

Eastern Area Licensing Sub Committee

MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 20 JUNE 2023 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

Present:

Cllr Allison Bucknell, Cllr Kevin Daley and Cllr Jerry Kunkler

Also Present:

Applicant

Rowland Meek, Krumbz Café

Those who made a Relevant Representation

Representation 1 – Richard Spencer-Williams, Town Clerk, Marlborough Town Council

Wiltshire Council Officers

Max Hirst (Democratic Services Officer)
Lisa Pullin (Democratic Services Officer - Observing)
Matt Hitch (Democratic Services Officer - Observing)
Mike Edgar (Senior Solicitor)
Lisa Grant (Public Protection Officer – Licensing)

7 **Election of Chairman**

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

Resolved:

To elect Cllr Allison Bucknell as Chairman for this meeting only.

8 **Apologies for Absence/Substitutions**

There were no apologies or substitutions.

9 **Procedure for the Meeting**

The Chairman notified all those present at the meeting that it was not being recorded by Wiltshire Council, but that the meeting could be recorded by the press or members of the public.

The Chairman reminded those present that any speakers that wished to remain and make a statement to the Sub Committee would be giving consent to there being the possibility that they would be recorded presenting this.

It was noted that those that had made a representation would not be identified by name within the minutes (other than those representing public bodies and Responsible Authorities).

The Chairman then asked if anyone present wished to withdraw from the meeting. All parties confirmed they wished to remain in and take part in the Sub Committee hearing.

The Chairman explained 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).

10 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

11 **Declarations of Interest**

There were no interests declared.

12 **Licensing Application**

Application by the owner of Krumbz Café for a Premises Licence in respect of Krumbz Café, Kennet Place, Marlborough, Wiltshire, SN8 1NG

Licensing Officer's Submission

The Sub Committee gave consideration to a report (circulated with the agenda) in which determination was sought for an application for a premises licence presented by Lisa Grant (Public Protection Officer – Licensing) for which one relevant representation had been received from Marlborough Town Council. The application was for the following licensable activities:

- Sale by retail of alcohol (on and off sales only)

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

1. Grant the application, 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.
2. To exclude from the scope of the application any licensable activity.
3. To refuse to specify a person as the Designated Premises Supervisor.
4. To refuse the application in whole or in part.

The Public Protection Officer (Licensing) gave details of the appeals procedure for the parties following a decision made at the Sub Committee hearing.

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

On behalf of the Applicant

- Rowland Meek

Relevant Representations

- Richard Spencer-Williams, Town Clerk, Marlborough Town Council spoke in objection to the application.

The Chairman advised that the written representations had been read by the members of the Sub Committee in advance of the meeting. The Chairman then invited the Applicant to introduce their application.

Applicant's submission

Rowland Meek spoke in support of the application, highlighting the following points:

- The Applicant was confident that the application would not impact any of the licensing objectives and that they had agreed to reduce the hours of sale of alcohol and opening hours to match those stipulated by planning conditions to ensure that all relevant parties including the Police were happy. Other measures mentioned included no vertical drinking and training for staff in logging refusals and the Challenge 25 policy.
- The Applicant gave the opinion that the Cinema nearby had a late-night licence and has had no issues or complaints regarding noise and nuisance. The Applicant was not concerned with residents purchasing alcohol from the premises to consume in the nearby park Cooper's Meadow and stressed that there is an off licence and a Waitrose nearer to the park.
- The Applicant highlighted the events that had taken place for the King's Coronation with a temporary notice which received no complaints. The clientele was in general middle-aged, and that the sale of alcohol with their food had been suggested by multiple customers which is the reason for the application.

Sub Committee Member's questions

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

- That there are 16 seats in the garden. 8 tables with 4 on the grass and 4 alongside the building. The Applicant was confident that this could be easily managed especially with the installation of CCTV that is being planned.
- The Applicant stated that their base seller was sandwiches and also cakes, sausage rolls and salads. The success in the current food model meant no plans were being made to change the food on offer.
- There was no difference in noise level when the temporary event was held, even with a packed garden and alcohol being served.

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:

- Part of the garden area is not part of the official lease but had been used by the Applicant for over 10 years and is a community space. The Applicant had contributed to its maintenance by purchasing plants.

Submissions from those who made relevant representations.

Representation – Richard Spencer-Williams, Town Clerk, Marlborough Town Council highlighted the following on behalf of the Town Council:

- That there was already a considerable amount of noise and concern was raised at how it could travel from the café across the river.
- There had been significant issues with the consumption of alcohol in the nearby park Cooper's Meadow and the Town Council was concerned that sales from the Café would be taken to the park for consumption.

Sub Committee Members' questions

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

- The Town Council's view was that this application would extend where licensing activities are held. The cinema does have a licence, but it is a constructed set up and set back from the high street.

- The Town Council had not re-considered the application based on the reduction in revised hours and proposed condition relating to vertical drinking due to their democratic time plate.

Questions from the Applicant:

There were no questions from the Applicant to the Town Council representative, but it was stated that vertical drinking not being allowed had been included as a way to appease the concerns of residents.

Closing submissions from those who made relevant representations.

No further points were made by the representative for Marlborough Town Council.

Applicant's closing submission

In their closing submission, the Applicant highlighted the following:

- Asked for an amendment with regards to vertical drinking.
- Stated that the premises does not have much seating whilst competing with other great businesses and are aiming to maximise their capabilities.

Points of Clarification Requested by the Sub Committee

No points of clarification were requested by the Sub Committee.

The Sub Committee then adjourned at 10:39 and retired with the Senior Solicitor and the Democratic Services Officer to consider their determination on the licensing application.

The Hearing reconvened at 10:59.

The Senior Solicitor advised that he gave legal advice regarding the four licensing objectives particularly in relation to the prevention of public nuisance.

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 Krumbz Café, Kennet Place, Marlborough, Wiltshire be GRANTED for the licensable activities 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.

Reasons for Decision

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, 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.

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.

(Duration of meeting: 10.15 – 11.02)

The Officer who has produced these minutes is Max Hirst of Democratic Services, direct line 01225 718215, e-mail committee@wiltshire.gov.uk

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