

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

15 AUGUST 2017

Application for a Premises Licence;
Four Seasons Coffee Shop, 3 Market Street, Trowbridge, Wiltshire, BA14 8EY

1. Purpose of Report

- 1.1 To determine an application for a Premises Licence in respect of Four Seasons Coffee Shop, 3 Market Street, Trowbridge, Wiltshire BA14 8EY made by Mr Kenan Olmez of 74 Longfield Road, Trowbridge, Wiltshire BA14 7AE.

2. Background Information

- 2.1 An application for a Premises Licence in respect of Four Seasons Coffee Shop has been made by Mr Kenan Olmez for which three relevant representations have been received.

- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 18 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers appropriate for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy.

- 2.3 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

- 2.4 Such steps are:

- i) To grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
- ii) To exclude from the scope of the application any licensable activity.
- iii) To reject the whole or part of the application.
- iv) To grant the application as applied for.

2.5 On 15 June 2017 an application for a new premises licence was received and accepted as a valid application.

2.6 The application as applied for is as follows:

Licensable Activity	Timings	Days
Provision of late night refreshment (Indoors and Outdoors)	23:00 hrs to 00:00 hrs	Sunday to Thursday
	23:00 hrs to 02:30 hrs	Friday & Saturday

The applicant has stated that CCTV has been installed inside and outside of the restaurant.

A copy of the application form is attached as **Appendix 1**.

2.7 The premises has previously benefited from a premises licence under the Licensing Act 2003 from November 2005 to September 2015. During this time the licence was held by Mr Kenan Olmez.

The original licence granted in 2005 allowed the following:-

Licensable Activity	Hours
Late Night Refreshment	Sunday to Thursday 23:00 hrs – 01:30 hrs (Next Day)
	Friday to Saturday 23:00 hrs – 04:30 hrs (Next Day)

2.8 The premises licence was subsequently varied in August 2009 to extend the hours for late night refreshment, as follows and to reword the existing condition regarding CCTV and apply this as a new condition on the licence.

Licensable Activity	Hours
Late Night Refreshment	Sunday to Thursday 23:00 hrs – 04:00 hrs (Next Day)
	Friday & Saturday 23:00 hrs – 05:00 hrs (Next Day)

Following a valid representation from Wiltshire Police, the application for variation was subject to a hearing, which was held on 25 August 2009. The Licensing Sub Committee resolved to grant the additional hours sought, subject to an amended condition relating to CCTV.

2.9 On 18 June 2011, the Licensing Department received an application for a review from Wiltshire Police on the grounds that the premises were conducted

in such a manner as to prejudice the licensing objectives of Prevention of Crime & Disorder and Public Safety.

A notice of the review application was posted and displayed as stated under the Licensing Act 2003. During this consultation for review no further representations were received.

On 18 July 2011 a hearing took place for the review application. Following this review the premises licence was amended to reduce the hours for late night refreshment as follows and an additional condition was imposed stating that the premises requires two SIA registered door staff to be employed on Thursday, Friday & Saturday nights.

Licensable Activity	Hours
Late Night Refreshment	Sunday to Wednesday 23:00 hrs – 04:00 hrs (Next Day) Thursday to Saturday 23:00 hrs – 03:00 hrs (Next Day)

An appeal was lodged against the review decision by Mr Olmez and was heard at Chippenham Magistrates Court on 6 December 2011.

The Court resolved to vary the decision made on the 18 July 2011 and changed the hours for late night refreshment as follows.

Licensable Activity	Hours
Late Night Refreshment	Sunday to Wednesday 23:00 hrs – 04:00 hrs (Next Day) Thursday to Saturday 23:00 hrs – 03:30 hrs (Next Day)

- 2.10 On 11 November 2013 an application for a variation of the existing premises licence was received and accepted as a valid application.

The variation was to extend the hours for late night refreshment from 03:30hrs to 05:00hrs on a Friday and Saturday night, along with applying to include Christmas Eve, Christmas Day, New Year's Eve, New Year's Day and all Bank Holidays until 05:00hrs.

Following a valid representation from Wiltshire Police the application for variation was subject to a hearing, which was held on 7 January 2014. The application was granted as applied for, subject to the following additional and varied conditions:

- **All doors to the premises must be closed and locked by the end of the time permitted for licensable activities on the relevant day, at which point all customers shall have left the premises.**

- **On Friday & Saturday nights, Christmas Eve, Christmas Day, New Year's Eve and New Year's Day and all Bank Holidays, the licence holder is required to employ two SIA registered staff from midnight until 30 minutes after the end of the time permitted for licensable activities, and to employ an additional SIA staff member from 03:30hrs until 30 minutes after the end of the time permitted for licensable activities.**

Following the grant of the variation detailed above a number of breaches were reported to the Licensing Authority as unauthorised licensable activities under s.136 Licensing Act 2003. Formal warning letters in relation to the breaches were issued from the Licensing Authority to the licence holder in June 2014, October 2014 and January 2015.

2.11 On 21 January 2015 an application for a review of the premises Licence was submitted by the Licensing Authority of Wiltshire Council under the grounds of:

- The Licence holders continued failure to comply with either the premise licence conditions and/or the Licensing Act 2003 objectives over a considerable period of time.
- Failure to promote the licensing objectives of Prevention of Crime and Disorder and Public Safety, and that standards of management at the premises were below that, which are expected of a premises operating in the late night economy.

2.12 On 23 January 2015, two days after the review application was submitted an application for a variation of the existing premises licence was received and accepted as a valid application.

The variation was to request that the condition regarding SIA qualified door staff be reduced to 5 hours for Saturday nights only.

Due to Mr Olmez's failure to advertise the application correctly it was rejected on 6th March 2015. 14 days was then given to re-submit the application with the fee waived.

On 19 March 2015 Mr Olmez re-submitted the variation and it was accepted as a valid application.

Two valid representations against the variation application were received from Wiltshire Council and Wiltshire Police.

2.13 On 24 March 2015 a hearing took place for the review submitted by the Licensing Authority of Wiltshire Council. Following this review the decision to revoke the premises licence was taken by the Western Licensing Sub Committee.

A copy of the decision notice is attached as **Appendix 2**.

An appeal was lodged against the review decision by Mr Olmez on 10 April 2015 and an appeal date was scheduled for 2 October 2015 at Swindon Magistrates Court.

During this time it was agreed, by the agent acting on behalf of Mr Olmez, to postpone the hearing for the variation until after the appeal had been heard and a decision had been made by the Magistrates.

On 29 September 2015 a signed consent to withdraw the appeal was received by Wiltshire Council. Subsequently, the decision made by the Licensing Subcommittee came into effect and the premises licence was revoked. The hearing for the variation application was cancelled.

- 2.14 Since the revocation of the premises licence, two warning letters have been sent to Mr Olmez from the Licensing Authority, concerning offences committed under s.136 Licensing Act 2003.

Copies of the letters are attached as **Appendix 3**.

3. Consultation and Representations

- 3.1 The application process requires the application to be advertised, by the Applicant, in a local news publication within 10 working days, starting on the day after the authority receives it and for a public notice (on pale blue paper) to be posted on the premises. In addition the Licensing Authority advertises the application on its website, for a period of 28 consecutive days, starting the day after the authority receives the application.

- 3.2 During the consultation period 3 relevant representations have been received from Responsible Authorities.

3.3 Responsible Authorities

- Wiltshire Council – Licensing Team Leader
- Wiltshire Police – Licensing Officer
- Wiltshire Council – Environmental Health Officer

- 3.4 A summary of the representations made is detailed in the table below:

Representation	Licensing Objective	Accepted	Comments
No confidence in applicant's ability to uphold the Licensing Objectives as a Licence Holder.	The Prevention of Crime and Disorder; Public Safety; The Prevention of Public Nuisance; The Protection of Children from Harm	YES	
No confidence in the applicant's ability to comply with conditions imposed on any Premises Licence.	The Prevention of Crime and Disorder; Public Safety	YES	
No confidence in applicant's ability to	Public Safety	YES	

uphold the Licensing Objectives as a Licence Holder.			
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3.6 The relevant representations are attached as **Appendix 4. Appendix 5** is a plan which shows the location of the premises.

3.7 Further supporting information has been provided by Wiltshire Council Licensing Authority (**Appendix 6**) and by Wiltshire Police Licensing Team (**Appendix 7**).

4. Legal Implications

4.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

4.2 The Applicant, and all persons who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

5.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

6. Right of Appeal

6.1 It should be noted that the Applicant and those persons who have made representations 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 notification of the decision.

6.2 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.

6.3 A Responsible Authority or any person 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 a person other than a Responsible Authority it will not normally be granted within the first 12 months except for the most compelling circumstances.

Report Author: Teresa Bray
Teresa Bray, Public Protection Officer (Licensing)
Date of report: 31/07/2017

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Application for a premises licence**
- 2 Decision notice**
- 3 Warning letters**
- 4 Relevant representations**
- 5 Location plan**
- 6 Supporting information from Wiltshire Council Licensing Authority**
- 7 Supporting information from Wiltshire Police Licensing Team**