties.*

PART IV

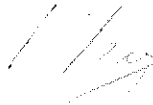
5. RELEVANT STATUTORY PROVISIONS AND OFFICIAL GUIDANCE CONSIDERATIONS

- 5.1 Official Guidance issued under section 182 of the Licensing Act 2003 at paragraphs 11.1 to 11.21 addresses the issue of the Premises review in general terms. **Pages 23-25**
- 5.2 Official Guidance issued in relation to the Prevention of Public nuisance has also been issued to Local Authorities and is included at **pages 26 -27**

PART V

5. OBSERVATIONS

- 5.1 The Committee are asked to determine the application for the Review of the licence issued to the Imperial as set out on **Pages 4-9 and 15-18**. The Committee is obliged to determine this application with a view to upholding the Licensing Act 2003 objectives, which is in this case Prevention of Public Nuisance.
- 5.2 The Committee is obliged to have regard to the Statutory Guidance at **pages 23-27** in making its decision.
- 5.3 The Committee must also have regard to all of the relevant representations made by the Interested parties; the representatives acting for the premises licence holder and the evidence it hears in reaching its decision.
- 5.4 The Committee must take such of the following steps, as it considers necessary for the promotion of the licensing objectives.
 - 5.5 Modify conditions by altering, omitting or adding them;
 - 5.6 Exclude a licensable activity from the licence;
 - 5.7 Remove the Designated Premises Supervisor;
 - 5.8 Suspend the Premises Licence (subject to a maximum period of three months)
 - 5.9 Revoke the licence.
- 5.10 The Committee should be mindful that in making their decision, whether to modify conditions or to suspend or revoke the licence, it must be necessary to do so to promote the licensing objective relating to the protection of children, not just because it is considered desirable to do so.



Author:
Date:
Reference:

28-10-08

Principal Licensing Officer

COMMUNITY & ENVIRONMENT
DIRECTORATE
29 Sep 2009
PASS TO.....

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 HELEN SAMWAYS

(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 THE IMPERIAL NEW NORTH ROAD	
Post town EXETER	Post code (if known) EX4 4AH

Name of premises licence holder or club holding club premises certificate (if known) JD WETHERSPOON PLC

Number of premises licence or club premises certificate (if known) 002257

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 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

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

Surname

SAMWAYS

First names

HELEN

Please tick yes

I am 18 years old or over



Current postal address if different from premises address

FLAT 2
IMPERIAL HOUSE
NEW NORTH ROAD

Post town

EXETER

Post Code

EX4 4AJ

Daytime contact telephone number

07960 176 063

E-mail address (optional)

HELEN_SAMWAYS@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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)
THE GROUNDS FOR REVIEW RELATE TO THE OBJECTIVE 'THE PREVENTION OF PUBLIC NUISANCE' PREDOMINANTLY CONCERNING NOISE AT UNSOCIABLE HOURS. THE SPECIFIC DETAILS ARE AS FOLLOWS:

THE LICENCE IS NOT CONSISTENT WITH THE NOISE ACT 1996 WHICH STATES THAT PEOPLE HAVE A RIGHT TO A PEACEFUL AND QUIET LIFE AFTER 23.00 WHEREAS DRINKING IS ALLOWED IN THE GARDEN OF THE IMPERIAL UNTIL 23.20 AND NON DRINKING PATRONS ARE ALLOWED IN THE GARDEN UNTIL CLOSING TIME WHICH IS EITHER 12.00 OR 1.00 DEPENDING ON THE DAY. THIS CAUSES A SIGNIFICANT LEVEL OF NOISE PARTICULARLY FOR THOSE LIVING DIRECTLY ABOVE THE GARDEN AND PATIO AREAS (I AM ONE OF THOSE PEOPLE) AND MEANS THAT IT IS IMPOSSIBLE TO SLEEP OR HAVE THE WINDOWS OPEN UNTIL CLOSING TIME. AS AN EXAMPLE, ON SUNDAY 14TH SEPTEMBER I WAS KEPT AWAKE UNTIL 12.11 BY PEOPLE IN THE GARDEN.

THE LICENSE IS CONSISTENTLY BREACHED WITH PEOPLE DRINKING IN THE GARDEN PAST 11.20 WHICH ADDS TO THE ALREADY UNACCEPTABLE NOISE LEVELS.

THE LICENSE IS INCONSISTENT WITH OTHER PREMISES OF A SIMILAR TYPE LOCATED IN RESIDENTIAL AREAS SUCH AS THE BARS AND RESTAURANTS IN THE PRINCESSHAY DEVELOPMENT WHICH STATE THAT THERE SHOULD BE NO PATRONS AT ALL IN THE PATIO AREAS AFTER 23.00.

THE INCREASED LEVELS OF SMOKING OUTDOORS HAVE ALSO LEAD TO INCREASED LEVELS OF SMOKE DRIFTING IN TO THE APARTMENTS ABOVE.

Please provide as much information as possible to support the application
(please read guidance note 2)

A FULL DIARY OF EVENTS IS ATTACHED.
VIDEO AND PICTORAL EVIDENCE IS ALSO AVAILABLE FOR SOME
OCCURANCES AND THESE ARE NOTED IN THE DIARY.

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

I HAVE NOT MADE AN OFFICIAL REPRESENTATION BEFORE.

I HAVE MADE MY CONCERNS KNOWN TO THE VARIOUS MANAGEMENT LEVELS WITHIN WETHERSPOONS DURING A MEETING HELD BY WETHERSPOONS ON THE 21/07/08 TO DISCUSS THE CONCERNS OF RESIDENTS.

THEIR IMMEDIATE RESPONSE WAS THAT 'THERE ARE NO DRINKING PATRONS IN THE GARDEN AFTER 23.20' (WHICH IS NOT STRICTLY TRUE AS CAN BE SEEN BY VIEWING MY DIARY ATTACHED) AND THAT THEIR LICENCE STIPULATED THEY DID NOT HAVE TO SEND INSIDE PATRONS WHO WERENT DRINKING AND THEREFORE THERE WASN'T ANYTHING THEY COULD DO ABOUT IT.

MINUTES AND ACTIONS WERE PROMISED BUT HAVE NOT BEEN CIRCULATED (ALTHOUGH THE WETHERSPOONS APPOINTED LEGAL REPRESENTATIVE DID MENTION THAT HER NOTES WERENT VERY GOOD SO THE MINUTES MIGHT NOT BE VERY GOOD!).

NO VISIBLE ACTION HAS BEEN TAKEN SINCE THIS MEETING.

5

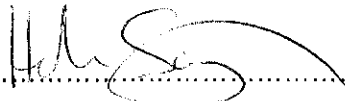
Please tick yes

- 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 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature 

Date 15/07/08

Capacity APPLICANT

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) HELEN SAMWAYS FLAT 2 IMPERIAL HOUSE NEW NORTH ROAD	
Post town EXETER	Post Code EX4 4AJ
Telephone number (if any) 07960 176 063	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

ANTI-SOCIAL DIARY OF THE IMPERIAL

DATE	START TIME	FINISH TIME	EVENT/OCCURRENCE	SMOKE/NOISE	EFFECT
16/05/2008	18.00	0.45	Drinking in the beer garden	Noise / Smoke	Couldnt sleep until they went in. Have to keep windows closed even though its really hot
17/05/2008	9.30	10.00	Smoking	Smoke	Have to keep windows closed
17/05/2008	23.00	0.50	Drinking and noise in garden	Noise	Couldnt get to sleep, tried to call pub four times but no answer. They finally answered on the fifth attempt and hesitantly agreed to clear the garden. Very hot in flat as cant open windows as so noisy.
18/05/2008	12.00	23.00	Smoke drifting in from garden	Smoke	Cant open windows all day
19/05/2008	23.00	23.40	Drinking in beer garden	Noise	Cant sleep, cant have windows open
22/05/2008	20.45		Smoke drifting in through windows	Smoke	Have to keep windows shut despite heat
23/05/2008	18.45		Smoke drifting in through windows	Smoke	Have to keep windows shut despite heat
23/05/2008	22.30	0.45	People drinking smoking and being noisy in the garden	Noise/Smoke	Had to keep windows to keep smoke out and try to keep noise out which means the flat is very hot - 26c and humid
24/05/2008	8.00	7.30	Smashing bottles from cleaning garden	Noise	Woke me up
24/05/2008	23.00	1.00	Noise in garden from drinkers/smokers/people leaving	Noise	Cant have windows open, cant sleep until the pub has shut
29/05/2008	19.00		Smoking	Smoke	Cant have windows open
31/05/2008	20.10		Smoking	Smoke	Cant have windows open
01/06/2008	23.00	0.00	Noise in the garden	Noise	Cant go to sleep cant have windows open
02/06/2008	19.50	Close	Smoking	Smoke	Cant have windows open
04/06/2008	19.00		Event in garden with band and bouncy castles and BBQ. No notice given despite previous complaint when they were granted an occasional licence on May Day bank holiday	Smoke/Noise	Cant have windows open, cant really watch the television or make phone calls due to the noise levels
05/06/2008	1.00	1.20	Staff scraping iron chairs across patio	Noise	Woke me up and then found it difficult to get back to sleep
06/06/2008	23.00	23.40	Drinking and shouting in garden	Noise	Had to wait until the noise had subsided before going to bed
19/06/2008	23.00	23.50	People drinking and shouting in garden	Noise	Cant get to sleep
20/06/2008	23.00	23.55	People in garden	Noise	Cant get to sleep
21/06/2008	AWAY SO NO RECORD				
22/06/2008	AWAY SO NO RECORD				
23/06/2008	23.00	23.50	Noise, drinking and smoking in garden. Video evidence available.	Noise	Cant sleep
24/06/2008	23.00	23.35	Noise, drinking and smoking in garden. Picture evidence available.		Cant sleep
25/06/2008	23.00	0.18	Noise, drinking and smoking in garden. Video evidence available.		Cant sleep. Called downstairs and took two attempts at calling. When the phone was answered she agreed to clear the garden. She did not so we phoned back. She then said that she didnt have to clear the garden as they werent drinking.
29/06/2008	AWAY SO NO RECORD				
27/06/2008	AWAY SO NO RECORD				
28/06/2008	AWAY SO NO RECORD				
29/06/2008	AWAY SO NO RECORD				
30/06/2008	AWAY SO NO RECORD				
01/07/2008	AWAY SO NO RECORD				
02/07/2008	AWAY SO NO RECORD				
03/07/2008	23.00	0.10	Noise, drinking and smoking in garden.	Noise	Cant sleep
10/07/2008	23.00	0.35	10+ people noise, drinking and smoking in garden	Noise	Cant sleep
11/07/2008	AWAY SO NO RECORD				
12/07/2008	AWAY SO NO RECORD				
13/07/2008	23.00	23.45	Noise in garden	Noise	Cant Sleep
18/07/2008	23.00	0.20	Noise in garden	Noise	Cant sleep
22/07/2008	23.00	0.15	Noise and drinking in garden	Noise	Cant sleep
23/07/2008	23.00	23.40	Noise in garden from clearing glasses	Noise	Cant sleep
25/07/2008	AWAY SO NO RECORD				
26/07/2008	AWAY SO NO RECORD				
27/07/2008	AWAY SO NO RECORD				
30/07/2008	23.00	0.10	Noise and drinking in Garden. Video evidence available	Noise	Cant sleep
05/08/2008	23.00	23.47	Noise in Garden	Noise	Cant sleep
11/08/2008	23.00	23.50	Noise in Garden	Noise	Cant sleep
13/08/2008	23.00	23.47	Noise in Garden	Noise	Cant sleep
14/08/2008	23.00	23.12	Noise in Garden	Noise	Cant sleep
15/08/2008	22.00	1.31	Noise in Garden	Noise	Cant sleep
16/08/2008	21.00	23.30	Noise in Garden	Noise	Cant sleep
19/08/2008	23.00	23.40	Noise in Garden	Noise	Cant sleep
20/08/2008	23.00	23.45	Noise and drinking in Garden. Video evidence available	Noise	Rang pub to ask them to send them in
22/08/2008	23.00	after 23.30	Noise in Garden	Noise	Cant sleep
24/08/2008	23.00	0.20	Noise in Garden	Noise	Cant sleep

General Comments

Most times I have just recorded the noise past 23.00 otherwise there would be no start point!
 Generally I have to keep the windows closed all day as the noise/smoke begins to drift in as soon as the patrons arrive and it gets busy.
 The only time when there is less noise/smoke is when it rains. Gaps in the diary where there was no noise recorded usually relate to when it was raining.
 I Cant invite people to stay because the noise means they cant sleep
 I Cant have some of my family to visit/stay because the smoke irritates their asthma
 Earlier in the year I had to have some time off work with stress. Not knowing when I can go to sleep every night when I have to get up early in the morning for a full days work has contributed significantly to this stress.
 We are willing to accept the general noise levels during the day and into the evening and accept that we may have to keep our windows closed at times to reduce this. However, we cannot accept the smoke at any time or the noise that goes on past 11pm. No
 Since the smoking ban the issue has become even worse than last year because smokers gather by the fire exit and under the wiseria at any hour of the day regardless of licensing restrictions which creates additional noise and smoke
 When we have complained in the past over the telephone, the staff have refused to remove these people from the garden. They stated that these people werent drinking and therefore it wasnt a restriction on the licence and therefore they are not obliged to
 The noise act 1996 gives us the right to peace and quiet after 11pm. This is not happening because the licence permits use of the garden until 11.20. This has been made worse by the smoking ban where people are present in the garden until closing time.
 The license is not in line with the law and is out of date in relation to the smoking ban
 All the licenses for the new bars and restaurants in the mixed commercial residential area of princesshay stipulate that 'outside areas must cease to be used after 11pm'
 As a similar mixed use development The Imperial should have the same clause in their license

**EXETER CITY COUNCIL (Licensing Authority)
LICENSING ACT 2003**

NOTICE OF DETERMINATION

**Application under section 34, Licensing Act 2003 to vary the premises licence of
The Imperial, New North Road, Exeter EX4 4AH**

**Decision of Licensing Sub-Committee B sitting at The Civic Centre on Tuesday
16th August at 9.30am**

The Application

The Applicant applied to vary its premises licence in the terms set out at pages 8 – 16 of its Operating Schedule (except for the request for extended hours on no more than 12 non-standard occasions per year which was not pursued following negotiations with the police).

Relevant Representations

Relevant representations against this application were raised by 20 local residents. The issues raised in the relevant representations related to the following licensing objectives:-

1. Prevention of crime and disorder
2. Prevention of public nuisance

In particular local residents voiced the following concerns:-

Prevention of crime and disorder

1. Anti-social behaviour from inebriated people walking home along New North Road late at night
2. Vandalism to vehicles in car park

Prevention of public nuisance

1. Noise disturbance from customers leaving the premises late at night
2. Littering and fouling of residents' gateways and gardens
3. Noise disturbance from staff clearing up at night
4. Noise from the beer garden and car park late at night

Residents also argued that longer opening hours generally would attract more customers into the area and encourage excessive drinking. The area is predominantly residential and this would therefore exacerbate the existing problems associated with the premises.

The Applicant gave the following responses:-

Prevention of crime and disorder

1. No evidence indicating that this was caused by customers of the Imperial.
2. CCTV installed throughout the premises. Police have discussed with Applicant and have no concerns or any objection to the revised hours applied for in the Operating Schedule.

Prevention of public nuisance

1. Wetherspoons is a responsible operator with high ratio of management to customers. Operates responsible drinking policy and dispersal policy to encourage customers to drink responsibly and behave well. 1 hour drinking-up time requested specifically to assist with gradual dispersion of all customers at end of evening combined with strong staff presence to ensure customers leave quietly and signage place at exit doors.
2. No evidence this is from Imperial customers. Limit to control Applicant has over people's behaviour once away from premises but discourages excessive drinking through its "Overview of Operations" policy. Existing legal provision in place to address these issues.
3. Management operates a policy of clearing up garden area by midnight to avoid unnecessary disturbance to residents.
4. Applicant prepared to accept a condition that no licensable activities be permitted in the garden after a certain time to address this issue.

The Applicant told the sub-committee that experience of extended hours in Scotland was that extended hours encouraged people to leave gradually over the evening and there was no evidence of increased drinking or anti-social behaviour. The food emphasis of the premises and lack of music entertainment was also a relevant factor.

Decision

In determining this application the sub-committee considered all the relevant evidence and information presented to it, both written and oral, and took account of all the matters it is bound to take into account, in particular the relevant provisions of the following:-

- Licensing Act 2003
- Statutory Guidance published under section 182 of the Act
- Exeter City Council's Statement of Licensing Policy
- Human Rights Act 1998

The sub-committee ignored any representations made to it which were either not relevant to any of the four licensing objectives or which related to issues covered by other legal provision (e.g. concerns regarding through-traffic).

The sub-committee was satisfied on the balance of probability that the measures proposed by the Applicant in its operating schedule and in its oral submissions were sufficient to address the issues raised by local residents and that in all the circumstances (including the condition it intends to impose) this variation should be granted.

Details of Variation

Provision of late night refreshment shall be permitted at the following times:

Mon – Thur and Sun: 23.00 – 00.30

Fri and Sat: 23.00 – 01.00

Supply of alcohol (on and off the premises) shall be permitted at the following times:-

Mon – Thur and Sun: 09.00 – 00.30

Fri and Sat: 09.00 – 01.00

These times to include Good Friday and Christmas Day but licensing hours on New Year's Eve to remain as existing under the Licensing Act 1964.

Non-standard timings

Both licensable activities to be permitted:-

On Christmas Eve until 2.00am

On Boxing Day until 2.00am

For an additional hour to the finish times on the following days:-

Burns Night – 25 Jan

Australia Day – 26 Jan

St David's Day – 1 Mar

St Patrick's Day – 17 Mar

St George's Day – 23 April

St Andrew's Day – 30 Nov

For an additional 30 minutes to the finish times on the following days:-

Thursday immediately preceding Good Friday

Sunday immediately preceding a Bank Holiday Monday

Hours premises open to the public

Mon – Thur and Sun: 07.00 – 01.30

Fri and Sat: 07.00 – 02.00

plus an additional hour to the non-standard timings referred to above and for an additional hour on the morning of the day the clocks go forward.

[Notwithstanding these usual opening times the premises, in accordance with the converted right, may choose to open to the public at any time for non-licensable activities/purposes].

Conditions

The variation is granted subject to the following condition:-

1. No licensable activities shall be permitted in the garden after 23.20pm.

Right of Appeal

All parties are reminded of their right to appeal to the Magistrates' Court against this decision by virtue of (Sch.5) Section 181, para.4 of the Licensing Act 2003. Any appeal must be made within the period of 21 days beginning with the date of receipt of this notice.

Date of Notice: 19th August 2005



Senior Licensing Officer

Licensable Activities Details
THE IMPERIAL NEW NORTH ROAD EXETER
 (Non standard timings not included)

Licensable activities	Current permission	Days permitted
Recorded Music	Midnight to midnight (24 hours)	Monday to Sunday
Late Night refreshment	From 23.00 to 12.30 From 23.00 to 01.00 From 23.00 to 05.00	Sunday to Thursday Friday and Saturday New Years Eve through New Years day
Alcohol on and off sales	From 09.00 to 00.30 From 09.00 to 01.00 From 10.00 to 09.00	Sunday to Thursday Friday and Saturday New Years Eve through New Years day.
Open to the Public	From 07.00 to 01.30 From 07.00 to 02.00 From 10.00 to 07.00	Sunday to Thursday Friday and Saturday New Years Eve through New Years day

Received via email 08-10-2008

Dear Mr Ley,

I am writing to express my concern about the effect that clients of the Imperial Hotel have on the surrounding area. This is a very large establishment in the middle of a residential area and the management seem to take little heed of this. Their practice of showing films outdoors in the summer makes noise that can be heard as much as half a mile away and, because it is in the summer, is inevitably later in the evening. I can see no justification for a pub competing with local cinemas.

Staff at the Imperial are insufficiently vigilant in monitoring their boundaries for clients taking drinks, glasses and bottles off the premises. I have found glasses belonging to the Imperial in Bury Meadow on more than one occasion. I have returned them to the Imperial and staff have admitted that they have a problem in monitoring.

A typical scenario occurred on Friday, 5 September. About 6 PM a group of five young men drove past the front of my house and, when they could not find anywhere to park legally, parked on the double yellow lines outside the vicarage on Howell road. They then walked down to the Imperial, swearing loudly. Around 11:45 PM they returned to their car, again disturbing the neighbourhood with their noise and shouting. Two of them urinated against the wall of the vicarage and another was sick in the road by the car. Clearly the staff at the Imperial had allowed them to continue to drink beyond the point at which they should have refused to serve them.

I have also on other occasions seen groups of young people leave the Imperial and two or three of them immediately feel the need to urinate against the wall on the corner of New North Road and Howell Road.

My concern is that the Imperial is allowed to pursue the maximising of its profits over any concern for the local area -- they no longer even accommodate bottle recycling. The establishment is able to make larger profits by abdicating any responsibility towards the local area. There is ample evidence that they do little to address antisocial behaviour in a constructive way, other than expressing regret and perhaps promising to improve. I believe it is time that their responsibilities and the requirements of their licence were reviewed and enforced.

Yours sincerely,

Trevor Wiggins

~~~~~

Dr. Trevor Wiggins  
5 Linden Vale, Howell Road, Exeter EX4 4LF, UK

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15

Dear Mr Ley,

I would like to make the following comments regarding the forthcoming licensing review of the Imperial Inn.

I am regularly woken late at night by patrons of the Imperial walking down Howell Road and making a great deal of noise. One night recently I was woken 3 times in the same night, the latest occasion being 2.30am. It is a common occurrence to find the next morning that we have vomit and/or urine on the pavement and against the garden wall outside our house.

I am regularly woken by patrons of the Imperial leaving the pub, walking down New North Road and congregating at the Buller statue where they frequently behave like a drunken football crowd, chanting, screaming, shouting (and of course throwing traffic cones at the statue, which in itself makes a great deal of noise). The size of this establishment and the number of patrons it can accommodate makes the problems it causes to its neighbours of an unusual degree, because we are talking about huge numbers of people, often drunk (so the football crowd analogy is apt). The gardens of the Imperial are very large too, so literally hundreds of people gather there on a fine evening. This venue is very popular because the drinks are cheap, so it is always busy.

The pavements around here are regularly littered with broken glass as the patrons of the Imperial bring out bottles and glasses into the surrounding streets. My husband spoke to the Manager of the Imperial about this on one occasion, to be told 'we have trouble policing our boundaries'.

I know that none of this proves that it is the Imperial that is the source of the nuisance, but of course we residents know this to be the case.

Also I can give you one precise dated example that is telling. On the early May Bank Holiday this year, the Imperial showed films in their garden across the weekend. We were disturbed all weekend (day and evening) by a great deal of noise (films such as Casino Royale and Transformers, full of explosions etc). We were unable to have any peace in our garden all weekend. At 9.30pm on the Sunday evening we arrived home and the noise was still going on so we walked around the corner to see what was the cause of the disturbance. As we turned the corner of Howell Road/New North Road, opposite the entrance to the Imperial, we were faced with the full blast of the very loud cinema. More significantly at that moment one guy came out of the pub and fell unconscious actually into the carriageway of New North Road. Half a dozen of his mates gathered round him, also all in the road, trying to get him on his feet. Also at that same moment, 5-6 guys walked out of the pub carrying bottles and glasses full of beer etc, and walked across the pedestrian crossing towards Howell Road.

So in a brief random 2-minute snapshot we had examples of glasses/bottles being taken off the premises, patrons who had obviously been served when they were already intoxicated, and unacceptable noise disturbance of a long duration.

An additional irritation is that patrons of the Imperial use local streets (eg Velwell Road, Howell Road) for parking, thus disturbing us when they leave, and often abusing the restricted/residents parking zones. It is a commonplace to see people picking up their cars at lunchtime on a Saturday, having left them overnight and all morning on the 2-hr parking.

Thank you for your attention in this matter.

Regards

Vivienne

Vivienne Wells

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**Exeter City Council
Licensing Committee**

Imperial Inn Licensing Review

Dear Sir/Madam.

I understand that Messrs Wethspoons' licence is to be reviewed.

I wish to voice my concern about the lack of control that the management exercises on noise and other nuisances that affect the neighbourhood that is still mainly residential.

It is not possible to sleep with one's windows open because of the shouting and singing late at night from customers from the Imperial Hotel passing along New North Road even though my residence is some 50 metres away. There have also been isolated incidences of urinating and worse in adjacent drive ways.

I hope that you will be able take these concerns into account when setting the conditions of their future license



The Imperial, Exeter

Action plan implemented at pub to address residents' concerns

Complaint	Resident expressing concern	Remedial Action	Timeframe for Wetherspoons to Action
Noise from customers is causing disturbance to residents after 2300 hours.	Ms Samways	<p>1. Preventing all customers (including smokers) from using the garden/patio area after 2300 hours, 7 days per week. The staff will start reminding customers of the need to return inside the premises from 2245 hours (or earlier if the garden is particularly busy).</p> <p>2. Erecting additional signage both internally and externally reminding customers of these restrictions and asking them to respect the rights of our neighbours to the quiet enjoyment of their homes.</p> <p>3. Increasing the number of staff working in the external areas throughout trading hours and identifying a specific member of staff to conduct regular checks of the garden/patio area after 2300 hours. <i>These checks are being implemented to ensure that customers are leaving the premises quickly and quietly and are not lingering in the external areas.</i></p> <p>4. All staff, door staff and managers have been fully re-briefed on the company's expectations in respect of preventing noise from causing a disturbance to our neighbours. They have been asked to remind customers leave the premises quickly and quietly at the end of the evening.</p>	<p>Immediate effect.</p> <p>Temporary signage already in place. Permanent signage to be put in place in the next 4-6 weeks.</p> <p>Immediate effect.</p> <p>Re-briefing undertaken on receipt of application for review of premises licence & to be reiterated to new staff on an ongoing basis.</p>
Smoke from customers is causing disturbance to residents when smokers are using the patio area.	Ms Samways	5. Wherever possible we will tip/stack outside furniture after 2300 hours to render it unusable and discourage smokers from lingering outside for longer than is necessary.	Immediate effect.

		6. After 2300 hours the patio and garden will be closed to smokers and they will be redirected to a small area at the front entrance to the premises, away from the most noise sensitive properties.	Immediate effect.
Noise from the metal garden chairs on the patio is causing a disturbance to residents when the chairs are scraped along the ground.	Ms Samways	7. The metal chairs will be replaced with wooden garden furniture that will not give rise to the same noise issues.	Immediate effect.
Failure to provide advance notice of when events will be held means that residents do not have sufficient opportunity to either participate in the events or make alternative arrangements when such events are to be held.	Ms Samways	8. On any occasion that a temporary event notice is obtained to allow for the provision of entertainment at the pub or in the garden the pub manager will ensure that all residents living in the pub grounds and above the pub are given at least 10 days written notice of our intention to hold such an event.	Ongoing obligation.
Noise and anti-social behaviour from customers is causing disturbance to residents living in the streets surrounding the premises after customers have left the premises.	Ms Wells Dr Wiggins C Dampney	9. We have instructed engineers to visit the site and to review the quality of the CCTV provision inside the premises and to install additional CCTV cameras in the carpark/external areas of the premises. <i>Whilst it is very difficult for the pub management team to control the behaviour of customers after they have left the pub we will nevertheless do what we can to prevent this type of behaviour. We would encourage residents to call the pub on 01392 434050 at the time of the disturbance (or the following day) & describe the individuals who they believe have come from our pub and have caused the disturbance. The pub management team can then review of the CCTV footage and if the individual can be identified, we will commit to banning that individual from returning to the pub on a future occasion.</i>	CCTV engineers to visit site to conduct a review of the CCTV provision in the course of the next 4 to 6 weeks.
Customers are taking bottles & glassware off the premises & discarding it in the surrounding streets.	Ms Wells Dr Wiggins	10. Members of staff will be tasked to monitor the exit points from the premises at the end of trading hours. Any customers who are attempting to leave the	Immediate effect.

		premises with glassware or bottles will be prevented from doing so.	
Concern about the pub not being pro-active to prevent customers becoming drunk and unruly.	Ms Wells Dr Wiggins	11. All staff to receive training upon induction and then receive 6 monthly refresher training on their obligations not to serve underage, drunk or disorderly customers. Records of such training to be kept on site and made available to the relevant authorities upon their request. 12. Any customers behaving in an aggressive or anti-social manner whilst on or whilst leaving the premises will be banned from returning to the premises.	Ongoing obligation. Immediate effect.
Concern about the noise created by the showing of films in the garden area on the May Bank Holiday weekend	Ms Wells Dr Wiggins	<i>See action point 8 above.</i> 13. All future one-off events to take place in consultation with the Environmental Health Officer to ensure that noise is kept to an acceptable level and does not cause a disturbance to the neighbouring properties.	Ongoing obligation.
Concern that customers are parking their vehicles illegally in residents' parking zones	Ms Wells Dr Wiggins	<i>The pub has a large carpark which it makes available for customers who wish to bring their vehicles to the pub. Parking issues in the surrounding streets cannot be prevented by the pub management team. Any parking issues should be referred to Exeter City Council. Residents who are concerned about illegal parking activity should phone the Civil Enforcement Officers at the time that they come across a problem. The Officers can be contacted on 01392665901 (daytime) or 07850299399 (after 1800 hours). The Officer will attend and take the appropriate enforcement action. If the Officer considers the issue to be prevalent in a particular residential area they can undertake increased monitoring of that particular area.</i>	
The premises no longer engage in bottle recycling.	Dr Wiggins	<i>Environmental and social issues are very important to Wetherspoons. Throughout our commercial activities and operations, we are</i>	

		<p><i>committed to fostering the preservation and protection of the environment, while recognising its wider social responsibility. Wetherspoon does all it can to recycle ordinary materials, such as cans, glass and paper, but we also look into other possibilities, such as recycling our cooking oil. Glass-recycling is a major focus for the company. We generate 30,000 tonnes of glass annually. Glass-recycling is not available nationally to the extent required by us, so we are trialling an initiative supported by the government of collecting glass from our pubs on our vehicles and returning it to Daventry for recycling.</i></p> <p><i>We removed the public recycling bins at the property several years ago due to those bins being abused and used for the dumping of non-recyclable goods. However, given the concern expressed we have contacted Exeter City Council to ascertain whether they would be willing to re-install the bins.</i></p> <p>14. We will make a request to the Council to re-install the public recycling bins at the premises.</p>	<p>If request is granted we will seek to have the bins reinstated in the next 4 weeks.</p>
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11. Reviews

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 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.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.10 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

REPETITIOUS REPRESENTATIONS

11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.12 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.14 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

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

11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary 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 warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like 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 concerns, licensing authorities should not merely repeat that approach.

11.17 Where the licensing authority considers that action under its statutory powers are necessary, 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.

11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- (i) the holder of the premises licence or the manager on duty at the premises; or
 - (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay their response in an emergency situation; or
 - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which they are required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

Minimum lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

PART 4. CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
 - a simple requirement to keep doors and windows at the premises closed;
 - limiting live music to a particular area of the building;
 - moving the location and direction of speakers away from external walls or walls that abut private premises;
 - installation of acoustic curtains;
 - fitting of rubber seals to doorways;
 - installation of rubber speaker mounts;
 - requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;

- require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).