

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 15 AUGUST 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE, FOUR SEASONS COFFEE SHOP, 3 MARKET STREET, TROWBRIDGE

Present:

Cllr Trevor Carbin, Cllr Ernie Clark and Cllr George Jeans

Also Present:

Wiltshire Council

Teresa Bray (Public Protection Officer – Licensing)
Cllr Gavin Grant (Reserve Member)
Linda Holland (Licensing Manager – Public Protection)
Lisa Pullin (Democratic Services Officer)
Guy Sharp (Senior Environmental Health Officer)
Paul Taylor (Senior Solicitor)

Applicant

Kenan Olmez
Gulsen Farrington (Interpreter)

Wiltshire Police

Martin O'Neill (Police Licensing Officer)
Stephen McGlynn (Licensing Manager)

1 **Election of Chairman**

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

Resolved:

To elect Councillor Ernie Clark as Chairman for this meeting only.

2 **Apologies for Absence/Substitutions**

Apologies were received from Councillor Allison Bucknell. Councillor Trevor Carbin was substitute for Councillor Bucknell.

3 **Procedure for the Meeting**

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 – 12 of the Agenda refers).

4 **Chairman's Announcements**

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

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

Application by Mr K Olmez for a Premises Licence – Four Seasons Coffee Shop, 3 Market Place, Trowbridge

Teresa Bray (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Teresa highlighted the following:

- This was an application by Mr Olmez for a Premises Licence for the provision of late night refreshment (indoors and outdoors) from 23:00 to 00:00 Sunday to Thursday and from 23:00 to 02:30 Friday and Saturday;
- During the consultation process, three relevant representations were received from Responsible Authorities – Wiltshire Council – Licensing Authority, Wiltshire Council – Environmental Control and Protection and from Wiltshire Police; and
- That the Licensing Officers had concerns about the Applicant's ability to uphold the Licensing Objectives and adhere to any conditions set, should the Premises Licence be granted.

In accordance with the procedure detailed in the agenda, the Applicant and the Responsible Authorities who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, Mr Kenan Olmez (via his interpreter – Gulsen Farrington) were:

- When he received the Agenda papers he realised that his previous history of Premises Licences had been focused on and he thought that he would be able have conditions included that would enable the licence to be granted;
- He had learnt from the past and taken the decision not to apply to be open as late as he was previously – weekdays he was requesting until midnight and Fridays and Saturdays until 02:30;
- He had applied for the later opening of his premises to increase his income as the population of Trowbridge has increased. Several pubs and clubs in the area had closed and there was less passing traffic past his premises which meant that it was less likely that incidents of anti-social behaviour would happen;
- The Licensing Authority and the Police know about the decline of the night time trade in the area and he believes the extension to his opening hours should be granted to pick up the trade that there is at these times;
- The premises are open to the public as a coffee shop during the day time to bring in more income and the residents of Trowbridge have had to adjust as the premises used to be just a “kebab shop”. Mr Olmez wished to change the image of the premises and flyers were circulated to promote the other food offerings (chicken, pasta and burgers etc.) they provided to attract more daytime customers;
- After 4pm, Pizzas were available and customers could request delivery of their items;
- Mr Olmez agreed with the findings of Mr Guy Sharp following the inspection visits in February and May 2017 but wanted to state that his mother had passed away three days before the visit in February and so he was very emotional at that time;
- Mr Olmez was in the process of preparing the Health and Safety Certificates that had been requested and was receiving assistance and guidance in relation to this;
- Regarding the photograph provided by Wiltshire Police as page 5 of the Agenda supplement Mr Olmez agreed that the photograph did show that there was a customer in the premises after 23:00, but it did not show what time they entered the premises. He would say that the customer entered before 23:00 and he served him – had he come in after 23:00 he would not have served him;

- On another occasion, some customers had come into the premises before 23:00 and were still eating their food after 23:00. Whilst the door to the premises was closed, it was not locked and two drunk people came into the premises. He agreed that he should have refused to serve them with any food and asked them to leave, but after seeing the behaviour of these two people he thought the only way he would be able to get them out of the premises was to serve them as he thought they would react if he. He preferred to serve them to make them leave and get out and he had not seen these two drunks since that occasion; and
- Mr Olmez acknowledged that he had made mistakes but was trying to correct them and would tell his customers that service had stopped at the closing time should the licence be granted.

The Sub Committee and those who made relevant representations were then given the opportunity to ask questions of the Applicant:

Q If the extra opening hours you are requesting were granted what steps would you take to control the security at the premises?

A There is less people traffic and the numbers of pubs and clubs has decreased. More people go out later on Saturday evenings. The Boutique nightclub is open until 04:00. I am asking for 02:30. A lot of patrons are using the food venues in the new cinema complex between 19:00 and 00:00 and that area is continuing to grow. The Carter Jonas report states that the area around my premises is not as busy as the cinema location.

Q How would you rigorously enforce any conditions that were put on the licence if it was to be granted – if door staff are required as a condition would you be able to provide them?

A The Carter Jonas report proves that it is not as busy in Trowbridge now – the times of needing a doorman has passed. The old business is in the past and the number of people in the area has reduced. I would not need a door man. My food service is different according to the time of day. I don't feel I need protection.

Q Are you saying that you would not comply with the condition and provide door staff if this was part a condition of a grant of the Premises Licence?

A The problems are in the past – business is dropping as proved by the document from Carter Jonas. The problem time was 03:30 to 04:30 in the past. The problems in the town happened after 03:30. Now there are not so many people about and I have told Martin (O'Neill – Wiltshire Police) that if anything happens I would just shut the premises and it wouldn't be

like the old days. I'm sure I wouldn't need a door man and if anything happened I would ban the people involved.

Q How many staff work at the premises until 23:00 and how many would work if the hours are extended if the premises licence is granted?

A Currently I work at the premises with my driver. There are two staff till 20:00 and two more staff after 20:00.

Q Looking at the Agenda (pages 47 and 49) - copies of the letters sent to you in relation to licensing breaches – Are you aware that serving hot food or drinks after 23:00 is in breach of your licence?

A My leaflets stating that I am open until 00:00 were prepared before I lost my premises licence. These hours are delivery hours, not opening hours. The company that I work with has incorrect information. On Just Eat it says that food is available until 00:00. The premises close at 23:00 and delivery is until 00:00.

Key points raised by Linda Holland, Licensing Manager on behalf of Wiltshire Council - the Licensing Authority were:

To aid Mr Olmez and his interpreter a copy of the statement prepared by Linda Holland was given to him with time allowed for him to read it.

- This application seeks to reinstate the licence previously granted with slightly reduced hours and although the premises has a new name I would suggest that there is no change in the management or style of operation;
- We note that the application offers little or no conditions to promote the Licensing Objectives of a premises operating in the late-night economy;
- At the variation application hearing on 7 January 2014 the request for late night refreshment until 05:00 was granted with an additional condition to increase the number of SIA door staff to 3 during the extended opening hours (from 2) after 03:30 on Fridays and Saturdays (as offered by the Applicant). At that time the Sub Committee felt that this would “further improve the situation, particularly as the door staff would now be required to be in place for a period of time after the closure of the premises”;
- The Sub Committee in 2014 accepted that there were problems of crime and disorder but considered that these could be addressed by the presence of adequate SIA door staff and good management practices by Mr Olmez;
- However, there were still persistent breaches of these conditions by Mr Olmez and a failure by him to remedy those breaches, despite considerable work by both Licensing Officers and the Police at the time.

Between January 2014 and February 2015 there were 38 breaches of conditions witnessed by either the Police or Licensing Officers, this included a door staff member working behind the counter serving food, not acting in the capacity of a door supervisor;

- Given the persistent and continuing incidents of non-compliance I took the decision in January 2015 to request a review of Mr Olmez's Premises Licence under the powers available to us in Section 51 of the Licensing Act 2003. This was the first time that this Local Authority had used these powers which was an indication of the serious concerns that we had regarding the management of these premises;
- On 24 March 2015, the Sub Committee revoked Mr Olmez's Premises Licence which meant that he was not allowed trade beyond 23:00. Since the revocation he has continued to trade beyond 23:00 and warning letters have been sent to him by the Licensing Authority;
- On his application Mr Olmez only offers the provision of CCTV and a verbal warning to any person that may be drunk to cease their behaviour. Due to the location of the premises with the taxi rank outside and the nearness to the latest opening night club in the town and the history of a late licence at the venue whilst operated by the Applicant it is likely that the premises would draw unsocial behaviour and cause people to loiter in the area in the late-night economy;
- Whilst I acknowledge that, since the licence was revoked, the level of disorder associated with the premises has reduced, I would suggest that the catalyst for this improvement is the revocation of the late licence previously held by Mr Olmez;
- Within Appendix 6 I have included copies of websites and a leaflet used by Mr Olmez to advertise his business but they are all showing that the premises are open until 00:00 which should not be the case. Premises that are well managed should ensure that their customers know when they are open and trading; and
- Therefore, the Licensing Authority has no confidence that Mr Olmez will comply with further conditions or amendments to his application given the number of incidents previously directly associated with the premises and the attitude of Mr Olmez when he was a licence holder.

The Sub Committee were then given the opportunity to ask questions of Linda Holland:

- Q Are you aware of the Carter Jonas report that the Applicant has alluded to?

A No. I would concede that more people use the St Stephens complex in the town and there is late night opening of the Boutique nightclub in close proximity to the Applicants premises.

Q If the Premises Licence were to be granted do you feel that door staff would be necessary to be included as a condition?

A Yes, I would suggest that door staff would be necessary and as they should not work alone, that two door staff would be required.

The Applicant was then given the opportunity to ask questions of Linda Holland:

Mr Olmez did not ask any specific relevant questions of Mrs Holland, but denied that door staff had previously worked behind the counter at the premises and challenged the need for doorstaff. The Chairman reminded Mr Olmez that he would have the opportunity to sum up at the end of the hearing.

Key points raised by Martin O'Neill, Police Licensing Officer on behalf of Wiltshire Police were:

- Mr Olmez had been the sole owner of the business for 12 years and he has come to the notice of Wiltshire Police on numerous occasions owing to incidents connected with the premises, in relation to public order and breaches of conditions on his premises licence. It was these breaches of conditions which resulted in the Premises Licence being revoked in March 2015;
- The revocation determined that Mr Olmez could now only trade up till 23:00, however he has been witnessed by Police Officers on a number of occasions serving beyond the permitted hours. He was observed delivering food after 23:00 in his vehicle for which he only held a provisional driving licence. In June 2016, he was prosecuted for this driving offence;
- In January 2016 two Police Officers witnessed Mr Olmez serving customers in his premises at 23:15 and a photograph taken shows customers clearly visible in the window of the premises consuming food;
- In April 2017 Mr Olmez was again witnessed serving food to customers at 23:10 and this information was shared with Wiltshire Council Licensing Authority and resulted in a formal written warning being served upon Mr Olmez;
- In the period since the revocation (March 2015 to present day) there have been 8 recorded incidents of crime and disorder at the Applicant's premises. This compares to 3 incidences of crime and disorder related to another late-night refreshment venue in the town which also has a taxi rank situated in close proximity;

- When the Police received notification of the Premises Licence application I went to visit him on two occasions to get a better understanding of what Mr Olmez's intentions were in relation to promoting the four licensing objectives. Mr Olmez was unwilling to engage or discuss these matters with me and it appeared that he did not see any need to address the areas of concern which were highlighted;
- At the visit Mr Olmez stated to me that he was a Personal Licence Holder, but when I asked him to clarify the Licensing Objectives he stated that he did not know what they were as he had not been taught them when he took the Personal Licence course;
- On the second visit to the premises Mr Olmez showed me the current leaflet from the premises – it clearly advertises that his current delivery hours are 16:00 to 00:00 – a service that his not currently licensed to provide;
- It is Wiltshire Police's view that the Applicant is unable to demonstrate strong management practices or a willingness to engage with the Responsible Authorities and support the Licensing Objectives; and
- Based on the evidence presented it is the recommendation of Wiltshire Police that the Licensing Sub Committee should refuse this application.

The Sub Committee asked the following questions of Martin O'Neill from Wiltshire Police:

Q Have things improved because of the licence being revoked – if the Premises Licence was to be granted again, do you think we would we be back where we were?

A Yes – with the taxi rank directly outside the premises and a nightclub nearby.

Q If the Licence was to be granted with conditions applied – do you think it would be beneficial to have door staff?

A Yes. They would be able to assist with moving people on and can minimise disorder.

Paul Taylor (Senior Solicitor for Wiltshire Council) asked the following question of Martin O'Neill:

Q If a condition of door staff was to be agreed by the Sub Committee what times would you suggest they would need to be provided?

A I would suggest from 23:00 until 30 minutes after the premises has closed (03:00) to deal with dispersing people away from the premises.

The Applicant was then given the opportunity to ask questions of Martin O'Neill:

Q Are you saying I need to have door staff because my premises is near to a taxi rank?

A Yes the provision of door staff would be beneficial to support the Licensing Objectives.

Q Are you thinking about other kebab shops – do they have door staff?

The Chairman interjected and asked the Applicant to only ask relevant questions.

Key points raised by Guy Sharp, on behalf of Wiltshire Council, Environmental Control and Protection Team were:

- I am a Senior Environmental Health Officer and I have worked in the Food and Safety Team since 2012. I am responsible for carrying out routine food hygiene and health and safety inspections and investigating food safety and health and safety complaints;
- There has been a long history of non-compliance with statutory requirements demonstrated by the Applicant. Since 2009 to date there have been two prohibition notices served for electrical safety issues, four improvement notices served and three hygiene improvement notices served. In 2009 a simple caution was accepted by the Applicant for failure to comply with a prohibition notice and for obstructing officers;
- When I carried out a routine inspection on 21 February 2017 I found food that was out of date – I accept that this was just a few days after the Applicant's mother had passed away. When I visited again on 19 May 2017 I again found food to have expired use by dates;
- Given the fact that there is a clear pattern of failure to comply with basic legislative requirements, I have no confidence that the Applicant has the ability to manage a well-run food establishment. He has no regard for regulations and doesn't want to engage with Officers who are trying to help him. I do not believe that any public safety conditions would be adhered to by the Applicant.

There were no questions for Guy Sharp.

Linda Holland, Licensing Manager on behalf of Wiltshire Council made the following points in summation:

- Since March 2015 the Applicant has chosen to trade outside of his permitted hours and has been fully aware that he should not be trading beyond 23:00; and
- The Applicant has failed to demonstrate any compliance with any of the regulations and if a Premises Licence was to be granted to Mr Olmez he would not comply with any conditions on his licence. Therefore the Licensing Authority requested that the application be refused.

Martin O'Neill from Wiltshire Police and Guy Sharp from Environmental Control and Protection did not wish to make any points in summation.

Kenan Olmez (via his interpreter – Gulsen Farrington) made the following points in summation:

- I had doormen in 2014 – when I applied to open my premises until 05:00 I was told that if I had an extra doorman then I could stay open until then. The security company I was using was called Safe and Sound;
- I decided on a two-week basis to have fewer doormen at my premises to see how it went. I see now that this was a mistake and now because of this I am watched and followed all the time. I have made notes since 2015 for all of the things that have gone wrong. I personally do not believe that I need door men. It shows in market research that they are not needed; and
- I thank Guy for the health and safety information – this is helpful. In 2015 I didn't have anyone to ask about gas safety but since then I have asked for the relevant certificates. When I had a visit from Guy my mother had passed away a few days before and I tried to make things better for the next visit – we will have a proper working relationship in the future.

The Sub Committee then adjourned at 12:50 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 13:30.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council confirmed that whilst no specific issues of legal advice were given the Members were reminded of the criteria that they should take into account whilst making their decision.

Resolved:

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.

Details of the evidence taken into account by the Sub Committee in reaching this decision are set out in the published Decision Notice.

(Duration of meeting: 10.30 am - 1.30 pm)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email lisa.pullin@wiltshire.gov.uk, of Democratic Services

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