

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

24 March 2015

Application for Review 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 Review of a Premises Licence in respect of Favourite Chicken & Ribs, 3 Market Place, Trowbridge, Wiltshire made by Wiltshire Council's Licensing Authority.

2. Background Information

- 2.1 An application for the Review of Favourite Chicken & Ribs Premises Licence has been made by Wiltshire Council's Licensing Authority. Following advertisement of the application one relevant representation has also been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such steps as it considers appropriate 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 suspend the licence for a period not exceeding three months.
 - iv) To revoke the licence.
 - v) 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 The premise benefits from a Premises Licence issued under the Licensing Act 2003 since November 2005 and the current copy is attached as **Appendix 1**. The original licence granted in 2005 allowed the following:-

Licensable Activity	Hours
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)

- 2.6 The premises licence was subsequently varied in August 2009 to extend the hours for late night refreshment, as follows and to reword the existing condition regarding CCTV and apply this as a new condition on the licence.

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

- 2.7 Following 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.
- 2.8 On the 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.
- 2.9 A notice of the application for review was posted and displayed as stated under the Licensing Act 2003. During this consultation for review, no further representations were received.
- 2.10 On the 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 .

Licensable Activity	Hours
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)

- 2.11 An appeal was lodged by Mr Olmez against the Review decision. This appeal was heard at Chippenham Magistrates Court on 6 December 2011.
- 2.12 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 2**.

Licensable Activity	Hours
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)

- 2.13 On 11 November 2013, an application for a variation of the existing premises licence was received and accepted as a valid application.
- 2.14 The variation was to extend the hours for late night refreshment from 03:30hrs to 05:00hrs on a Friday and Saturday night, along with applying to include Christmas Eve, Christmas Day, New Year's Eve, New Year's Day and all Bank Holidays until 05:00hrs.
- 2.15 Following representation from Wiltshire Police, the application for variation was subject to a hearing, which was held on 7 January 2014. The application was granted as applied for, subject to the following additional or varied conditions:
- 1. All doors to the premises must be closed and locked by the end of the time permitted for licensable activities on the relevant day, at which point all customers shall have left the premises.**
 - 2. On Friday & Saturday nights, Christmas Eve, Christmas Day, New Year's Eve and New Year's Day and all Bank Holidays, the licence holder is required to employ two SIA registered staff from midnight until 30 minutes after the end of the time permitted for licensable activities, and to employ an additional SIA staff member from 03:30hrs until 30 minutes after the end of the time permitted for licensable activities.**
- A copy of the decision notice is attached at **Appendix 3**.
- 2.16 Following the grant of the variation detailed above, a number of breaches were reported to the Licensing Authority under s.136 Unauthorised Licensable Activities of the Licensing Act 2003. Formal warning letters in relation to the breaches were issued from the licensing authority to the licence holder in June 2014, October 2014 and January 2015.

2.17 During the consultation period for the current review application the premises licence holder, Mr Olmez submitted a variation application on 23 January 2015. The variation was to apply for the conditions on his current licence relating to door staff to be removed. The application was incorrectly advertised as required under the Licensing Act 2003. As a result the application was not accepted and Mr Olmez was informed of this in writing on 3 March 2015. The letter sent is attached at **Appendix 4**.

2.18 A location plan of the premises is attached at **Appendix 5**.

3. Details of the Grounds for Review

3.1 The review of the licence has been requested on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives. The grounds for review are:

- The Licence holders continued failure to comply with either the premise licence conditions and/or the Licensing Act 2003 objectives over a considerable period of time.
- Failure to promote the licensing objectives of Crime and Disorder and Public Safety, and that standards of management at the premises are below that, which are expected of a premises operating in the late night economy.

3.2 The application for review is attached as **Appendix 6(a)**. The evidence relied upon in support of the application is contained within **Appendix 6(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, County Hall. During the consultation period one relevant representation has been received from Wiltshire Police.

- Wiltshire Police

The relevant representation is attached as **Appendix 7(a)**.

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 evidence submitted on behalf of Wiltshire Police is attached at **Appendix 7(b)**.

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, the party that applied for the review and any Responsible Authority or 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.
- 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
- 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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Date of report: 9 March 2015

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**
- 2 Magistrates Court Hearing Notice December 2011**
- 3 Variation Hearing Decision Notice January 2014**
- 4 Letter sent to Licence Holder March 2015**
- 5 Location Plan**
- 6(a) Application for Review**
- 6(b) Evidence submitted by Licensing Authority**
- 7(a) Representation by Police**
- 7(b) Evidence submitted by Police**