

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

18 JULY 2011

Application for Review of a Premises Licence; *Favourite Chicken and Ribs, 3 Market Street, Trowbridge, BA14 8EY*

1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of Favourite Chicken and Ribs made by Wiltshire Police.

2. Background Information

- 2.1 An application for the Review of Favourite Chicken and Ribs' Premises Licence for late night refreshment, has been made by Wiltshire Police. Following advertisement of the application, no additional representations from responsible authorities or interested parties have been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 52 (3) of The Licensing Act 2003, the Licensing Sub Committee is required to take such steps as it considers necessary for the promotion of the licensing objectives.
- 2.3 The licensing objectives are:
- i) The Prevention of Crime and Disorder;
 - ii) Public Safety;
 - iii) The Prevention of Public Nuisance; and
 - iv) The Protection of Children from Harm.
- 2.4 Such steps are:
- i) To modify the conditions of the licence.
 - ii) To exclude a licensable activity from the scope of the licence.
 - iii) To remove the designated premises supervisor.
 - iv) To suspend the licence for a period not exceeding three months.
 - v) To revoke the licence.
 - vi) To determine that no steps are necessary

Government Guidance issued under s.182 of the Licensing Act states that:

“Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of

the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives

- 2.5 Since November 2005, the premise benefits from a Premises Licence issued under the Licensing Act 2003.
- 2.6 The Premises Licence was subsequently varied in August 2009 to extend the hours of late night refreshment and replace the existing CCTV condition with new wording, to be applied as a new condition on the licence. Following representation from Wiltshire Police, the application for variation was subject to a hearing, held on 25 August 2009 at the Wiltshire Council Offices, Bradley Road, Trowbridge. A conditional licence was subsequently granted by the Licensing Committee. The Premises Licence is attached at **Appendix 1**.

3. Details of the Grounds for Review

- 3.1 On the 8 June 2011, an application for a review of the premises licence was served on the premises and the Licensing Authority. The review of the licence has been requested by Wiltshire Police on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives. The grounds for review are:

“Despite police and Wiltshire Council engagement with the management, police are increasingly concerned over the number and nature of incidents associated with this premise.

Additionally the management display a lack of appreciation of their role in promoting the licensing objectives evidenced when engaging with police officers and staff.

Through monitoring police conclude that the management of the premises do not actively promote the licensing objectives, the prevention of crime and disorder and public safety, which in turn leads to increased levels of crime and disorder associated with the premise”.

- 3.2 The application for review is attached as **Appendix 2(a)**. The evidence relied upon by Wiltshire Police in support of their application is contained within **Appendices 2(b)**.

4. Consultation and Representations

- 4.1 The review process requires a public notice to be posted on the premises for a period of 28 days, together with a copy of the notice posted at the offices of Wiltshire Council, 165 Bradley Road, Trowbridge, Wiltshire, BA14 0RD. During the consultation period no additional relevant representations have been received.

- 4.2 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.
- 4.3 The police have specified the following as the reasons for calling the review:
- 4.3.1 Between 1st of January 2010 and 31st May 2011 in excess of 50 incidents linked to the premise have been recorded by police. 62% of these being incidents of disorder.
- 4.3.2 Police find that over 76% of incidents of disorder occur after 04.00 hours.
- 4.3.3 In the same period police have found the premise to be operating beyond its permitted hours on several occasions despite previous formal warnings. Police find that on each occasion the premise is in breach of the premise licence.
- 4.3.4. Over a period of eight months police have experienced difficulties retrieving, or have been unable to retrieve CCTV images from the system installed at the premises, police find that on each occasion the premises is in breach of the premise licence.
- 4.3.5 Police now believe that additional conditions are required to ensure that the licensing objectives the prevention of crime and disorder and public safety are met.
- 4.4 Recommendations to the Committee:
Police believe and can provide evidence to support the view, that the terminal hour on a Thursday, Friday and Saturday night of 05.00 hours contributes to the levels of crime and disorder.

Police request that consideration be given to the following –

- The premise to employ two SIA registered staff from midnight to the terminal hour of the licence.
- The premise licence is to cease at no later than 03.30 hours on a Thursday, Friday, Saturday night.

Note: The Police may not raise matters at the hearing unless they have already referred to them in the review application. The Licensing Authority may nevertheless take into account documentary or other information produced by the Police in support of their application, if it is provided to the Licensing Authority before the hearing, or at the hearing with the consent of all the other parties.

5. Legal Implications

- 5.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

6. Officer Recommendations

- 6.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

7. Right of Appeal

- 7.1 It should be noted that the Premises Licence Holder and the Responsible Authority may appeal the decision made by the Licensing Sub Committee at the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 7.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee is suspended until any appeal is heard and any decision made by the Magistrates Court.
- 7.3 The Premises Licence Holder and all Interested Parties have been informed of the date, time and location of the hearing and their right to attend and be represented.
-

Report Author: Jo Quartley,
Licensing Officer - Licensing Team – West Hub

7 July 2011

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- b Current Premises Licence**
- c Application for a Review by Wiltshire Police**
- d Evidence in support of Application for Review**
- e Location Map**