

## NORTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 18 APRIL 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT DOMINO'S PIZZA, 16-17 NEW ROAD, CHIPPENHAM, WILTSHIRE SN15 1HJ.**

**Present:**

Cllr Desna Allen, Cllr Mark Griffiths and Cllr Jon Hubbard

**Also Present:**

Maggie Jones (Licensing Officer), Cllr Chris Caswill (Ward Member), Paul Taylor (Solicitor) and Chris Marsh (Democratic Services Officer)

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The agenda and minutes of the adjourned meeting held 7 April 2011 can be found at:

<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=206&MIId=5790&Ver=4> .

At this reconvened meeting, Maggie Jones attended in place of Linda Holland as Licensing Officer.

12. **Election of Chairman**

As this meeting had been reconvened, Cllr Jon Hubbard remained in the Chair for this meeting.

13. **Procedure for the Meeting**

The Chairman summarised the progress made in determining the application prior to the adjournment of the meeting held 7 April 2011 and the point from which the procedure would proceed, referring parties to the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the original Agenda refers).

14. **Chairman's Announcements**

The Chairman informed attendees that Maggie Jones, Licensing Officer, would be substituting for Linda Holland, Senior Licensing Officer, at the meeting.

The Chairman confirmed that additional late information had been submitted by the Applicant in support of their application subsequent to the adjournment of the meeting held 7 April 2011. Having considered the material, the timing of its provision and the resolution of the meeting held 7 April 2011, it was,

**Resolved:**

**Not to consider the additional information submitted since the adjournment on 7 April.**

15. **Declarations of Interest**

There were no interests declared.

16. **Licensing Application**

**Application by MSG Sandhurst Ltd for a Variation of a Premises Licence at Domino's Pizza, 16-17 New Road, Chippenham, Wiltshire SN15 1HJ.**

The Chairman invited the Solicitor to the Applicant to summarise the points made prior to the adjournment of the meeting held 7 April 2011, before hearing the views of the Interested Party.

In summarising, Jonathan Smith, solicitor on behalf of the Applicant, referred to:

- The summary of the scope of the application;
- Proposed conditions, as agreed with Wiltshire Police;
- The nature of the business and its customers;
- Domino's' corporate policy, as represented in the Operational Plan, Safety and Security Strategy, etc;
- Premises' layout, access, operation and previous lack of complaints on operation to date;
- Context of the local area in terms of provision of late night refreshment;
- Results of recent survey on customer service and business footfall; and
- Expectation that proposed restriction on use of delivery mopeds would not include electric mopeds that may be used in future.

Key points raised by the Interested Party, Cllr Chris Caswill, the Local Member, were:

- Emphasis on decision-making in Licensing procedures based on local knowledge, as referred to in the Thwaite's appeal case;
- Proximity of premises to domestic dwellings, of which there are 23 close by and nearby guest house;
- Access issues presented by the one-way system in operation on New Road, and the potential implications of this for emergency vehicles;

- Distinction between 'town centre' area and location of premises, marked by the railway arches;
- Substantial change in hours of operation applied for, if granted enabling business to trade for 22 hours per day, all week;
- Acceptance of proposed exception to condition regarding mopeds would depend on the noise created by electric mopeds in operation;
- That the requested counter service until 2.00 am is at odds with the evidence on footfall provided by the applicant;
- Hours as applied for would attract customers who had been drinking in the town centre or at the Little George pub further up the hill;
- Drinking culture and associated problems in town centre is exacerbated by late night takeaways, already putting severe demand on police time;
- Preparation time of food served could be problematic in containing drunk customers for several minutes;
- Concerned over decisions based on 'unevidenced forecasting', as referred to in the Thwaite's appeal case; and that
- Local knowledge should be used in determining the application, irrespective of acceptance by Wiltshire Police, on account of unique local circumstances warranting consideration.

The parties were given the opportunity to ask questions of the Applicant, Interested Party and Wiltshire Council Officers. A debate ensued in which the Sub Committee discussed:

- The scope of licensable hours of service and decision to be made;
- The type of delivery vehicles considered acceptable by all parties;
- Existing problems in Chippenham town centre, and the potential impacts of the application, if granted, in respect of these;
- Views of Wiltshire Police in respect of this application, subject to conditions;
- Domino's' existing relationship with the pub trade and its customers;
- The provision of CCTV on the premises and the availability of footage;
- Local circumstances around the additional hours applied for in general; and
- The necessity and proportionality of measures potentially taken to ensure that the Licensing Objectives are met.

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 7.00 pm

The Hearing reconvened at 7.30 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 any conditions imposed in approving the application should be necessary and proportionate so as to promote the Licensing Objectives.

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 and it was,

**Resolved:**

**To approve the Application for a Variation of a Premises Licence at Domino's Pizza, 16-17 New Road, Chippenham, Wiltshire SN15 1HJ as detailed below:**

Provision of Late Night Refreshment

Daily 23:00 hrs to 05:00 hrs

**And subject to the following conditions:**

- 1) The Premises Licence Holder will adhere to the Operational Plan as submitted to the Authority;
- 2) The counter service will only be open to the general public until 0200 hours. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late night refreshment via the delivery service;
- 3) Any deliveries from the premises will only be made to a customer's place of residence or customer's place of business;
- 4) CCTV coverage is to be maintained from at least six cameras on the premises, in line with the Operational Plan, including coverage of the counter service area and immediate vicinity of the premises. CCTV recordings are to be kept for at least 31 days and made available to Wiltshire Council and Wiltshire Police on reasonable request; and
- 5) For the avoidance of doubt, the exclusion of 'mopeds' from the delivery service as detailed in the Operational Plan will also include motorised scooters, motorcycles, etc, with the exception of fully electrically-powered vehicles.

In reaching its decision, the Committee took into account the representation from the applicant and the interested parties, 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. The Sub-Committee also noted that the Police raised no objection to the application, subject to the agreed conditions.

### **Reasons**

The Sub-Committee considered the evidence given at the hearing by Mr Jonathan Smith and Cllr Chris Caswill. The evidence presented indicated to the satisfaction of the Sub-Committee that the applicant has considered the implications of a varied licence and offered robust strategies to manage these.

The Sub-Committee noted the concerns of Cllr Caswill with regard to delivery vehicles and amended the condition accordingly and also amended the condition with regard to CCTV to ensure that there is evidence captured of any anti-social behaviour by customers.

The Sub-Committee considered 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 and prevention of crime and disorder.

### **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: 6.00 - 7.35 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line 01225 713 597, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

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