

## Western Area Licensing Sub Committee

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**MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 1 FEBRUARY 2024 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN IN RESPECT OF APPLICATION FOR A PREMISES LICENCE FOR WESTBURY PIZZA LTD AT 8 WESTBURY MALL, EDWARD STREET, WESTBURY.**

**Present:**

Cllr Allison Bucknell (Chairman), Cllr Peter Hutton and Cllr Stewart Palmen

**Also Present:**

Applicant

Mr Sancolcar

Those who made a relevant representation

Cllr Matthew Dean and Cllr Gordon King

Mr Julian Sandoe

Wiltshire Council Officers

Carla Adkins (Public Protection Officer – Licensing)

Frank Cain (Legal Representative)

Kieran Elliott (Democracy Manager)

Jonathan McLaughlin (Legal Representative)

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**1 Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was,

**Resolved:**

**To elect Councillor Allison Bucknell as Chairman for this meeting only.**

**2 Apologies for Absence/Substitutions**

No apologies were received. There were no substitutions.

**3 Procedure for the Meeting**

The Chairman drew attention to the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 5 to 10 of the Agenda refers).

4 **Chairman's Announcements**

There were no announcements.

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

**Application for a Premises Licence in respect of Westbury Pizza Ltd at 8 Westbury Mall, Edward Street, Westbury**

**Licensing Officer's Submission**

Following introductions of all those present, Carla Adkins, Public Protection Officer (Licensing), introduced her report as detailed in the agenda, for a premises licence for the above applicant and location. Three relevant representations had been received. The application was for the following licensable activities:

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Late Night Refreshment	23:00 – 00:00	Mon-Wed
	23:00 – 01:00	Thur
	23:00 – 03:00	Fri-Sat
	23:00 – 02:00	Sun
	Non-Standard timings – An additional hour on public holidays, bank holidays and national sporting events.	

It was noted by the Sub Committee that there were 3 options available to them:

1. Grant the application, on the terms and conditions applied for
2. Grant the application, on the terms and conditions applied for, modified to such extent as considered appropriate to promote the Licensing Objectives.
3. Refuse the application in whole or in part.

It was explained that an initial representation from a local resident had been withdrawn, following discussion with the applicant. The remaining representations had raised issues pertaining to crime and disorder, and public nuisance.

The following parties attended the hearing and took part in it:

On behalf of the Applicant

Mr Sancolcar – the applicant.

Relevant Representations

Cllr Gordon King, Westbury East Division, on behalf of Westbury Town Council, in objection.

Cllr Matthew Dean, Westbury West Division, in objection.  
Julian Sandoe, on behalf of Harford Properties Ltd, in objection.

The written representations were included within the agenda pack.

The Chairman then invited the Applicant to introduce their application.

### **Applicant's submission**

The Applicant, Mr Sancolcar, spoke in support of the application, highlighting the following points:

- He was looking to expand the business by extending hours beyond 11pm.
- Only one objection had been received from a local resident, but after speaking with them they had withdrawn their representation.

### **Sub Committee Member's questions**

In response to the Members questions to the Applicant, the following points of clarification were given:

- The applicant was looking to take additional business on occasions of national sporting events, but this term was not specifically defined as to what events would be covered.
- The applicant would be willing to place additional bins for customers outside the premises to address any concerns around littering, however it was clarified that their intention was to close the premises from 11pm and the additional hours would be for delivery orders only, so there should not be additional littering as a result.
- The applicant was anticipating 15-25 orders for the period after 11pm.

### **Questions from those who made a relevant representation**

In response to questions to the Applicant from those that had made a relevant representation, the following points of clarification were given:

- Details was sought on how many orders at present were placed on the phone or website, it was stated most orders were placed online.
- It was stated that the restaurant delivered to Westbury, Bratton, Dilton Marsh, Trowbridge, and Warminster, with most business from Westbury.
- It was stated most orders at present were delivery, with approximately 10 pickup orders in a day.
- There was a query around planning requirements of the premises. Legal Services confirmed that the purpose of the meeting was to consider the request for a late-night refreshment licence and matters outside that were beyond the scope of the meeting.

- There was a further question around the provision of bins at the property.
- In relation to potential disturbance, the applicant stated he had addressed the sole concern which had been raised with him by a resident. He stated that after 11pm the front door would be closed, the restaurant light would be turned off, and delivery drivers would collect from the rear.

### **Responsible Authorities' submissions**

There were no representatives of Responsible Authorities present.

### **Submissions from those who made relevant representations**

#### **Representation 1 – Cllr Gordon King on behalf of Westbury Town Council**

- It was noted the written representation had been made in respect of the application as submitted, and that the applicant had clarified at the meeting further regarding no collection orders after 11pm.
- Public health and public protection grounds were raised regarding potential litter, nuisance, and that Pizza is unhealthy and leads to long term health conditions.
- It was reported that Westbury has high anti-social behaviour as reported by the police

#### **Representation 2 – Cllr Matthew Dean**

- It was stated he had received representations from local residents, who had asked him to speak on their behalf.
- He was the operator of a public house a short distance from the site, but the application would have no effect on his business positively or negatively, and he was attending as a Wiltshire and Town Councillor only.
- It was accepted that the area was a busy urban area with a certain level of noise and disruption, but had also been subject to levels of anti-social behaviour. What was acceptable at 11pm would not be at 1am or beyond.
- It was argued the level of pickup orders were significantly higher than as estimated by the applicant in his submission.
- The delivery service was busy, with significant engine and door noise. It was accessed from a narrow road and parking often caused obstruction.
- It was argued the business would be more appropriately located in a trading estate than an area of dense, deprived housing.
- Concerns were raised around the impact of lighting late at night.
- It was argued the local Neighbourhood Policing team may not have responded to the police licensing officer regarding the applications.
- It was stated local residents were opposed to the application.

#### **Representation 3 – Julian Sandoe on behalf of Harford Properties Ltd**

- It was explained the company managed dozens of flats in the area in addition to a café and a vacant office unit which was being converted to residential use.
- It was argued the requested extension of hours was unnecessary, and the increase in local trade would create a focal point for disruption.
- It was stated the company received frequent complaints about delivery drivers using car parking spaces without residents' consent, and he had needed to complain to the restaurant.

### **Sub Committee Members' questions**

In response to the Member's questions to those that made relevant representations, the following points of clarification were given:

- The Chair stated that healthiness of food was not a relevant consideration.
- It was noted that the police had not submitted a representation objecting to the application. It was claimed that the police would confirm objections if they were present, but it was clarified by the Public Protection Officer that the police were consulted on every licensing application and had dedicated licensing officers to provide responses, and no concerns had been raised by the police to the application.
- In response to queries on the number of representations and stated concerns from the area, it was said that matters had been raised directly with the town council, and that the street in question was a regular place for reports of public disorder.
- Clarification was sought and information provided on the location and orientation of residential properties in the area in relation to the premises, including Angel Mill, Edwards Street and others, and on other activity in the area such as the nearby tax rank not being in use after 9pm and lack of parking enforcement.
- It was reiterated that although no representations had been received by the licensing team from residents in respect of the application, that those making a representation at the meeting stated they had received many complaints or objections.
- Details were sought around improper use of resident parking spaces and enforcement, and it was stated if matters persisted a barrier system might need to be implemented. It was stated clamping or fining vehicles was not available as an option.

### **Questions from the Applicant:**

No question was made from the applicant to those who had made relevant representations.

### **Closing submissions from those who made relevant representations**

In their closing submission, those that made a relevant representation in objection to the application highlighted the following:

Representation 3 – Julian Sandoe on behalf of Harford Properties Ltd

- No further points beyond those raised at the meeting and in the written submissions.

Representation 2 – Cllr Matthew Dean

- There were already problems at the site and extending hours up to 3am would be unreasonable to residents and was not justified, nor were other businesses nearby operating such hours. It was argued the location of the premises had a negative impact on residents.

Representation 1 – Cllr Gordon King on behalf of Westbury Town Council

- No further comments to add, but in concurrence with the points raised by Cllr Dean.

### **Applicant's closing submission**

In their closing submission, the Applicant highlighted the following:

- The restaurant would be closed at 11pm and a film placed on the door to reduce light impact.
- Delivery drivers would use the back door. They had and would be told not to park in resident spaces.
- One resident in Laverton consented to use of their parking space, and so the applicant's had access to 2 spaces, which were often used by other people.

The Sub Committee then adjourned at approximately 13:30 and retired with the Solicitor and the Democracy Manager to consider their determination on the licensing application.

The Hearing reconvened at 1400. The Solicitor advised that he gave the following legal advice to the Sub Committee:

- Advice regarding the licensing objections, balancing the desire of the business to grow against impact on residents, and any potential mitigations offered.

### **Decision**

**Arising from consideration of the report, the evidence and submissions from all parties, and having regard to the Statutory Guidance, the Council's Statement of Licensing Policy, and the Licensing Act 2003, the application for a Premises Licence in respect of Westbury Pizza Ltd -at 8 Westbury Mall, Edward Street, Westbury, is GRANTED as set out below:**

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Late Night Refreshment	23:00 – 00:00	Monday-Wednesday
	23:00 – 01:00	Thursday
	23:00 – 02:00	Friday-Saturday
	23:00 – 00:00	Sunday

**Subject to the following conditions**

As proposed by the applicant and imposed by the Sub Committee

The licence for late night refreshment activity will apply only for delivery orders, not collections.

As imposed by the Sub Committee

No customer access to the premises after 23:00 on any day of the week.

**Reasons for the Decision**

In reaching its decision, the Sub Committee took account of the Applicant clarifying in response to queries raised at the Hearing that they were only requesting a premises licence for late night refreshment as it applied to delivery orders only, and not collection orders. This was relevant in particular in relation to concerns raised regarding the application leading to an increase of littering and anti- social behaviour. It was noted that any concerns to that effect relating to current operations was not a relevant consideration, as the Sub Committee was focused on the request for late night refreshment hours.

The Sub Committee took account of the representations raising concerns regarding the proposed increase in hours leading to an increase in anti-social behaviour but noted that no objections had been raised by the Police as a Responsible Authority and specialists in the field, or any other relevant Responsible Authorities. Accordingly, it did not consider there was sufficient justification to reject the application on that basis.

Although there had been references made at the Hearing to concerns of local residents to the proposal, the Sub Committee noted only one representation had been submitted by a local resident, and that this had been subsequently withdrawn. If those individuals or bodies who had submitted a representation had been made aware of other concerns from the area, these could have been provided as part of their own representations, or those raising those concerns with them should have been encouraged to respond directly to the consultation on the application. Lacking this, the Sub Committee had no additional direct evidence on which to base a decision other than the written and verbal representations it had been provided with.

Considering such representations as had been received and enumerated further at the Hearing, the Sub Committee took account of concerns of noise and light disturbance late at night in a densely populated area including from parking of delivery drivers, with details provided of the orientation of the buildings and streets around the application site. It did not consider these raised

significant issues in relation to the licensing objectives, taking note of the conditions agreed or otherwise able to be imposed.

Having heard and read evidence from the representative on behalf of the Applicant and considering the written and verbal evidence submitted by those who had made relevant representations, the Officer's report, and noting that there had been no representations made by any of the Responsible Authorities, the Sub Committee found no evidence to demonstrate that the application would adversely impact on the Licensing Objectives. The Sub Committee also considered the relevant provisions of the Licensing Act 2003; the four Licensing Objectives; the Guidance issued under Section 182 of the Licensing Act 2003; and the Licensing Policy of Wiltshire Council.

The Sub Committee therefore concluded on the basis of the evidence presented that the application should be granted and that such a decision was reasonable and legally sound. Taking account of the issues raised in the Hearing and representations received, they imposed conditions to ensure the licence related to delivery orders only, and that customers would not be permitted on the premises after 11pm.

However, the Sub Committee sought to balance the reasonable desire of the applicant's business to expand operations with the impact on the local residents. They did not consider it necessary to grant additional operating hours for major national sporting events, noting that the government was able to issue Orders or guidance regarding licensing activities on such occasions. It determined the requested hours, up to 3am at the weekend was not appropriate at this time given the concerns made but noted that the Applicant was able to submit further applications in the future, and how they managed with the new hours would be relevant to any determination on such an application, should one be made.

### **Right to Appeal**

The Applicant, any Responsible Authority(ies) and Interested Parties who made representations were informed that they may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the written notification of the decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.

(Duration of meeting: 12.30 - 2.00 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk)

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