

WESTERN AREA LICENSING SUB-COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 24 FEBRUARY 2011 IN COMMITTEE ROOM III - COUNTY HALL, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE AT CANAL TRUST CAFÉ, 15 FROME ROAD, BRADFORD ON AVON BA15 1LE.

Present:

Cllr Desna Allen (Chairman), Cllr Trevor Carbin and Cllr Rod Eaton

Also Present:

Cllr Bill Moss

Officers Present:

Maggie Jones (Policy & Licensing Officer – Licensing Team, West Hub) and Paul Taylor (Senior Solicitor)

1. **Election of Chairman**

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

Resolved:

To elect Councillor Desna Allen as Chairman for this meeting only.

2. **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 1 – 6 of the Agenda refers).

3. **Chairman's Announcements**

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

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

Application by Mr Hasan Tarkan Kisioglu for a Premises Licence at Canal Trust Café, 15 Frome Road, Bradford on Avon BA15 1LE.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Mrs Kisioglu on behalf of the Applicant included that:

- The premises were a very small seasonal Café;
- The applicant had not realised that some of the activities were non-licensable (for example Morris or folk dancing) and had applied for more on the Licence than they would require as applying for Premises Licence is a costly process and would be happy to negotiate;
- The activities applied for, including music, were not the applicant's main priority which was to be able to serve a limited selection of alcoholic beverages to customers;
- The applicant had no intention to turn the premises into a public house, the alcohol would mostly be provided as an accompaniment to the food, the bulk of the trade would remain with soft drinks such as tea, coffee, etc served with home baked food;
- The applicant was aware of the beauty of the site and did not wish to have any negative effects on the surroundings;
- There would be a limited choice of alcoholic beverage on offer as there were no storage facilities, such as a cellar, on the premises

The applicant offered to withdraw the provision of recorded music from their application

Key points raised by the Interested Parties (Mr J. Pearson, Mrs B. Tees, Mr B. Wilson, Mr M Wooldridge, Mr D. Williams, Mrs G. Williams and Mr A. Cook) included that:

- Public nuisance would be exacerbated by the extended opening hours and the sale of alcohol;
- Extended opening hours would lead to the garden furniture being stored away in the evening after 2300, which was in itself a noisy activity, as well as customers leaving the premises;

- The sale of alcohol would lead to customers being noisier when leaving the premises as well as the possibility of anti social behaviour taking place;
- The off-site sale of alcohol would also lead to noise and disturbances for local residents;
- The nature of the surrounding grounds caused noise problem;
- The lack of toilet facilities and the inadequacy of the litter bins would aggravate the existing issue due to the area being on the “drunken route home” from Bradford on Avon;
- Neighbouring outlets were already meeting the demand for alcohol within the area.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers. A debate ensued during which the Sub Committee discussed points including the following:

- The hours during which the public toilets were available;
- Reassurance to all interested parties that conditions could be imposed and that a Licence could be reviewed;
- Clarification of the details of the application the applicant wished the Sub-Committee to consider;
- The location of neighbouring properties with regards to the premises.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 11.00 am.

The Hearing reconvened at 12.30 pm.

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

- That additional conditions, beyond those set out in the applicants’ Operating Schedule, could only be imposed if the Sub-Committee considered them to be necessary to promote any of the licensing objectives and if there had been evidence to support them
- the playing of background music was not a licensable activity, so could be provided even though the application for recorded music had been withdrawn;
- That performances of morris dancing or dancing of a similar nature was excluded from the definition of Regulated Entertainment in the Licensing Act 2003 and was therefore not a licensable activity;
- The provision of children’s parties of the type proposed by the applicants and described in their presentation was not a licensable activity

He also informed the meeting that, during the Sub-committee's deliberations, the Licensing Officer had been asked to advise the members as to whether the existing litter bins referred to in the representations were controlled by the applicants. The Licensing Officer had not been able to confirm whether or not that was the case.

The Sub-Committee considered the representation from Mr and Mrs H. Kisioglu and the interested parties and all written and oral representations, 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 and as subsequently amended.

Resolved:

That the Application for a Premises Licence be granted as applied for with the removal of the provision of recorded music as offered by the applicant and as detailed below:

Supply of alcohol (on/off sales)	0900 to 2300	Monday to Sunday
films (indoors)	0900 to 2300	Monday to Sunday
live music (in & outdoors)	1000 to 2300	Monday to Sunday
Performance of dance (in & outdoors)	1000 to 2300	Monday to Sunday
Provision of facilities for dancing (indoors)	1000 to 2300	Monday to Sunday

Subject to the conditions in the operating schedule submitted by the applicant as follows:

- CCTV system to be installed within six months;
- Notices to be placed at the exit requesting people to leave quietly;
- Garden to be closed and outdoor lights to be switched off at 22.00;
- Regular noise monitoring to take place during any live music events and to maintain a log recording noise activities, which should be available for inspection by the Licensing Authority as required.

And subject to the following additional conditions:

- any live music outdoors must finish by 2200;

- no amplified music at anytime recorded or otherwise;
- toilet facilities to be available during opening hours;
- two litter bins to be provided and regularly emptied.

Reasons:

We have heard the evidence given at the hearing by Mr and Mrs H. Kisioglu, Mr J. Pearson, Mrs B. Tees, Mr B. Wilson, Mr M Wooldridge, Mr D. Williams, Mrs G. Williams and Mr A. Cook, some of which the committee felt were somewhat speculative. The committee considers that the conditions offered by the applicant together with the additional conditions imposed will address the legitimate concerns of the interested parties and will meet the Licensing Objectives in particular the prevention of public nuisance.

Right to Appeal

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.

Informative

The licence-holder is responsible for ensuring that the operation of the premises complies with all other legal requirements.

(Duration of meeting: 10.05 am - 12.35 pm)

The Officer who has produced these minutes is Marie Gondlach, of Democratic Services, direct line 01225 713 597, e-mail marie.gondlach@wiltshire.gov.uk

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Meriman House
Family dwelling

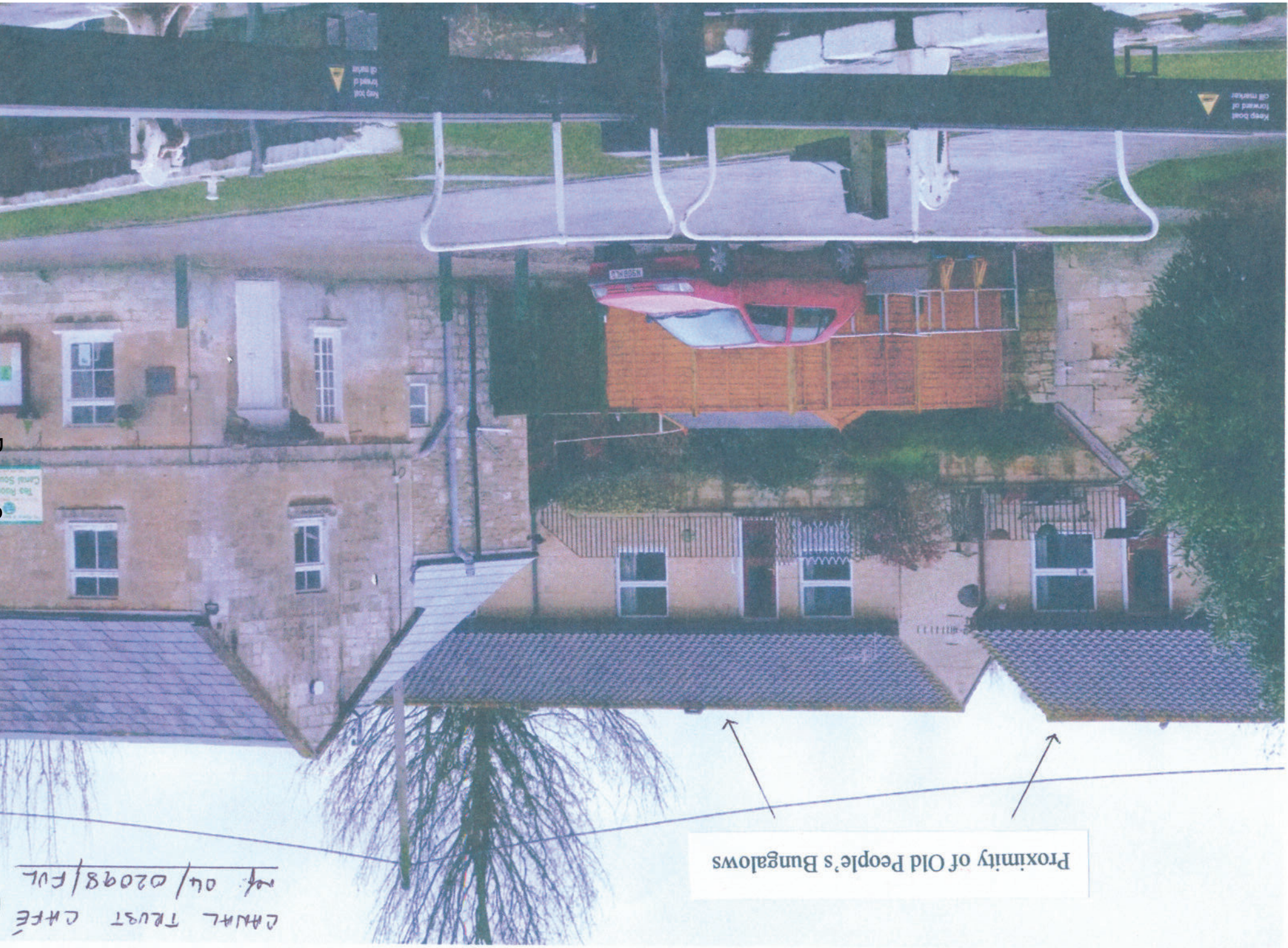
Old People's Housing

Occupant Age

- 1. Man 40-50
- 2. Mrs. Henry 80
- 3. Mrs. Norris 85-90
- 4. Bill Martin 76
Margaret Martin 73
- 5. Mr. Lassiter 80-90
- 6. Mrs. Jones 99
- 7. Man 50+

Average age = 86.8

All bedrooms at rear of
bungalows facing west
towards cafe



Proximity of Old People's Bungalows

CHART TRUST CAFE
ref: 04/02098/FUL

(B)

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CANAL TRUST CAFE
No. DL/D2099/FUL

Café garden

Proposed venue for
"musical" events

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