

NORTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 3 NOVEMBER 2011 AT COUNCIL CHAMBER, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN PREMISES LICENCE APPLICATION - 9 THE BRIDGE, CHIPPENHAM

Present:

Cllr Trevor Carbin, Cllr George Jeans and Cllr Peggy Dow

Also Present:

Anna Thurman – Democratic Services Officer
Paul Taylor – Senior Solicitor
Jo Lloyd – Licensing Officer
Jacqui Gallimore – Police Licensing Officer
Sergeant George – Police
Mrs Yuk Ling Lee – Applicant
Mr Patterson – Acting for Applicant
Mr Crook – Interested Party

42. **Election of Chairman**

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

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

43. **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 – ?? of the Agenda refers).

44. **Chairman's Announcements**

The Chairman gave apologies from Cllr Chris Caswill, Ward Member and from Cllr Desna Allen.

45. **Declarations of Interest**

There were no interests declared.

46. **Licensing Application**

Application by Mrs Yuk Ling Lee for a Premises Licence at 9 The Bridge, Chippenham (Fortune Fish and Chips).

The Chairman asked the Licensing Officer to deliver her report to the Committee. She detailed following points for consideration:

- The application was for a premises licence for the provision of late night refreshment on Sunday – Thursday from 11pm – 2am and Friday and Saturday 11pm - 4am.
- The premises had been previously licensed for late night refreshment as a fish and chip venue for Sunday - Thursday 11pm – 1am and Friday and Saturday 11pm – 1.30am. The licence was not transferred and no interim authority notice was served.
- Representations have been received from the Police (Relevant Authority), a local businessman (Mr Crook) and the Ward Member (Cllr Caswill), (Interested Parties).

There were no questions for the Licensing Officer.

Mr Patterson, spoke of behalf of Mrs Lee (Applicant). The key points made were;

- The Applicant has an extensive background spanning 25 years with various premises in Melksham, Chippenham including the Fortune Inn, situated on the outskirts of the Town and in Sussex.
- The Applicant is a current and active member of Pub Watch.
- The Applicant has agreed, in conjunction with the Police, not to utilise 'the hatch' to serve take away food within the licensable hours and to install CCTV to the standard required.
- The Applicant would not be prepared to employ door staff at present as she has not experienced problems with crime and disorder and it would not prove to be financially viable.
- It was explained that although an application until 4am was being applied for, it was not the intention to use this all the time, as it may not be financially viable, but it was felt that the Applicant should be able to

compete with other late night establishments who were able to sell take away food until 4am.

The Chairman invited questions to the Applicant. The Licensing Officer on behalf of the Police (Jacqui Gallimore) asked whether the Applicant had a late night licence on any of her other premises. She replied that she did not. Members of the Sub Committee sought clarification on a number of points including:

- Had a risk assessment been carried out in relation to 9 The Bridge? The Applicant replied that she had not done so.
- Did the Applicant have experience of working in the late night economy? The Applicant explained that she did not have experience of working at the prescribed hours of the licence, however she was member of Pub Watch and ran a licensed premises in the town and had many years experience as proprietor of take-away food establishment within the County.
- Would the Applicant use an operating policy? She would rely on common sense and her extensive background in take-away food retail.

The Chairman invited the Responsible Authority, the Police, to present their case. The Police Licensing Officer explained that this was not a heavily contested Licence, and that there had been a very successful meeting with Mrs Lee to discuss a number of concerns. However, she informed the Sub Committee that the Bridge has been identified as hot spot by Police analysts. She introduced the Chippenham NPT Sergeant to detail the issues surrounding the geography of the area. He explained that this was a busy area due to the late night licensed activity and there was also a taxi rank, and that due to these factors, people massed in the area. Thirty five of the 163 incidents reported between July 2010 and July 2011 had occurred in vicinity of Fortune Fish and Chips (9 The Bridge) and that peak times were between 01.00 hours and 02.30 hours Sunday.

The Chairman invited questions from the applicant and the Sub Committee. The representative for the Applicant reminded the Sub Committee that her application for a licence was for the provision of food and not alcohol. He asked whether evidence suggested that another late night establishment permitting the sale of hot refreshment would change the dynamic of the area explaining that another establishment would alleviate the congested area. The Sergeant explained that he was unable to answer that question.

The Chairman invited Mr Crook (Interested Party) to address the Sub Committee, he made the following points;

- As a franchisee owner of Subway he works the majority of the late night openings.
- A risk assessment was undertaken to assess the clientele base, level of business and develop an operating policy.

- Door staff are used, when appropriate, based on 'what's on' in the Town Centre.
- Door staff monitor the flow of customers in and out of Subway and prevent queue jumping.
- He was not averse to the application but requested that there was a level of responsibility associated with the opening a late night refreshment establishment within this area.

The Chairman invited questions. Mr Patterson asked for clarity on the employment of door staff, Mr Crook confirmed that it was not a condition of the licence. The Police Licensing Officer informed the Sub Committee that Subway worked well in partnership with the Police to ensure the safety and security of the public.

The Chairman invited the Applicant and Interested Parties to sum up their cases.

Mr Patterson reminded the Sub Committee that the application was for the provision of late night provision of fish and chips and that the applicant had agreed to implement CCTV and not to use 'the hatch' for the serving of food. No other late night refreshment establishment has a condition on its licence to stipulate the use of SIA door staff and the proposition by the Police that another late night establishment selling food would increase crime and disorder is supposition and not supported.

The Police Licensing Officer asked the Sub-Committee to consider whether the application supported the licensing objectives emphasising that Mrs Lee had no experience of operating within the late night economy. She stated that the Police did not believe that there would be any differentiation by members of the public between a fish and chip shop and other late night refreshment establishments.

Mr Crook stated that the majority of his concerns had been addressed and that he would welcome a risk assessment to be undertaken into the viability of using door staff at busy times.

The Sub Committee then retired to consider the application at 12.50pm

The Hearing reconvened at 1.30pm

Following the deliberations of the Sub Committee Members, the Solicitor for the Council reported that no material legal advice had been given in closed session, other than to draw members' attention to the Council's policy on the cumulative impact of licensed premises and the related provisions in the statutory guidance.

The Chairman read out the decision of the Sub-committee, as follows:-

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 Premises Licence at 9 The Bridge, Chippenham be granted as detailed below for,

The Provision of Late Night Refreshment:

Sunday to Thursday	23.00 to 02.00
Friday and Saturday	23.00 to 04.00

And subject to the following additional conditions:

- 1) CCTV to be installed to cover the internal area and all exits and entrances, CCTV to be of sufficient quality as to enable identification. Images to be securely stored for a period of not less than 28 days and produced to a police officer or council licensing officers on request.
- 2) A risk assessment to be prepared, maintained and adhered to, to address the Crime and Disorder Objective to the satisfaction of the Licensing Authority.
- 3) The sale of hot refreshment after 23.00 and before 04.00 hours be restricted to shop area only, the use of the 'hatch' is not permitted during licensable hours.
- 4) Regular attendance by the Licence Holder or their representative at Pub Watch meetings.

Reasons:

The Sub Committee considered the evidence of crime and disorder in the general area as submitted by the Police, in the light of which the Sub Committee imposed the conditions as detailed above. The Sub Committee considered the request of the police that there be a condition requiring door staff to be provided. However the Sub Committee considered that this condition would be excessively onerous in view of the fact that it is not a requirement at other late night refreshment premises in the vicinity.

Evidence:

In reaching its decision the Sub Committee has considered 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 have also considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from Mr Patterson (On behalf of the Applicant), and Mr Crook, (Interested Party) and the Police.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence. A review would not normally be considered unless a reasonable period has elapsed since the grant of the licence.

(Duration of meeting: 10.30 am - 1.30 pm)

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