

EASTERN AREA LICENSING SUB-COMMITTEE

MINUTES OF THE EASTERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON THURSDAY 3RD DECEMBER 2009 AT 2:00 PM AT BROWFORT, DEVIZES

Present:

Councillor D Allen (Chairman)
Councillor P Dow
Councillor R Eaton

Mr R Bishton – Democratic Services Officer, Wiltshire Council
Mrs S Colley – Licensing Team Manager (South and East), Wiltshire Council
Miss J Green – Democratic Services Officer, Wiltshire Council
Mr R Hodgkinson – Solicitor, Wiltshire Council

Mr Mehmet Nuri Bektasoglu – Applicant
Ms S Cavender – Counsel, Guildhall Chambers (on behalf of the applicant)

Miss G Salisbury – Senior Planning Officer, Wiltshire Council
Mr R Draper – Senior Environmental Health Officer, Wiltshire Council
Ms H Pinchen – Environmental Control Officer, Wiltshire Council

Apologies:

Ms Jane Cowley – Senior Licensing Officer, Wiltshire Council

PART 1

Items considered whilst the meeting was open to the public

1. ELECTION OF CHAIRMAN

It was proposed, seconded and

RESOLVED that Councillor Allen be elected Chairman of the Western Area Licensing Sub-Committee for the meeting dated 3rd December 2009.

COUNCILLOR D ALLEN IN THE CHAIR

2. PROCEDURE FOR THE MEETING

The Chairman explained the procedure to be followed at the meeting as contained within the "Wiltshire Council Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications".

3. CHAIRMAN'S ANNOUNCEMENTS

There were none.

4. MEMBERS' INTERESTS

The Solicitor for the Council made a statement to those present that Councillor Dow was a member of Marlborough Town Council and had sat on Town Council Planning Committees, however in her capacity as Mayor she had not voted on any items in the last three years and had not sat on any application with regard to these premises. It was proper that all parties present should know this and if there were objections to Councillor Dow sitting on the Licensing Sub-Committee the hearing should be adjourned.

There were no objections to this from any of the parties present.

5. LICENSING APPLICATION IN RESPECT OF CHARCOAL GRILL, 13A HUGHENDEN YARD, HIGH STREET, MARLBOROUGH, WILTSHIRE, SN8 1LT

The Policy and Licensing Manager introduced the report on behalf of the Licensing and Policy Officer.

In accordance with the procedure detailed in the Agenda the applicants representative and the interested parties were given the opportunity to address the Sub-Committee and through the Chairman, to question one another about the detail of the application and representations. Sub-Committee members had the opportunity to question all parties.

NOTE: The applicants representative requested an amendment to the application to withdraw that part of the application requesting opening until 1:00am from Sunday to Thursday.

Following summaries made by both the applicant and the interested parties, the Sub-Committee retired to consider the application.

During their deliberations the Sub-Committee were accompanied by the Solicitor for the Council and the Democratic Services Officers.

Following their deliberations the Eastern Area Licensing Sub-Committee

RESOLVED:

To GRANT the application until 1:00am on Friday and Saturday mornings for the following reasons:

The Sub-Committee 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 the former Kennet District Council.

The Sub-Committee also considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from Ms Cavender of Counsel, on behalf of the applicant Mr Mehmet Nuri Bektasoglu, the Planning Authority and Environmental Health.

The Sub-Committee considered firstly the issue of the existing planning restriction on the premises which restricts trading to midnight. In approaching this matter the Sub-Committee were mindful that the licensing process should not be a re-hearing of the planning process and that both were separate, although at times overlapping, regimes. Insofar as the Sub-Committee considered evidence by the Planning Authority, it confined itself to such evidence as there was that had a bearing on the licensing objectives. In this context the Sub-Committee noted that in the most recent appeal the Planning Inspector specifically noted that the proposed extension to opening hours would result in additional people congregating in a relatively quiet location which created "considerable potential" to cause unacceptable noise and disturbance through talking, shouting and car movements. However, to be set against this was the evidence provided by the applicant, which was not contradicted by Environmental Health, that there was negligible use of the car park later in the evening. Overall however, the Sub-Committee were not satisfied on this evidence that there was a real possibility of one or more of the licensing objectives being undermined. The Sub-Committee were not presented with the evidence upon which the Inspector reached his decision.

However, the Sub-Committee were mindful of the Inspectors comment that circumstances would "adversely effect their (the local residents) reasonable expectation of peace and quiet at times when trying to sleep". Looking at the remaining evidence, namely the letters from in particular N A Beach, Philip Wood and J J L George, the Sub-Committee was satisfied that there was a real possibility of noise from the premises and its immediate vicinity creating public nuisance the longer it persisted into the morning i.e. after midnight. In particular the Sub-Committee felt that this problem was likely to be exacerbated if the premises remained open closer to the time at which the nightclub closed. The Sub-Committee felt that the car park area would act as

encouragement for people to remain in the area after purchasing food rather than disperse and the Sub-Committee felt that this would contribute to noise nuisance in the early hours of the morning at a time when, to refer back to the words of the Planning Inspector, residents would have a “reasonable expectation of peace and quiet”. The Sub-Committee therefore felt that an appropriate extension would be until 1:00am on Saturday and Sunday mornings which would not therefore encroach on the more sensitive hours.

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.

PART 2

Items considered whilst the meeting was closed to the public

None.

Chairman
2010

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