

DECISION NOTICE

Western Area Licensing Sub Committee

Decision made on 15 August 2017

Application for a Premises Licence in respect of Four Seasons Coffee Shop, 3 Market Street, Trowbridge made by Mr K Olmez

Decision:

The Western Area Licensing Sub Committee (Councillors Trevor Carbin, Ernie Clark and George Jeans) has resolved to REFUSE the application for a Premises Licence for Four Seasons Coffee Shop, 3 Market Street, Trowbridge.

Reasons:

Having considered the representations and concerns put forward by the Responsible Authorities in objection to this application, the Sub Committee was not satisfied that the Applicant would be able to meet his obligations to promote the Licensing Objectives, particularly the prevention of crime and disorder and the prevention of public nuisance. The Sub Committee did not consider that the concerns that had been raised about the application could be adequately addressed by the imposition of conditions on the licence.

Evidence and Conclusions

The Sub Committee heard evidence from the Applicant and from representatives of the Licensing Authority, Wiltshire Police and the Environmental Protection Service.

Applicant

In support of his application, the Applicant acknowledged that there had been problems with previous licences that he had held for these premises, but stated that he had learnt from past mistakes. He also pointed out that he was now applying only to open until 02:30 on Fridays and Saturdays. His previous licences had allowed him to operate until later and those problems that had occurred at his premises in the past had generally only happened after 03:30.

The Applicant also explained that there had been changes in the night-time economy in the town centre of Trowbridge and that there were fewer late night pubs and clubs in the area, which meant that there were fewer people in the area late at night and therefore less likelihood of problems arising. He did not consider that there would be a need for door staff at the premises, if the licence were to be granted.

The Applicant also challenged the evidence of the Police, in the form of a photograph that appeared to show a person being served in his premises after the permitted hours. He stated that the photograph did not indicate when the customer had entered the premises and that he would not serve customers who entered the premises after 23:00 hours.

Licensing Authority

The Sub Committee heard evidence from Linda Holland, Licensing Manager, Wiltshire Council. She set out the history of the Authority's dealings with the Applicant, in particular the number of breaches of licence conditions that had led to the review and subsequent revocation of the previous premises licence. These breaches had included operating beyond the permitted hours, failure to operate CCTV properly and a failure to ensure that the required number of door staff were present.

Mrs Holland accepted that there had been a reduction in the number of incidents of crime and disorder in the town centre, partly because of the changing demographics and the opening of the new cinema and associated complex in another part of the town. However, the location of the premises, particularly with it being near the taxi rank and a night club (which had the latest closing time of any licensed premises in the town), meant that, in her view, there was still a risk of nuisance and disorder associated with the application premises. Mrs Holland stated that the Licensing Authority had no confidence that the Applicant would comply with any conditions that might be placed on a licence, given the number of incidents directly associated with the premises and the previous attitude of the Applicant to his licensing responsibilities.

Police

Martin O'Neill, on behalf of Wiltshire Police, informed the Sub Committee that the Applicant had come to the attention of the police on numerous occasions during the time that he had been operating the premises, owing to incidents of public order associated with the premises and breaches of licence conditions.

In the 12 months prior to the revocation of the Applicant's previous licence, there had been 10 instances of crime and disorder recorded against the premises. This compared with only one such incident recorded against a similar late night refreshment premises in the vicinity of the application premises. In addition a further 11 similar incidents had been recorded in the street directly outside the premises, which were considered to be linked to the operation of the premises as a late night refreshment venue.

Since the revocation of the Applicant's previous premises licence in 2015 he had only been able to operate until 23:00 hours. However, there had been a number of further occasions since then when police officers had witnessed the Applicant serving or delivering hot food after that time.

In the view of the police, the Applicant was unable to demonstrate the necessary management practices or willingness to engage with Responsible Authorities to support

the licensing objectives. They were concerned that, if the application were to be granted, there would be a repeat of the sorts of problems that had occurred previously.

In response to questions from the Sub Committee, both the Police and the Licensing Authority confirmed that, in their view, if the licence were to be granted, there would be a need for a minimum of two door staff at the premises from 23:00 until half an hour after closing time.

Environmental Protection

Guy Sharp, Senior Environmental Health Officer with Wiltshire Council, informed the Sub Committee that there had been a long history of non-compliance by the Applicant with statutory food safety and health and safety requirements. The Environmental Protection Team therefore had no confidence that the Applicant would meet his obligations in these areas in future and that this could have implications for public safety.

Considerations

The Sub Committee noted that the Applicant's previous premises licence had been revoked because of a persistent failure by him to comply with the licence conditions and his failure to recognise and comply with his obligations under the licensing objectives. The Sub Committee accepted the evidence of the Responsible Authorities that there had continued to be breaches of the Licensing Act by the Applicant since that revocation, as well as breaches of environmental health requirements. They therefore were not satisfied that the Applicant would be able to promote the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance, despite the accepted change in the night time economy in the area.

In reaching its decision the Sub Committee took into account all the written representations in addition to oral arguments presented at the hearing by all parties.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular sections 4 and 18); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this Decision Notice.