

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

3 AUGUST 2012

Application for a Premises Licence for Late Night Refreshment Licence; Mobile Food Trailer, Bath Road Car Park, Melksham

1. Purpose of Report

- 1.1 To determine an application for a Premises Licence in respect of a Mobile Food Trailer to be situated in the Wiltshire Council Bath Road Car Park Melksham. The Applicant is a Mr Mehmet Yilmaz.

2. Background Information

- 2.1 An application for a Premises Licence for Late Night Refreshment in respect of a Mobile Food Trailer has been made by Mehmet Yilmaz for which relevant representations 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 18 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers appropriate for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy
- 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 grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
 - ii) To reject the application.
- 2.5 On 15 June 2012 an application for a Premises Licence was received and accepted as a valid application.

2.6 The application as applied for is as follows:

Licensable Activity	Timings	Days
Provision of late night refreshment (Outdoors)	2300 – 0100	Sunday, Monday, Tuesday, & Wednesday
	2300 – 0200	Thursday
	2300 - 0300	Friday & Saturday

A copy of the application from Mehmet Yilmaz is attached as **Appendix 1**.

2.7 This is a new business, which is not yet trading. The premises are not currently licensed for any activity.

2.8 As Mr Yilmaz wishes to trade on land owned by Wiltshire Council, he has also been required to apply for Street Trading Consent. Street Trading Consent is the selling, exposing or offering articles for sale in a street or on Council owned land. He has specified on his application for a Late Night Refreshment Licence that the opening hours will commence on all days from 1800 hours.

2.8 A location plan of the area to be licensed is attached as **Appendix 6** to this report.

2.9 A copy of the plans submitted by the Applicant with the application, will be available at the Hearing.

3. Consultation and Representations

3.1 The application process requires a public notice to be posted on the premises for a period of 28 days, in addition to a notice in a local publication. During the consultation period relevant representations have been received from eight Interested Parties and the Police.

3.2 Responsible Authority

- Wiltshire Police – see comments in para 3.6 below.

3.3 Interested Parties

- Melksham Town Council
- Mehmet Sen, The Kebab House 4 Bank Street Melksham
- Mrs Tugba Sen, 24 Bank Street Melksham
- Sefa Sen, 4 High Street Melksham
- Harun Ozdilek 54A Union Street Melksham
- Ibrahim Zengi, 21A Church Street Melksham
- Aydin Pirbudak, Acropolis, 21 Church Street Melksham
- Mrs Melike Diawara (representation received by email)

3.4 A summary of the representations made, is detailed in the table below:

Representation	Licensing Objective	Accepted	Comments
Anti Social Behaviour/ Vandalism	Crime & Disorder	Yes	
Litter	Public Nuisance	Yes	
Smell	Public Nuisance	Yes	
Suitability of location	Public Safety/Public Nuisance	Yes	
Safety of children	Protection of Children from Harm	Yes	Late Night Refreshment is only licensable between the hours of 2300 and 0500

3.5 The relevant representations are attached as **Appendix 2**.

3.6 The Wiltshire Police have not made a formal objection to this application and have advised that under normal circumstances, they would not have seen an issue with this application. However, the Police do have concerns over increase of Anti Social Behaviour should the Vendor be allowed to trade in this location. The areas of Waitrose and Bath Road car parks having recently been the subject of anti social behaviour and criminal damage. The Police also advise that issues in the area have also been raised with the Wiltshire Council Melksham Area Board.

Because of these concerns the Melksham Town Community Beat Manager met with Mr Yilmaz to discuss the Police concerns. As a result of this meeting the Police have not made an objection to the application for a premises licence but have agreed with Mr Yilmaz to ask that the following conditions be added to the licence, if granted:

1. Minimum of 2 staff to be working during all trading times to enable customers to be managed effectively, ensuring no crowding and to encourage dispersal from area once served.
2. CCTV system to be installed and properly maintained, ensuring adequate coverage of the counter area and immediate vicinity of the stall. Recordings are to be retained for no less than 30 days and made available to representatives of the Police and Licensing Authority on request.
3. Sufficient levels of lighting to be installed and maintained to provide a safe environment for staff and customers and to assist in the provision of satisfactory CCTV images.
4. Staff must report any incidents to Wiltshire Police and maintain an incident log book. This to be made available on request by a representative of the Police or the Licensing Authority.

3.7 A copy of the letter of agreement to the above conditions signed by Mr Yilmaz is attached as **Appendix 3**.

3.8 A copy of the letter dated 18 July 2012 from the Licensing Section, Wiltshire Council, sent to the Melksham Town Council and other individuals who have made representation, informing them of the Applicant and Wiltshire Police agreement, is attached as **Appendix 4**.

3.9 Copies of responses received, are attached as **Appendix 5**.

4. Legal Implications

4.1 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.

4.2 The Applicant, all Responsible Authorities and Interested Parties who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those Responsible Authorities and Interested Parties who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

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

6. Right of Appeal

6.1 It should be noted that the Applicant, the Responsible Authority and Interested Parties who have made representations, may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.

6.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.

6.3 A Responsible Authority or an Interested Party may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but if requested by an Interested Party, will not normally be granted within the first 12 months except for the most compelling circumstances.

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 Application for a Premises Licence under the Licensing Act 2003.**
- 2 Copies of relevant representations.**
- 3 Copy of letter of agreement with Police signed Mr Yilmaz**
- 4 Copy of letter sent to Interested Parties**
- 5 Copies of responses received from Interested Parties**
- 6 Location map of the area/premises to be licensed.**