

## NORTHERN AREA LICENSING SUB-COMMITTEE

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### **DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 23 NOVEMBER 2010 IN THE COUNCIL CHAMBER, MONKTON PARK, CHIPPENHAM IN RESPECT OF AN APPLICATION FOR REVIEW OF A PREMISES LICENCE: DILAY FOODS T/A CHIC-O-LAND, 9 NEW ROAD, CHIPPENHAM, SN15 1HH**

#### **Present:**

Cllr Mark Griffiths, Cllr George Jeans and Cllr Pip Ridout

#### **27. 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.**

#### **28. 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 – 8 of the Agenda refers).

#### **29. Chairman's Announcements**

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

#### **30. Declarations of Interest**

There were no interests declared.

#### **31. Application for Review of a Premises Licence: Dilay Foods T/A Chic-o-land, 9 New Road, Chippenham, SN15 1HH**

The Chairman drew attention to the fact that the Police had delivered a set of their documentary evidence to Mr Faiz, trading as of Chic-o-land, on Thursday 18 November 2010 and asked Mr Faiz if he required more time to consider this

evidence with his interpreter or would prefer an adjournment of the hearing to a fresh date. Mr Faiz stated that he wished for the hearing to be heard that day but would appreciate some time to give further consideration to the Police evidence with his interpreter. It was agreed that the Committee would adjourn for 30 minutes.

On reconvening, The Licensing Officer introduced her report to the Committee.

The application for the Review was presented by Mrs J Gallimore on behalf of Wiltshire Police.

The key points of the oral evidence presented by the Police were:-

- Police found that the management of the premises did not actively promote the licensing objectives:- the prevention of crime and disorder and public safety.
- A number of incidents of crime including serious violent crime, disorder and anti social behaviour had been recorded by Police that were associated with the premises.
- The management of the premises continued to operate beyond their permitted hours despite previous formal warnings.
- Police now believed that additional conditions were required to ensure that the licensing objective (the prevention of crime and disorder and public safety) were met.

Mr Faiz, on behalf of Chic-o-land, with the assistance of his interpreter, made the following points:

- Whilst not disputing the majority of the evidence, Mr Faiz stated that:-
  - (i) the incident on 4 June 2010 involving violence took place outside the premises. There was other anti-social activity that evening but not connected with Chic-o-land customers.
  - (i) the incident concerning urination by a customer on 25 June 2010 had taken place outside the Chic-o-land premises and not inside as stated by the Police.
- Whilst not initially fully understanding the operation of the CCTV equipment installed inside the premises which he left to his former business partner to operate, he was now fully conversant with the working of the equipment and would be able to fully co-operate with the Police in future regarding any requests to view footage.

When the Chairman of the Sub-Committee asked him directly, Mr Faiz responded that he was not disputing what the Police said.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 1.30pm.

The Hearing reconvened at 2.15pm

The Sub-Committee considered all of the submissions made to it and the written representations in support. In reaching its decision the Sub-Committee took into account the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the Wiltshire Council Statement of Licensing Policy.

### **Resolved:**

**To amend the premises license for Chic-o-land as follows:**

#### **Provision of Late Night Refreshment**

<b>Sunday to Wednesday</b>	<b>23.00 hrs to 23.30 hrs</b>
<b>Thursday</b>	<b>23.00 hrs to 03.00 hrs</b>
<b>Friday to Saturday</b>	<b>23.00 hrs to 02.30 hrs</b>

#### **Opening Hours of the Premises**

<b>Sunday to Wednesday</b>	<b>11.00 hrs to 23.30 hrs</b>
<b>Thursday</b>	<b>11.00 hrs to 03.00 hrs</b>
<b>Friday to Saturday</b>	<b>11.00 hrs to 02.30 hrs</b>

and with the addition of the following conditions;

- 1. The CCTV is to be reviewed and if necessary upgraded to standards required by Wiltshire Police Crime Reduction Officer.**
- 2. That CCTV recordings be retained for a period of 31 days and to be made available upon request to an Officer of Wiltshire Police and or/the Licensing Authority.**

### **Reasons**

The Sub-Committee heard detailed and extensive evidence from the Police presented by Mrs J Gallimore and documented in the bundle of additional papers. This evidence alleged a number of incidents at or near Chic-o-land of violence and/or anti-social behaviour. The evidence was

detailed and although Mr Faiz disputed one or two points, he did not contest the bulk of the evidence, indeed when the Chairman of the Sub-Committee asked him directly, Mr Faiz responded that he was not disputing what the Police said.

In the light of this evidence the Sub-Committee made the following findings of fact:

1. That Mr Faiz has repeatedly supplied late night refreshment beyond the hours permitted in his licence.
2. That most of the allegations made by the Police were substantiated on the evidence.
3. They were satisfied that a serious assault took place on 4 June 2010. The Sub-Committee was also satisfied that whether or not the assault actually took place inside or outside of the premises the victim of the assault ended up unconscious in the doorway to the premises.
4. That Mr Faiz was uncooperative when the Police came to investigate the assault. Mr Faiz initially denied being aware of any incident but the later claimed that the CCTV recording was not needed as the assault took place outside of the premises.

Mr Faiz claimed that he was unaware that his licence required him to stop supplying hot foot at 3.00am on a Friday or a Saturday. However Mr Faiz did not deny receiving the letter dated 23 December 2009 from Linda Holland (Licensing Enforcement Officer, Wiltshire Council) appearing at page 3 of the additional papers. Mr Faiz said he couldn't recall seeing it but it may have been seen by his "partner".

The Sub-Committee was satisfied that this letter was sent to Chic-o-land at the address indicated and saw no good reason to suggest that it was not seen and understood by Mr Faiz. Additionally, Mr Faiz repeatedly referred in his evidence to going and seeing "Miss Linda" (Linda Holland, Licensing Enforcement Officer). The Sub-Committee were therefore satisfied that Mr Faiz was aware of his responsibilities under the licence as early as January 2010 and in any event had had repeated opportunities to clarify matters when he spoke to Linda Holland if he was in any doubt.

Mr Faiz claimed that he had encountered difficulties with operating his CCTV system in particular with recording material onto DVD. Cllr Griffiths made the point during the hearing that it was Mr Faiz's responsibility to acquaint himself with the workings of the system and asked Mr Faiz why he had not done so a lot earlier before now. Mr Faiz simply responded that he was now aware of how the CCTV system operated. The Sub-Committee gained the general impression that Mr Faiz was too ready to blame other people for problems at the premises which are in fact his own

responsibility. For the above reasons the Sub-Committee remain concerned about his ability to manage the premises.

However, taking all factors into account and in particular Mr Faiz's language difficulties the Sub-Committee felt that it would be disproportionate to revoke Mr Faiz's licence at this stage, although the Sub-Committee would like to emphasise to Mr Faiz in the strongest possible terms that such a measure cannot be discounted if matters do not dramatically improve. The Sub-Committee make this comment without in any way fettering the discretion of any future Committee that would hear any further application regarding these premises. The Sub-Committee have imposed the conditions mentioned above which they consider to be the minimum required to promote the licensing objectives.

### **Right of Appeal**

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.

(Duration of meeting: 10.00am – 15.15pm)

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