

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 18 JULY 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A REVIEW OF THE PREMISES LICENCE AT FAVOURITE CHICKEN AND RIBS, 3 MARKET STREET, TROWBRIDGE BA14 8EY.

Present:

Cllr Rod Eaton, Cllr Nina Phillips and Cllr Jonathon Seed

Also Present:

Maggie Jones (Licensing Officer), Chris Marsh (Democratic Services Officer and Paul Taylor (Solicitor)

16. **Election of Chairman**

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

Resolved:

To elect Councillor Jonathon Seed as Chairman for this meeting only.

17. **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).

18. **Chairman's Announcements**

The Chairman noted that the licence holder was absent from the hearing at the scheduled start time for the hearing. It was agreed to delay the start of the hearing to allow time for him to arrive.

Having waited 20 minutes, the Licensing Officer confirmed that the Mr. Olmez, the premises licence holder, had received a copy of the agenda and that she had spoken to him by phone on Friday 15 July, when he had confirmed his intention to attend the hearing. It was also confirmed that officers had

unsuccessfully attempted to contact Mr. Olmez by both mobile and landline phone at 9.37 am on 18 July.

Members were therefore satisfied that every effort had been made to ensure the licence holder's attendance. It was therefore agreed to proceed with the hearing in the absence of Mr. Olmez.

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

19. **Declarations of Interest**

There were no interests declared.

20. **Licensing Application**

Application for the review of a Premises Licence by Wiltshire Police in respect of Favourite Chicken & Ribs, 3 Market Street, Trowbridge, Wiltshire BA14 8EY.

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

In accordance with the procedure detailed in the agenda, the Responsible Authority was given the opportunity to address the Sub-Committee.

Key points raised by Jacqui Gallimore on behalf of the Responsible Authority were:

- That police are concerned at the volume and frequency of incidents within and immediately outside the premises since the variation of the premises licence in August 2009;
- There have been 55 definitively linked incidents in this time, of which 30 related to violent disorder;
- That the overwhelming majority of incidents have occurred between the hours of 0300 and the terminal hour of the licence;
- That by comparison with other similar businesses, the premises has an anomalously high rate of police call-outs;
- Officers have witnessed the premises operating beyond 0500, in contravention of the condition of the current premises licence to close by 0500;
- Difficulties had been experienced in obtaining suitable CCTV footage on request from the premises, although this is stipulated in the conditions of the existing licence, to aid investigations. However, following a recent inspection this issue appeared to have been adequately addressed by the licence holder ; and
- That realistic expectations of the night time economy are held, but that the premises puts a disproportionate demand upon police resource.

Mr. Olmez, the premises licence holder, arrived at 11.20 am, after the end of the representations by the police. Mr. Olmez confirmed that he had received a copy of the police's representations as set out in the agenda and that he had no questions on those representations.

Key points raised by the licence holder, Mr K. Olmez, were:

- That the proposal of the responsible authority to require the employment of door staff could be applicable on a Saturday, but would not be necessary on any other day due to low footfall;
- That difficulties in obtaining CCTV footage experienced by the police previously had been due to technical faults, and that the police are now satisfied that the system is fully operational;
- That the premises staff or any door staff are unable to police the street outside, so to attribute incidents in the street to the premises is unfair;
- That a reduction of operational hours over the weekend would have a detrimental impact upon the financial viability of the business; and
- That discretion has always been applied to the time of closing the premises, and at times getting customers to leave has been problematic.

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

- Incidents requiring police attendance linked to the premises since the extension of its licence in 2009;
- Proportion of incidents that have occurred within the extended hours;
- Potential for displacement of this effect if the premises were not in operation;
- Reported breaches of the current premises licence in respect of closing times;
- The prospect that door staff are employed in the early hours of Saturday and Sunday mornings;
- Previous difficulties in obtaining CCTV footage, and the prospect of reliably doing so in future; and
- The realistic expectations of the night time economy, and the demands placed upon police resource.

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 12.00 noon.

The Hearing reconvened at 1.00 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 the Sub-Committee should act on the evidence provided on the day alone, and that any measures taken in respect of the licence in question must be necessary and proportionate to meet 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

Resolved:

To vary the premises licence, by adding or amending the licence conditions as follows:

1) Provision of late night refreshment:

Sunday – Wednesday:	2300 hours to 0400 hours the following day
Thursday – Saturday:	2300 hours to 0300 hours the following day

- 2) That the premises doors shall be closed and locked at the terminal hour of the licence on the relevant day
- 3) The licence holder is to employ two SIA registered staff from midnight to the terminal hour of the licence on Thursday, Friday and Saturday nights
- 4) CCTV will operate during licensable hours and record both internally and at the front of the premises, externally. Recordings will be kept for a minimum of 30 days and will be made available, upon request, to the police, licensing officers and any authorised officer by staff suitably trained and competent in providing such information

The existing conditions relating to staffing and litter as detailed in the current premises licence remain effective

Reasons

The Sub-Committee accepted the police evidence of the recorded incidents of violence and disorder that were linked to the premises. Although the Licence holder was not present at the hearing when those details were presented, they were set out in the agenda papers which he had previously received and he did not challenge them when asked about them. The Sub-Committee accepted that these incidents had occurred and that they were linked with the operation of the Favourite Chicken premises.

The Sub-Committee accepted the analysis of the recorded incidents of violence and disorder. These showed that the vast majority occurred on Friday and Saturday nights, with about 45% of them occurring between 4.00 and 5.00 a.m. and about 20% between 3.00 and 4.00 a.m.

The Sub-Committee noted that the number of recorded incidents of violence and disorder associated with the other two late night refreshment premises in Trowbridge Town Centre was considerable lower than those for Favourite Chicken.

In the view of the Sub-committee, given the problems of disorder associated with the premises, it was necessary and proportionate to limit the hours of operation on Friday and Saturday nights and also to require qualified door supervisors to be present on Thursday, Friday and Saturday nights in order to promote the licensing objectives of preventing crime and disorder and preventing public nuisance.

The Sub-Committee also heard evidence of a number of incidents when the premises had remained open after the time when it should have been closed, in accordance with the conditions on the licence.

The Sub-Committee heard that availability of CCTV footage had been limited in the past, but noted that the premise's CCTV system had recently been inspected and found to be in working order a matter of weeks ago. The Sub - committee found no reason to suggest that footage should not be available on request to relevant authorities in future. They were concerned, however, that Mr. Olmez appeared to be the only member of staff who know how to operate the CCTV system, although Mr. Olmez had stated that he was usually present at the premises. The Sub-committee considered it necessary to amend the condition regarding CCTV, to ensure that reasonable access to recordings could be obtained.

The Sub-Committee also considered Mr Olmez's justifiable assertion that neither he nor any door staff employed could control incidents that occur on the street in the vicinity of the premises. However, the Sub-Committee were satisfied that the incidents outside the premises, as reported by Wiltshire Police, had been due in part, if not wholly, to the operation of the premises at the hours in question.

In reaching their decision, the Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing.

The Sub-Committee took into account the evidence presented by Wiltshire Police and Mr. Olmez pursuant to the following licensing objectives:

- The prevention of crime and disorder
- Prevention of public nuisance
- Public safety

Right of Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of written notification 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.

(Duration of meeting: 9.50 am - 1.05 pm)

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