

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

15 DECEMBER 2011

Application for Review of a Premises Licence;
Feta Feast 82 Market Place, Warminster BA12 9AW
Licence Holder – Mr Sa'd Thnaibat

1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of Feta Feast made by Wiltshire Police.

2. Background Information

- 2.1 An application for the Review of Feta Feast's 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 January 2006 to extend the hours of late night refreshment. Following representation from Wiltshire Police, the application for variation was subject to a Hearing, held on 22 February 2006 at the Council Offices, Bradley Road, Trowbridge. A conditional licence was subsequently granted by the Licensing Committee.
- 2.7 An application to transfer the Premises Licence to Mr Sa'd Thnaibat was received on the 13 July 2011. The Premises Licence is attached at **Appendix 1**.
- 2.8 In July 2011, the Licensing Officer for Wiltshire Council, wrote to Mr Thnaibat enclosing the re-issued Premises Licence. The letter also included advice with regard to the terms and conditions to which the licence was granted. A copy of this letter is attached as **Appendix 3**.

3. Details of the Grounds for Review

- 3.1 On the 24 October 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:
 - 3.2 The premises was the subject of a police objection to the variation of a premises licence in February 2006, the Licensing Committee found that there was crime and disorder relating to the premises, in particular after midnight and imposed the following conditions:-
 - (a) Two number door staff to be employed and to be on duty at the premises between the hours of midnight and 0300 hours on a Wednesday, Thursday, Friday and Saturday evening. There is no requirement for door staff if the premises closes at 0200 hours.
 - (b) The seating provision at the premises to be removed after 2300 hours on Wednesday, Thursday, Friday and Saturday evening.
 - 3.3 In June 2011 the current Premises Licence Holder took over the business, since this time there have been numerous breaches of the premises licence in relation to the provision of door staff.
 - 3.4 The premises and it's immediate vicinity continues to be the location for crime, disorder and anti-social behaviour and police find that the conditions above

are still relevant and necessary to promote the licensing objective “the prevention of crime and disorder”.

- 3.5 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 In July 2011 Wiltshire Council licensing officers wrote formally to the premises licence holder reminding him of his obligations to the licence, police officers and police licensing officers have reiterated this advice over a period of two months, during which the premises were found to be in compliance on only one weekend.
- 4.3.2 The premises licence holder does not actively promote the licensing objective, the prevention of crime and disorder and displays a blatant disregard for the licensing legislation. In addition the premises licence holder has been uncooperative and obstructive when dealing with police.
- 4.3.3 Police now believe that only the revocation of the licence will ensure that the licensing objectives are promoted.

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.
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Report Author: Maggie Jones
Licensing Officer - Licensing Team – West Hub

22 November 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

- 1 Current Premises Licence**
- 2a Application for a Review by Wiltshire Police**
- 2b Evidence in support of Application for Review**
- 3 Licensing Officer Letter to Mr Thnaibat**
- 4 Map**