

NORTHERN AREA LICENSING SUB-COMMITTEE

MINUTES OF THE NORTHERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 12 MAY 2010 AT COMMITTEE ROOM 1, BRADLEY ROAD, TROWBRIDGE.

Present:

Cllr Rod Eaton, Cllr Bill Moss and Cllr Nina Phillips

Also Present:

Mr R Hodkinson – Solicitor, Wiltshire Council

Mrs L Holland – Licensing Officer, Wiltshire Council

Miss M Gondlach – Democratic Services Officer, Wiltshire Council

Mrs K Golledge - Principal Environmental Health Officer (Licensing), Wiltshire Council

Mrs L Pullin – Democratic Services Officer (Observer), Wiltshire Council

Mr R Baylan – Applicant

Mr M Guveran – Applicant's Representative

Councillor A Bucknell – Mr England's (interested party) Representative

1. **Election of Chairman**

Nomination for a chairman were sought and it was

Resolved:

To elect Councillor Bill Moss Chairman for this meeting only

2. **Procedure of 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 1 to 5 of the agenda refer).

3. **Chairman's Announcements**

There were none.

4. **Members' Interest**

There were no declarations of Interest.

5. **Licensing Application**

Application by Mr R. Baylan for a Premises License for Lyneham Pizza and Fish Bar, 41A Calne Road, Lyneham.

The Licensing Officer introduced her report.

In accordance with the procedure detailed in the agenda the applicant and his representative and the representative for one of the interested parties were given the opportunity to address the Sub-Committee and, through the Chairman, to question one another about the detail of the application and representations. Sub-Committee members had the opportunity to question all parties.

The applicant and his representative and the representative for one of the interested parties were then given the opportunity to summarise their views. The Sub-Committee retired to consider the application.

During their deliberation the Sub-Committee members were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

Following the deliberations of the Sub-Committee the Solicitor for the Council made a statement of the material legal advice given in closed session, as follows:

1. The Sub-Committee is required to consider the evidence before them and decide if, on that basis, there is a real possibility of any of the Licensing Objectives being undermined.
2. That a license may be limited in time but limits must support licensing objectives.
3. Conditions must be achievable i.e. within the extent of the licensee and enforceable.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, statutory Guidance and Regulations and the Licensing Policy of the Council.

Resolved:

To grant the application by Mr R. Baylan for a Premises License for Lyneham Pizza and Fish Bar, 41A Calne Road, Lyneham, subject to:

- the mandatory conditions contained in the Licensing Act 2003
- additional conditions, consistent with the Applicant's Operating Schedule as follows:
 1. The license is granted for the provision of late night refreshment between the hours of 23:00 and 00:00 Sunday to Thursday and between the hours of 23:00 and 02:00 on Friday and Saturday.
 2. Litter should be cleared daily from the area immediately outside the premises and from the adjoining car park and disposed of appropriately.

For the following reasons:

The Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

The Sub-Committee have also considered the written evidence presented in the agenda, together with the oral evidence given at the hearing firstly from the applicant's representative, Mr M Guveran, and then Mr England's representative, Councillor Allison Bucknell, further to a written representation on page 41 of the agenda's documents.

The objection centres around noise and litter nuisance at night within the locality of these premises. The Sub-Committee noted that of the written objections those of Mr Houston and Ms Glass confined themselves to stating that the premises should close at the time granted but seemed to raise no objection to the specific time requested in the application.

The written representation of Mr England suggested at page 42 that the premises close at "a reasonable time i.e. 10.00 pm".

The Licensing Act 2003 requires premises to be licensed for the provision of late night refreshment between the hours of 23:00 to 05:00. Accordingly this Sub-Committee has no power to restrict these premises to a closing time of 22:00.

Finally the written representation of Ms Glass (on behalf of herself and Mr Glass) and the written representation of Mr P Ryan merely suggested that the premises should close "earlier" but made no further suggestion as to what that time should be.

The Sub-Committee noted that the applicant had dealt with those matters which were conditions upon the previous license but which were not undertaken by the previous license holder.

The Sub-Committee have considered this as an indication of the applicant's good intent and willingness to abide by the terms and conditions of a license. The Sub-Committee remained concerned about

the nuisance activities in the locality but noted, in particular, that the immediately adjoining premises had a late license until 02:30. In the circumstances and on the evidence presented the Sub-Committee could not be satisfied that such problems as may have occurred could be attributed to the premises as opposed to the kebab shop next door.

Given these circumstances the Sub-Committee was not satisfied that the granting of this license would significantly undermine the licensing objective of the prevention of public nuisance.

The Sub-Committee wished to impress upon the applicant the overriding need for him to take responsibility for the conduct of his customers whilst on the premises and immediately outside it. The Sub-Committee did not feel in a position to impose any legally binding condition but strongly urged the applicant to draw attention from his customers to the notices displayed on the premises regarding their general conduct and the requirement to show consideration to the local residents.

The Sub-Committee noted that the concern raised by Mr England about an alleged light nuisance had been addressed by the Environmental Protection Team which the Sub-Committee considered to be the appropriate body to deal with the issue.

All parties have the right to appeal to the Magistrates Court within 21 days of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

(Duration of meeting: 10.30 am - 12.35 pm)

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