

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 23 AUGUST 2012 AT ST JOHN'S PARISH CENTRE, 2 WINGFIELD ROAD, TROWBRIDGE, WILTSHIRE, BA14 9EA IN RESPECT OF AN VARIATION OF PREMISES LICENCE - FETA FEAST, 82 MARKET PLACE, WARMINSTER

Present:

Cllr Desna Allen, Cllr Ernie Clark and Cllr Jon Hubbard

Also Present:

David Bennett – Police Licensing Manager, Kirsty Butcher - Democratic Services Officer, Maggie Jones - Public Protection Officer - Licensing, Lauren Kemple – Solicitor and Mr Mohamad Saadi – Licence Holder

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 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 Mohamad Saadi for a Variation of a Premises Licence at Feta Feast, 82 Market Place, Warminster BA12 9AU.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. The background of the history of the premises was outlined within the report (page 9 to 12 of the agenda refer). A representation had been received from Wiltshire Police who felt that the licensing objective, the prevention of crime and disorder would be undermined as a result of the proposed change.

In accordance with the procedure detailed in the agenda, the Applicant (Mr Mohamad Saadi) and the Responsible Authority (Mr David Bennett, Police Licensing Manager) were given the opportunity to address the Sub-Committee.

Key points raised by the Applicant, Mr Mohamad Saadi were:

- He was the new owner, having just taken over the business from Mr Thnaibat.
- All breaches had occurred during the previous owner's tenure.
- He would employ one door staff and another member of staff
- The premises had never stayed open until 4.00 am as stated in Agenda Supplement 2
- He had been informed by Wiltshire Police that the breach on the 24th June 2012, as detailed in Agenda Supplement 1, would not be reported. The Police had attended and tried to assist shop staff in vacating the premises when there was a large party of people dancing around.

During questions to the Applicant Mr Saadi confirmed the he was the Mohamad named in Agenda Supplement 2 and that he owned half the business and had a business partner, Mr Shareef Nasri, with whom he shared takings and bills. He confirmed that the lease to the premises was still in Mr Thnaibat's wife's name and that it would be transferred when she returned from holiday. He explained that they had paid for half of the business and were paying the other half by monthly instalments to Mr Thnaibat. He confirmed that Mr Thnaibat played no further part in the business, being a customer only.

Key points raised by the Responsible Authority (Mr David Bennett of Wiltshire Police) were:

- The Sub-Committee's attention was drawn to sections 8 and 9 of the Guidance issued under section 182 of the Licensing Act 2003, in particular section 9.12
- There had been problems at the premises since 2006.
- Prior to the variation being granted on 15 December 2011 there had been 24 incidents where door staff had not been present.

- Since the variation to the licence in December 2011 there had been only one minor incident of crime and disorder.
- The Police believed that, despite Mr Saadi confirming he had not been responsible for decisions as an employee, he had day to day control during Mr Thnaibat's ownership.
- Agenda Supplement 2 indicated that Mr Saadi had been making decisions and controlling money whilst employed by Mr Thnaibat.
- Since the review hearing on 15 December 2011 there had been 4 further breaches and a warning letter sent to Mr Thnaibat
- The Police were concerned that problems would return should any variation be granted.

During questions to the Responsible Authority Mr Bennett confirmed that since the review in December 2011 there had been occasional breaches but there had only been one minor instance of crime and disorder. He stated the Police's major concern was that Mr Saadi would not adhere to any conditions set especially in relation to door staff and by increasing the opening hours crime and disorder would increase as seen historically.

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 11.05 am.

The Hearing reconvened at 12.05 pm.

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council made a statement that no material legal advice had been given in closed session other than to draw attention to paragraph 9.12 of the Guidance issued under section 182 of the Licensing Act 2003.

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:

That the Application for a Variation of a Premises Licence at Feta Feast, 82 Market Place, Warminster be granted as detailed below:

The variation to the provision of Licensable Activity:

Late Night Refreshment

Friday and Saturday 23.00 to 03.00 (the following day)

New Years Eve and Boxing Day 23.00 to 05.00 (the following day)

And subject to the following conditions:

Conditions to be varied by the addition of the following:

- 1) A minimum of two SIA registered door staff to be engaged and be on duty at the premises from 01.00 (the following day) on Friday and Saturday nights, New Year's Eve and Boxing Day nights until close of business.

Reasons:

The Sub Committee considered the written evidence presented in the agenda and the supporting evidence provided by the Police, together with the oral evidence given at the hearing from Mr David Bennett (On behalf of the Responsible Authority), and Mr Saadi (The Licence Holder).

In coming to the decision the Sub Committee accepted the evidence presented by Mr Bennett which drew the Sub Committee's attention to section 9.12 of the guidance issued under section 182 of the Licensing Act 2003 and also detailed that whilst breaches had occurred since the licence had been reviewed on 15 December 2011 there had been only one minor instance of crime and disorder.

The Sub Committee accepted the evidence presented by Mr Saadi that he had just taken over the business in July 2012, having previously been an employee working there and the assurances that he would adhere to the conditions as he wanted to run the business properly.

It was noted that the Council now has the power to ask for a review of the licence should there be any problems in the future.

The Sub Committee considered that the addition of the condition set out above was appropriate to meet the licensing objectives and to address the relevant concerns of the police regarding public safety and crime and disorder.

In reaching its decision the Sub-Committee considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right of Appeal:

All parties have the right to appeal to the Magistrates' Court within 21 days of this decision. Any person or Responsible Authority has the right to request the Licensing 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 where a request is made by a person other than a Responsible Authority, a review will not normally be held within the first twelve months of a licence, or within 12 months of any previous review save for the most compelling reasons.

6 **Appendix 1 - Existing Premises Licence**

7 **Appendix 2 - Application for Variation of Premises Licence**

8 **Appendix 3 - Representations**

9 **Appendix 4 - Supporting Evidence**

10 **Appendix 5 - Location Map**

(Duration of meeting: 10.30 am - 12.06 pm)

The Officer who has produced these minutes is Kirsty Butcher, of Democratic Services, direct line , e-mail

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