

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 3 AUGUST 2012 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD IN RESPECT OF AN NEW PREMISES LICENCE - MOBILE FOOD TRAILER, BATH ROAD CAR PARK, MELKSHAM

Present:

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Ernie Clark

Also Present:

Kieran Elliott (Democratic Services Officer), Maggie Jones (Senior Licensing Officer), Lauren Kemple (Solicitor), Cllr Jon Hubbard (Melksham Town Council), Mehmet Yilmaz (Applicant), Ali Ocaki (Applicant supporter), Mehmet Sen (Interested Party), Harun Ozdilek (Interested Party), Teresa Bray (Public Protection Officer) and Paul Taylor (Senior Solicitor)

1 **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.

2 **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 – 6 of the Agenda refers).

3 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

4 **Declarations of Interest**

There were no interests declared.

5 Licensing Application

Application by Mehmet Yilmaz for a Late Night Refreshment Licence for a Mobile Food Trailer, Bath Road Car Park, Melksham

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub Committee.

Key points raised by the applicant, Mr Mehmet Yilmez:

- An agreement has been reached with the police, who have not made a formal objection, with regards conditions including, appropriate CCTV coverage;
- The car park around the van would be kept clear of rubbish by operators, in addition to bins located at the site of the mobile trailer;
- A 'silent generator' would be used to reduce noise;
- Children would not be congregating in the area late into the night.
- If people transported food a long way from the mobile trailer, beyond the car park, operators could not be expected to locate or clear up all rubbish.
- Many objections had been received from local takeaway owners, which would cause many of the same issues they object to.

Key points raised by interested parties making representations - Cllr Jon Hubbard representing Melksham Town Council and Mr Mehmet Sen (Interested Party) – included the following:

- There had been many complaints of anti-social behaviour and vandalism from users of King George V playing fields adjacent to the site over the years;
- It was felt that the location of the mobile food van would only encourage young people to congregate even longer in the area, causing nuisance to users of the park, local residents and businesses such as the nearby Riverside Club;
- There had also been issues of litter in the area and again it was felt that this issues would only increase with the mobile food van;
- CCTV would only cover the area immediately in the vicinity of the mobile food van, and it is the nature of such operations that customers will

disperse quickly into surrounding areas, meaning the presence of bins would have a minimal effect, if any;

- The dropping of litter and food debris as a result of the presence of the mobile food van would attract vermin;
- The site was very close to a skate park, youth centre and children's play area, all of which would be negatively impacted by the increased public nuisance from anti-social behaviour encouraged by the presence of a mobile food van and the effects of increased littering;
- The Town Council objects on the basis on local knowledge, which should be taken into account;
- The Area Board and Town Council have already funded youth workers at night in the area to patrol the area to resolve issues caused by young people congregating at night, so there would be children around at the time of licensable activity. Local policing teams also occasionally patrolled the area due to difficulties;
- Young people had been known spin cars in the car park at night, and would stay longer with the presence of a mobile food van.

The parties were given the opportunity to each ask questions of the Applicant, Interested Parties and Wiltshire Council Officers.

The Sub Committee then sought clarity on the number of youth workers who assisted in the area at night, as well as the opening hours of the local Riverside Club.

All parties were then given the opportunity to summarize their cases, where the applicant reference a previous food van he operated in Melksham prior to the construction of the Asda Superstore on the site he had used, before the Sub Committee members retired to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer clerking the meeting.

The Sub Committee retired to consider the application at 10:55.

The Hearing reconvened at 12:00.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

No specific legal advice had been given other than to draw the Sub Committee's attention to relevant government guidance and national policy and licensing law, and to remind the Sub Committee that the only trading activity that could be considered was for the hours 2300-onwards as a licensable activity,

and that concerns of local traders of increased competition was not a consideration.

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:

The Western Area Licensing Sub Committee has resolved to GRANT the licence for the following licensable activities:

| Licensable Activity | Timings | Days |
|--|----------------|------------------|
| Provision of late night refreshment (Outdoors) | 2300-0100 | Sunday-Wednesday |
| | 2300-0200 | Thursday |
| | 2300-0300 | Friday-Saturday |

And subject to the following additional conditions:

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. Images to be made available for inspection upon reasonable request by the police or other relevant officers of a responsible authority and to be of sufficient quality to identify individuals. Recordings to be retained for 30 days.
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. Lighting shall not detrimentally affect occupants of nearby premises.
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.
5. At the end of each trading period the Premises Licence Holder to ensure all litter arising from trading will be removed from the car parking area within 100m of the trading site.

Reasons

The Sub Committee considered the written evidence presented in the agenda together with the oral representations given at the hearing.

The representations made by the police had been withdrawn as the police had agreed a number of conditions with the applicant which, if imposed, would meet many of the concerns that the police had in relation to possible crime and disorder associated with the mobile food trailer.

The Sub Committee considered the granting of this licence would not significantly impact upon the existing problems of litter and anti-social behaviour identified by representations and that the additional conditions imposed were appropriate to address the concerns raised and meet the licensing objectives

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 granting of this licence is without prejudice to any other consents or approvals that may be required.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision.

(Duration of meeting: 10.30 am - 12.05 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115