

## DECISION NOTICE

### Eastern Area Licensing Sub Committee

Decision made on 20 June 2023

Application for a Premises Licence – Krumbz Café, Kennet Place, Marlborough, Wiltshire, SN8 1NG

#### **Councillors:**

Cllr Allison Bucknell (Chairman), Cllr Kevin Daley and Cllr Jerry Kunkler.

#### **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 under section 17 of the Licensing Act 2003 in respect of KRUMBZ CAFÉ, KENNET PLACE, MARLBOROUGH, WILTSHIRE, SN8 1NG be GRANTED for the licensable activities as shown below:

Licensable Activities	Days	Timings
Sale by retail of alcohol (ON and OFF sales)	Monday to Sunday	08:00 – 18:30
Hours open to the public ( <i>Not a licensable activity</i> )	Monday to Sunday	08:00 – 18:30

#### **And subject to the following condition:**

All ON sales of alcohol must be consumed whilst seated at the premises.

#### **The Applicant**

The applicant informed the Sub Committee that a Premises Licence was being applied for to accommodate consumer requests for alcohol to be provided as an option with their meal. The applicant was confident that granting the licence would not impact the four licensing objectives. It was stated that all alcohol would only be consumed whilst seated and that all staff had completed training including "Challenge 25" and refusal logging. The applicant notified the Sub Committee that nearby residents had been canvassed and had offered their support in the form of a signature to the proposals.

Comparisons were made to the nearby Cinema that has a late-night licence and according to the applicant there had been no issues regarding noise and nuisance. The applicant wished to remind the Sub Committee in comparison they had applied for a day licence. The applicant was not concerned with residents purchasing their alcohol to consume in the nearby park, Cooper's Meadow due to the price point and also wished to point out that there was an off licence and a Waitrose nearer to the park.

The applicant informed the Sub Committee of the events held by them for the King's Coronation with a Temporary Events Notice that received no complaints. There was allegedly no difference in noise level when the temporary event was held.

It was clarified that there are 16 tables in the outside area which were in easy to manage locations and that CCTV was being established to assist with this. The base seller in the establishment is sandwiches and also cakes, sausage rolls and salads and there were no plans to change the successful food model.

It was clarified that although a green community space outside of the establishment was not part of their official lease, they had been using it for over 10 years with no issues and that the applicant had paid for plants and water for the space.

### **Responsible Authorities**

There were no representations from any Responsible Authorities.

### **Representations**

The Clerk for Marlborough Town Council spoke on the Town Council's behalf and stated that they had a concern that higher levels of noise at the establishment could travel especially across the nearby river and disturb local residents. Concern was also raised that sales of alcohol from the premises could potentially be taken to the nearby park in Cooper's Meadow and that serious issues were currently having to be managed by the Town Council.

The Town Council's view was this application would extend where licensing is held. It was confirmed that the Cinema does have a licence, but it is a constructed set up and set back from the high street so was considered less comparable to the applicant's premises.

It was clarified that the Town Council had not re-considered the application and their representation based on the revised reduction in hours proposed by the applicant due to their democratic time plate.

### **Reasons**

In reaching its decision, the Sub Committee took account of and considered all the written evidence and the representations from all parties present at the hearing. The Sub Committee noted the concerns raised by the Representation from Marlborough Town Council at the hearing.

The Sub Committee gave consideration to the anticipated public noise nuisance, particularly from patrons arriving and leaving the premises and felt that by the reduction of the hours for the sale of alcohol each day from 22:00 to 18:30 before the closure of the premises to the public this would limit the public noise disturbance to the local residents.

The Sub Committee heard no evidence that the Applicants would fail to promote the licensing objectives and included a condition that all on sale alcohol must be consumed whilst seated at the premises.

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

### **Right to Appeal**

The Premises Licence Holder, 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.

A Responsible Authority or an Interested Party may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by an Interested Party will not normally be granted within the first 12 months except for the most compelling circumstances.