

SOUTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 27 JULY 2012 AT GRAND JURY ROOM, GUILDHALL, SALISBURY IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE - 16 WINCHESTER STREET, SALISBURY

Present:

Cllr Ernie Clark, Cllr George Jeans and Cllr Bill Moss

Also Present:

Debbie Mulvey (Senior Licensing Officer), Paul Taylor (Senior Solicitor), Kieran Elliott (Democratic Services Officer), Engin Kale (Applicant), Ufuc Cifci (Business Owner), Adem Esen (Solicitor for Applicant), David Harby (Counsel for Applicant), Veysel Ketencimen (Interested Party), Ian Garrod (Public Protection Officer)

6 Election of Chairman

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

Resolved:

To elect Cllr Bill Moss as Chairman for this meeting only.

7 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).

8 Chairman's Announcements

There were no announcements.

9 Declarations of Interest

There were no declarations.

10 Licensing Application

Application by Mr Engin Kale for a Premises Licence at 16 Winchester Street, Salisbury.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. The Licensing Officer clarified that the original application as listed in the agenda pack had included the sale of late night refreshments, but this had been an error by the applicant and since withdrawn, leaving the sale of alcohol the only licensable activity.

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

Key points raised by Mr David Harby on behalf of the Applicant, Mr Engin Kale, were:

- That many of the representations should not be considered valid as they were located many miles from the application site. The Solicitor for the Council clarified that current legislation and guidance required no upper limit on valid representations.
- That the applicant considered that of the 34 representations, only two should be considered as relevant; the emailed representation, and the identical letters counted as a single relevant representation.
- This was because the applicant alleged that the representations were all from friends, family and customers of Mr Veysel Ketencimen, organized into objecting to the application of Mr Kale, who was previously employed at Mr Ketencimen's business which he shared with his now ex-business partner, and current employer of Mr Kale, Mr Ufuc Cifci.
- With the consent of the Sub Committee and the Interested Party, Mr Harby presented several witness statements from the applicant and business owner, along with an assessment of the representations received, detailing alleged connections with Mr Ketencimen. He stated that the identical representations containing generic complaints only, should be treated as vexatious, and if not, then given little weight.
- Mr Harby further outlined how Mr Kale would meet the licensing objectives if the licence were granted, including introduction of a Challenge25 system, an upper limit on customers within the store, the display of notices to prevent public nuisance and the appropriate quality of CCTV installed for police and officer use.

Key points raised by the Interested Party, Mr Veysel Ketencimen, were:

- That he disputed many of the connections made by the applicant's representative regarding the representations, stating that some were known to him, but not all.
- That the addition of another store selling alcohol in the area would increase public disorder and nuisance, including an increase in crime and noise.

The parties were given the opportunity to ask questions of the Applicant, Interested Parties and Wiltshire Council Officers, including the following points:

Clarification was sought on how a limit on the number of customers in the shop would work. It was stated that this was not a legal requirement, but that the applicant intended to minimise overcrowding in the small space of the store.

Details were also sought regarding what information would be on the banners on shopfront offered by the applicant to discourage public notice, and this was confirmed as being notices asking people to respect the area, and that minors would not be served alcohol and similar sentiments.

Specifics on the procedures that would be in place regarding the checking of IDs and refused sales was raised, and the applicant's representative confirmed all floor staff would go through personal licence training to ensure correct procedures were in place.

Discussion of the location of specific representations also occurred, and their location in respect of the application site.

The Sub Committee members then 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 retired to consider the application at 10:40

The Hearing reconvened at 1200

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:

- To reemphasise to the Committee that recent changes in legislation meant there was no longer a vicinity test for representations against an application limiting how far from an application site a valid representation could be. However, distance from the application site was still relevant regarding how much weight to give to a representation.
- To remind the Committee that when considering whether representations were vexatious, the Committee could disregard the representations or decide to give them limited weight.

- To stress to the Committee that the Interested Party had not been given prior notice of the allegations made on behalf of the applicant, and that this should be taken into account when considering the allegations.

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:

The Southern Area Licensing Sub Committee has resolved to GRANT the application for a Premises Licence for 16 Winchester Street, Salisbury, SP1 1HB, with the provisions detailed below:

| | Days and Timings |
|--|--|
| Sale by retail of alcohol off sales only and opening hours | Sunday to Thursday 0700-2300 Friday to Saturday 0700-2400 |

And subject to the following additional conditions:

1. A challenge 25 policy to be operated at the premises with acceptable forms of identification to include a current passport, photocard driving licence, Touch2ID and PASS accredited identification cards. A till prompt to be operated on the sales of alcohol, and a log will be kept of any refused sales. This log will be made available for inspection upon reasonable request by the police or other relevant officers of a responsible authority.
2. CCTV with recording facilities will operate at all times that licensable activities take place. Images to be made available for inspection upon reasonable request by the police or other relevant officers of a responsible authority and to be of sufficient quality to identify individuals. Recordings to be retained for 30 days.
3. Notices are to be prominently displayed at all exits from the premises requesting that customers respect the needs of people living in the area and to leave the area quietly.
4. Staff to be trained on their responsibilities in the retail sale of alcohol, with regular refresher training undertaken. Training records to be made available for inspection upon reasonable request by the police or other relevant officers of a responsible authority.

Reasons:

The Sub Committee considered the written representations received as presented in the agenda, together with the oral representations given at the hearing on behalf of the Applicant and Interested Parties.

The Sub Committee did not consider that any of the objections demonstrated any reason to refuse the licence and that the additional conditions proposed were appropriate to meet the licensing objectives.

The Sub Committee noted the applicant's allegations that the representations made should be treated as vexatious or irrelevant. However, given their decision to grant the licence, the Sub Committee did not feel they needed to make any finding in respect of those allegations.

In reaching its decision the Sub Committee has 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 granting of this licence is without prejudice to any other consents or approvals, including any planning permission, that may be required.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence.

(Duration of meeting: 9.35 am - 12.05 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504 , e-mail kieran.elliott@wiltshire.gov.uk

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