

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 17 JUNE 2015 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE - MR PAWEL PASTUSIAK - NAAN KEBAB, TROWBRIDGE

Present:

Cllr Ernie Clark, Cllr Dennis Drewett and Cllr Pip Ridout

Also Present:

Cllr Nick Blakemore, Cllr James Sheppard, Cllr Charles Fuller, Lance Allen, Pawel Pastusiak, Christine Scrivens, Teresa Bray (Licensing Officer), Lisa Pullin (Democratic Services Officer), Fiona Rae (Democratic Services 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 Cllr Pip Ridout 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 5 – 12 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**

Before the commencement of the meeting, Cllr Nick Blakemore declared a non-pecuniary interest in the application by virtue of being a member of Trowbridge Town Council who had made a relevant representation regarding the

application. He was substituted by Cllr Dennis Drewett for the entirety of the meeting.

5 **Licensing Application**

Application by Pawel Pastusiak for a Premises Licence at Naan Kebab, 11 The Halve, Trowbridge.

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 and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Pawel Pastusiak, applicant, and Christine Scrivens, Proactive Learning Centre, on behalf of the applicant, were:

- There had been a concern that the external blue lighting on the mobile catering unit was distracting for motorists on the nearby highways. It was explained that this had been replaced with ordinary white lighting.
- Customers only stopped briefly to purchase refreshment and there were typically no more than five customers at any one time which resulted in minimal, if any, disturbance.
- The mobile catering unit was a sufficient distance from the older persons' accommodation at Avondown Court to minimise any disturbance and the applicant was to erect signs directing patrons to be quiet.
- The additional hours requested in the original application had been significantly reduced in response to the concerns of Trowbridge Town Council and this should be taken into consideration.
- The applicant also highlighted the quality of the food produced and the positive reception by local people.

Key points raised by those who made a Relevant Representation, Cllr Peter Fuller and Lance Allan of Trowbridge Town Council, were:

- Whilst Trowbridge Town Council was aware that planning considerations were not material to this application, concern was raised regarding the applicant's lack of awareness in this matter.
- It was suggested that any late night or daytime refreshment in a mobile vehicle was inappropriate as it was likely to cause a greater disturbance than a permanent premises.
- The Town Council's concerns regarding planning permission and public nuisance had not been addressed fully by the applicant in the reduced hours requested and the location of the premises in a car park was likely to attract a large number of patrons.
- The external lighting of the mobile catering unit remained a distraction to motorists on the nearby highways.

- Avondown Court, a residence mainly occupied with older people, was located nearby on Yerbury Street. It was suggested that noise from the mobile catering unit was audible from within Avondown Court although no evidence was produced.
- It was also stated that several incidents of violence had occurred in the general area in recent months.

The parties were given the opportunity to ask questions of the applicant and the following issues were addressed:

- When asked whether there were any letters of support for the mobile catering unit, the applicant explained that he had no such letters but had received verbal support from patrons.
- It was also enquired whether the mobile catering can had received a hygiene rating and the applicant confirmed that a hygiene rating of 4 had been acquired.
- Cllr Peter Fuller, Trowbridge Town Council enquired about the current colour of the external lights on the mobile catering unit and the applicant confirmed that they were white and had been such for about six weeks.
- Cllr Peter Fuller enquired whether vehicles parked on the double yellow lines in the car park whilst attending the premises. The applicant confirmed that there were ample spaces in the private car park adjacent to the premises and the public Lovemead car park. It was also highlighted that the police station was nearby and that police vehicles regularly passed the premises.
- The applicant was asked to provide detail about the ownership of the private car park and it was confirmed as the property of the applicant's landlord who allowed patrons to use the car park.

The following questions were asked of those who had made relevant representations:

- It was asked whether Trowbridge Town Council had received any letters of objection concerning the disturbances at the premises. Lance Allan explained that a number of councillors had received representations from the public about disturbances at the premises or had witnessed it themselves although no evidence was submitted.
- Clarification was sought regarding the distance of the premises from Avondown Court and Cllr Peter Fuller clarified the location.
- The exact location of the closed circuit television cameras (CCTV) near to the premises was also questioned and Lance Allan confirmed it to be at junction of Hilperton Road and the Halve. It was noted that the main purpose of the camera was to view the public highway and that the view of the car park and the premises in question could not be guaranteed.

The parties were then invited to make any points in summation. The representatives from Trowbridge Town Council were satisfied that all points had been addressed.

The applicant, Pawel Pastusiak, made the following points in summation:

- The premises were close to both the police and fire stations.
- Patrons of the mobile catering unit generally created very low levels of noise.
- The applicant was considering undertaking a licensing course to gain increased awareness of licensing issues.
- The application had been amended to extend the licensing hours by only one hour in response to concerns raised by Trowbridge Town Council.

The Sub Committee members retired at 10.35am to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officers.

The Hearing reconvened at 11.10am.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council confirmed that there was no specific material legal advice given in closed session.

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 application for a Premises Licence for the provision of late night refreshment for Mr Pawel Pastusiak at the premises, Naan Kebab, Mobile Food Unit located in the private car park associated with 11 The Halve, Trowbridge, Wiltshire as detailed below:

Licensable Activity	Timings	Days
Late night refreshment	23:00 – 00:00	Daily
Hours premises are open to the public	16:00 – 00:00	Daily

Subject to the following conditions:

1. That all external lighting be immediately extinguished at the end of each trading period.
2. That litter bins be provided for the use of customers and the Licence Holder to remove any remaining litter within a 20 metre radius of the Premises immediately after the end of each trading period.

The granting of this licence is without prejudice to any other consents or approvals, including any planning permission that may be required.

Reasons:

In considering this application, the Sub Committee noted that, following the revised timings now being proposed, they were only considering the implications of late night refreshments being provided from the premises between 11:00 and 00:00 each day.

Representations had been received raising concerns about public nuisance due to the location of the premises. It was argued that the proposed site was near to residential properties which could lead to disturbance to local residents. It was also adjacent to a roundabout and the lights of the premises could cause a safety hazard to users of the highway. There were also concerns about serving children late at night.

The Sub Committee noted that the applicant had voluntarily offered not to serve unaccompanied children and that he planned to undertake relevant Licensing training. He also confirmed that the flashing coloured lights had been replaced with white lighting.

Having considered all of the representations, the Sub Committee considered that it was appropriate to grant the application as amended. However, they felt that it was appropriate to add a condition requiring external lighting to be turned off at the end of each trading period to prevent public nuisance and, to the extent that it could be a distraction to motorists, to promote public safety. They also considered it appropriate to require a litter bin to be provided and for litter to be removed from the vicinity of the premises to prevent public nuisance.

In reaching its decision, the Sub Committee also 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.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence.

(Duration of meeting: 10.05 - 11.20 am)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email lisa.pullin@wiltshire.gov.uk, of Democratic Services, direct line , e-mail

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