

**WILTSHIRE COUNCIL**

**WESTERN AREA LICENSING SUB COMMITTEE**

**7 JANUARY 2014**

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**Application for a Variation of a Premises Licence; Favourite Chicken & Ribs, 3  
Market Street, Trowbridge, BA14 8EY**

**1. Purpose of Report**

- 1.1 To determine an application for a variation of a Premises Licence in respect of Favourite Chicken & Ribs, 3 Market Street, Trowbridge, BA14 8EY made by Mr K Olmez.

**2. Background Information**

- 2.1 An application for a variation of a Premises Licence in respect of Favourite Chicken & Ribs has been made by Mr K Olmez for which one relevant representation has 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 35(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 modify the conditions of the licence
  - ii) To reject the whole or part of the application.
- 2.5 On 11 November 2013 an application for a variation of the existing premises licence, was received and accepted as a valid application.
- 2.6 The variations applied for are summarised as follows:

- Extend the hours for Late Night Refreshment from 03:30 hrs to 05:00 hrs on a Friday & Saturday night.

A copy of the application form is attached as **Appendix 1**.

- 2.7 Since November 2005, the premises benefits from a Premises Licence issued under the Licensing Act 2003. The original licence allowed the following:-

<b>Licensable Activity</b>	<b>Hours</b>
Late Night Refreshment	Sunday to Thursday 23:00 hrs – 01:30 hrs (Next Day)
	Friday to Saturday 23:00 hrs – 04:30 hrs (Next Day)

The Premises Licence was subsequently varied in August 2009 to extend the hours of Late Night Refreshment as follows and to reword the existing condition regarding CCTV and apply this as a new condition on the licence.

<b>Licensable Activity</b>	<b>Hours</b>
Late Night Refreshment	Sunday to Thursday 23:00 hrs – 04:00 hrs (Next Day)
	Friday & Saturday 23:00 hrs – 05:00 hrs (Next Day)

Following a representation from Wiltshire Police, the application for variation was subject to a hearing, which was held on 25 August 2009. The Licensing Sub Committee resolved to grant the additional hours sought, subject to an amended condition relating to CCTV.

On 18 June 2011, the Licensing Department received an application for a review from Wiltshire Police on the grounds that the premises were conducted in such a manner as to prejudice the licensing objectives of Prevention of Crime & Disorder and Public Safety. A Notice of the application for review was posted and displayed as stated under the Licensing Act 2003. However during this consultation for review, no further representations were received. On 18 July 2011, a hearing took place for the review application. Following this review the premises licence was amended to reduce the hours for Late Night Refreshment as follows and an additional condition was imposed stating that the premises requires two SIA registered door staff to be employed on Thursday, Friday & Saturday nights .

<b>Licensable Activity</b>	<b>Hours</b>
Late Night Refreshment	Sunday to Wednesday 23:00 hrs – 04:00 hrs (Next Day)  Thursday to Saturday 23:00 hrs – 03:00 hrs (Next Day)

An appeal was lodged by Mr Olmez against the Review decision. This appeal was heard at Chippenham Magistrates Court on 6 December 2011. The Court resolved to vary the decision made on the 18 July 2011 and changed the hours for late night refreshment as follows, Attached at **Appendix 3**.

<b>Licensable Activity</b>	<b>Hours</b>
Late Night Refreshment	Sunday to Wednesday 23:00 hrs – 04:00 hrs (Next Day)  Thursday to Saturday 23:00 hrs – 03:30 hrs (Next Day)

The current Premises Licence is attached as **Appendix 2**.

### **3. Consultation and Representations**

3.1 The application process requires a public notice (on pale blue paper) to be posted on the premises for a period of 28 days together with a publication of notice in a local news paper within 10 working days, starting on the day the authority receives the application. During the consultation period one relevant representation has been received from one Responsible Authority.

#### 3.2 Responsible Authorities

- Wiltshire Police

#### 3.3 Interested Parties

- None

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

<b>Representation</b>	<b>Licensing Objective</b>	<b>Accepted</b>	<b>Comments</b>
Operating Hours for Late Night Refreshment	Public Nuisance Prevention of Crime & Disorder	Yes	

3.5 The relevant representation is attached as **Appendix 4**. Attached as **Appendix 5** is a plan, which shows the location of the premises. **Appendix 6** will follow and this will be the submission from Wiltshire Police in support of their objection to the variation of the Premises Licence.

#### **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 and Responsible Authority 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 the applicant and the Responsible Authority who have made representations are entitled to address the Sub Committee and to ask questions of the other 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 Premises Licence Holder, and the Responsible Authority 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 any person 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 a person other than a Responsible Authority will not normally be granted within the first 12 months except for the most compelling circumstances.

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Date of report 10<sup>th</sup> December 2013

## **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 Variation Application**
- 2 Existing Premises Licence**
- 3 Notes from Court Hearing - 6 December 2011**
- 4 Wiltshire Police Representation**
- 5 Location Plan**
- 6 Submission from Wiltshire Police in support of objection (to follow)**