

# WILTSHIRE COUNCIL

## WESTERN AREA LICENSING SUB COMMITTEE

29 August 2014

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### Application for Review of a Premises Licence; Mobile Catering Van, Mortimer Street, Trowbridge

#### 1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of Mobile Catering Van, Mortimer Street, Trowbridge made by Wiltshire Police.

#### 2. Background Information

- 2.1 An application for the Review of Mobile Catering Van Premises Licence has been made by Wiltshire Police. Following advertisement of the application no relevant representations have been received. However the local Councillor has expressed his support of the review application.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such steps as it considers appropriate for the promotion of the licensing objectives.
- 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 modify the conditions of the licence.
  - ii) To exclude a licensable activity from the scope of the licence.
  - iii) To suspend the licence for a period not exceeding three months.
  - iv) To revoke the licence.
  - v) To determine that no steps are necessary

Government Guidance issued under s.182 of the Licensing Act states that:

“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 appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence”

- 2.5 The premise benefits from a Premises Licence issued under the Licensing Act 2003 since November 2005 and this is attached as **Appendix 1**.
- 2.6 The Premises Licence was suspended in December 2013 due to non payment of the annual fee. However the fee was paid in March 2014 and the licence was reinstated.

### **3. Grounds for Review**

- 3.1 The review of the licence has been requested on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives of public safety, preventing crime and disorder, prevention of public nuisance and protecting children from harm. Further information regarding the grounds for review will be provided to the Sub-Committee at the hearing.

### **4. Consultation and Representations**

- 4.1 The review process requires a public notice to be posted on the premises for a period of 28 days together with a copy of the notice posted at the offices of Wiltshire Council, County Hall, Bythesea Road, Trowbridge. During the consultation period no relevant representations have been received. However the local Councillor has expressed his support for the review application.
- 4.2 A location map and surrounding area is attached as **Appendix 2**.
- 4.3 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.

### **5. Legal Implications**

- 5.1 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.

## **6. Officer Recommendations**

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

## **7. Right of Appeal**

- 7.1 It should be noted that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or other 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.
- 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
- 7.3 The Premises Licence Holder and the Responsible Authority have been informed of the date, time and location of the hearing and their right to attend and be represented.

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Report Author: Hannah Hould, Licensing Officer, 15 August 2014

### **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 Current Premises Licence**
- 2 Location Plan of the premises and surrounding area**