

LICENSING SUB-COMMITTEE**25 April 2016****Attendance:**

Councillors:

Mather (Chairman) (P)

Green (P)

Laming (P)

Officers in attendance:

Miss C Stefanczuk – Licensing Manager

Mrs A Pyke – Licensing Officer

Ms C Tetstall – Licensing Solicitor

Mr P Tidridge – Scientific Officer, Environmental Health

1. **NEW LICENCE FOR LATE NIGHT REFRESHMENT – KFC WINCHESTER,
47 UPPER BROOK STREET, WINCHESTER**
(Report LR467 refers)

The Chairman welcomed to the meeting:

Representing the Applicant – Armsric:

- Mr Sandy Mathavarajah (Area Coach)
- Mr Mark Povey (Regional Operations Manager)
- Mr Charles Streeten (Counsel, on behalf of the Applicant)

Responsible Authorities:

- PC Brian Swallow (Hampshire Constabulary/ Police Licensing Officer)
- Mr Phil Tidridge (Winchester City Council, Environmental Health Team)

Other Interested Parties:

- Mr Michael Coker-Davies
- Ms Lesley Gillon
- Mr Adrian Hutton
- Ms Catherine Short

Mrs Pyke introduced the Report which set out the details of the application. In summary, she explained that a new licence for late night refreshment at KFC Winchester, 47 Upper Brook Street, Winchester which had been made by Armsric Food Limited under Section 17 of the Licensing Act 2003. The purpose of the application was to allow for the provision of late night refreshment on Fridays to Saturdays between 2300 and 0400 hours the following day. The application was set out in Appendix 1 to the Report.

It was confirmed that representations had been received from PC Swallow, Hampshire Constabulary and Mr Tidridge, on behalf of Winchester City Council's Environmental Health Team, as responsible authorities. The representations related to the licensing objectives, prevention of crime and disorder and prevention of public nuisance, as set out in Appendix 2 to the Report.

In addition, representations had been received from 17 local residents objecting to the application in relation to the prevention of public nuisance licensing objective, four of whom wished to address the Sub-Committee to present their representations. Copies of these representations were set out in Appendix 3 to the Report.

Mrs Pyke reported that, despite discussion with the Applicant's solicitors, no formal offer had been received to amend the application until immediately prior to the Sub-Committee meeting. Therefore, the proposed operating hours of Friday to Saturday 2300 to 0400 hours the following night, with the provision of one member of SIA security personnel on the premises Fridays and Saturdays between 2300 and 0200 hours the following day, remained unchanged.

In conclusion, Mrs Pyke confirmed that as a restriction of their planning application, the premises closing time was currently 2300 hours, any breaches to this time would presently be subject to planning enforcement. In response to questions, Mrs Pyke clarified that KFC had never been granted a late night refreshment licence on site previously.

At the invitation of the Chairman, Mr Streeten, speaking on behalf of the applicant, Armsric Food Ltd, addressed the Sub-Committee and outlined the background to the late night refreshment licence. In summary, Mr Streeten stated that, following recent discussion with PC Swallow, Hampshire Constabulary prior to the commencement of the meeting, the applicant was now seeking to reduce the hours applied for to Friday and Saturday between 2300 and 0200 hours the following day to satisfy the concerns of the Police. The applicants would continue to provide one SIA door supervisor with one additional SIA door supervisor, should the Sub-Committee be minded to impose a condition requiring two SIA door staff. It would also include the provision of CCTV and in addition, would locate two further litter bins to satisfy the concerns of the Environmental Health Team, with the inclusion of a rota for the pre-opening pick up of litter. Mr Streeten considered the application to be a modest variation which was now fully supported by well thought out conditions to improve the present position, thus promoting the licensing objectives positively.

Mr Streeten referred to the comments made in the representations in relation to public nuisance which he believed were as a result of the Vodka Bar and Nightclub 0400 hours closure. He felt that the provision of one or two trained SIA door security staff to marshal patrons to and from the premises, together with the revised 0200 hour closure of KFC would result in leaving times at the Vodka Bar and Nightclub being staggered, due to the fact that some patrons may wish to purchase hot refreshments from KFC prior to its closure. As a result, this would reduce the number of patrons dispersing at 0400 hours, upon

closure of the nightclub, and would improve the impact on the surrounding residential area. The Sub-Committee noted that no door staff were currently provided by Dominos Pizza, situated next door, who were open to patrons until 0100 hours.

In conclusion, Mr Streeten stated that the applicant had gone above and beyond to promote the licensing objectives and, although they considered the provision of two SIA door supervisors to be disproportionate (having already proposed to provide one SIA door supervisor in accordance with other premises in the Winchester District), they would also be willing to provide an additional SIA door supervisor should this be imposed by condition.

In response to Members' questions, Mr Streeten confirmed that the applicant would commit to the picking of litter in the area around the site, including the car park where the majority of litter issues currently occurred. Members expressed concern that litter picking in such a confined location would not adequately cover the extent of the area where litter dropping would occur, especially if customers decided to eat whilst walking along the street. Members also considered one SIA door supervisor to be insufficient as it would not be possible for one person to resolve any late night incidents that could arise at the premises, particularly where customers were under the influence of alcohol.

Mr Tidridge (Environmental Health Team) addressed the Sub-Committee and outlined that the concerns of the Environmental Health related to the prevention of public nuisance. This specifically related to noise, as the application would attract persons to the area, situated on the edge of a domestic settlement after 0100 hours and concern was raised regarding the revised closure time of 0200 hours. Mr Tidridge believed that a closure time of 0100 hours, in line with that of Dominos Pizza was an appropriate timeframe, subject to the addition of the controls suggested by the applicant, as set out above.

The Sub-Committee noted that, with the current licensing hours at KFC ceasing at 2300 hours no complaints regarding noise had been received. However, there had been a significant number of complaints regarding noise and anti social behaviour at the Vodka Bar and Nightclub and that, as set out in the Report, the applicants were seeking to attract the customers leaving this venue.

In response to Members' questions, Mr Tidridge confirmed that there were ongoing problems with rodent activity in the area as a result of takeaway food not being disposed of in an appropriate manner.

In conclusion, Mr Tidridge stated that he considered a licence for the provision of late night refreshment would encourage the dispersal of patrons towards this residential area rather than in the direction of the Town Centre and would therefore guide towards a 0100 hour closure, in line with the other premises in this area.

The Licensing Solicitor reminded the Sub-Committee that, whilst they could take into account the various issues raised in the representations and the fact that the premises were situated within a residential area, the Sub-Committee was also required to assess each case on its own merits and remain aware that this was a not a cumulative impact area.

PC Swallow, the Police Licensing Officer addressed the Sub-Committee to advise that the Police had made a formal representation opposing the licence as applied for initially with the hours of Friday and Saturday 2300 to 0400 hours the following day, in what he considered to be a poorly completed application that lacked detail and a proactive approach in terms of the level of SIA support required.

However, PC Swallow confirmed that, having discussed the application with the applicant immediately prior to the meeting, he would be willing to accept a change to the closure time of Friday and Saturday 2300 to 0200 hours the following day, if supported by two SIA security door supervisors until the terminal hour, the provision of CCTV support and the additional controls offered by the applicant regarding litter bins and litter picking prior to opening.

PC Swallow outlined the levels of crime and disorder incidents, including assault and anti-social behaviour cases, that had occurred largely at the Vodka Bar and Nightclub since 31 January 2016, which was situated just 200ft away from the premises in question.

In response to the points raised by the responsible authorities, Mr Streeten clarified that the premises was only a minute walk from the nightclub where people would already be in the vicinity. However, Members of the Sub-Committee considered that patrons would not necessarily be leaving in the direction of the residential area at the present time and that there was potential for increased noise disturbance between 0100 to 0200 hours as a result of this application.

At the invitation of the Chairman, representations were received by four of the 17 other interested parties who had submitted a relevant representation to the application. A summary of their comments are outlined below:-

Mr Coker-Davies addressed the Committee as a local resident who also spoke in his capacity as founder member of the Parchment Street and Brooks Association and as a former Police Officer with Hampshire Constabulary. In summary, he stated that residents were already experiencing issues with noise and anti-social behaviour as a result of intoxicated patrons leaving the Vodka Bar and Nightclub, with the majority of its 500 patrons (on a busy night) leaving between the hours of 0200-0300 hours. Mr Coker-Davies stated that a late night refreshment licence at KFC until 0200 hours would exacerbate the situation by attracting a large number of people towards the residential area, where customers were likely to congregate outside the premises in the early hours of the morning and whereby door staff would have no authority to deal with the situation should any problems arise.

Ms Gillon addressed the Sub-Committee as a local resident. In summary, she stated that when KFC initially opened they never volunteered to put in extra bins or clean the surrounding street areas resulting in food waste being strewn across the streets and this application would worsen the waste disposal issues that already existed. Concern was raised regarding reduced police presence in the area with the closure of the police station in North Walls. In conclusion, Ms Gillon stated that the size of premises was insufficient to seat a large number of customers that may wish to eat in which would result in spillage onto the street outside causing noise concerns.

Mr Hutton addressed the Sub-Committee as a local resident of Merchant Place. In summary, he stated that his property overlooked the car parking area where he was already subjected to a continuous stream of noise permeating from the nightclub and Dominos until the early hours of the morning.

Ms Short addressed the Sub-Committee as a local resident of Upper Brook Street. In summary, she reiterated concerns regarding the picking up of litter and considered that, if this was imposed as a condition of the licence, then it should be stipulated that this be carried out all along Upper Brook Street and not confined to the immediate vicinity of the premises. She stated that she was in agreement with other speakers that noise and public nuisance would be a problem and felt that this could not be displaced or alleviated in any way if the licence was granted.

In response to questions raised by Members and further to the concerns raised in the four representations above, Mr Streeten stated that the majority of objections made by the interested parties related to the Vodka Bar and Nightclub. A fair balance had been met by KFC to alleviate the concerns of the Police relating to the amended closure time of 0200 hours and provision of two SIA door supervisors, subject to a break clause, which with the additional controls relating to CCTV, litter bins and litter picking, would improve any existing issues, not exacerbate them.

The Sub-Committee retired to deliberate in private.

In her closing remarks, the Chairman stated that the Sub-Committee had carefully considered the Application and the representations made by Hampshire Constabulary, Winchester City Council's Environmental Health Team and other interested parties. It had had taken into account the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

The Sub-Committee considered the application, as it was duty bound to, on its own merits and not with reference to other late night licences in the area and were aware of a presumption in favour of granting the licence.

Members of the Sub-Committee had serious concerns regarding the issuing of late night food and hot drink licences in this residential area and the impact on local residents, in particular anti-social behaviour, noise nuisance, litter and the resultant Environmental Health issues.

Despite the fact the responsible authorities would be less troubled by a 0200 closure time, supplemented by the conditions suggested to mitigate adverse impacts for the residents, the Sub-Committee, having listened to the residents, were still not satisfied that the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance would be promoted.

The Chairman thanked all present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrate's Court within 21 days from the date of the decision letter.

RESOLVED:

1. That the application for a Premises Licence for Late Night Refreshment at KFC Winchester, 47 Upper Brook Street, Winchester, be refused.

REASON

To promote the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

2. **VARIATION OF PREMISES LICENCE – VODKA BAR AND NIGHTCLUB, UPPER BROOK STREET, WINCHESTER**
(Report LR472 refers)

The Sub-Committee noted that the applicant had withdrawn this item prior to its consideration at the meeting and therefore the Chairman agreed to remove the Report from the agenda

The meeting commenced at 1.30pm and concluded at 3.10pm.

Chairman