

LICENSING SUB-COMMITTEE**21 March 2013****Attendance:**

Councillors:

Izard (Chairman) (P)

Green (P)

Prowse (P)

Officers in Attendance:

Miss C Stefanczuk (Licensing Officer)

Mr J Myall (Licensing Manager)

Mrs C Tetstall (Property and Licensing Solicitor)

Mrs A Toms (Environmental Health Officer)

1. APPLICATION TO LICENCE A PRIVATE HIRE VEHICLE
(Report LR404 refers)

Present at the hearing was the applicant, Mr David Hills.

Miss Stefanczuk set out the circumstances of the application, as detailed in the Report. In summary, Mr Hills had applied for a private hire vehicle licence for his 1200cc vehicle and the Council's existing Statement of Licensing Policy stated that a vehicle of less than 1600cc cannot be licensed for this purpose. Miss Stefanczuk drew the Sub-Committee's attention to the fact that despite its smaller engine size, the specifications of Mr Hills' vehicle had been examined and this confirmed that its power output was the same as for a 1600cc vehicle.

Miss Stefanczuk drew attention to the fact that this was generally the case for modern vehicles and therefore this particular element of the Licensing Policy may need amending to reflect improvements in engine technology over the last 20 years. Should the Licensing Sub-Committee agree to licence Mr Hills' vehicle, Miss Stefanczuk reminded the Sub-Committee that this would be subject to the usual mechanical inspection and MOT.

Mr Hills advised that even with the vehicle full with passengers and their luggage, there had previously been no indication of lower power output.

The Sub-Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that in reaching its decision, the Sub-Committee had given careful consideration to all the issues set out in the Report and the matters raised during the hearing.

He explained that the Sub-Committee was satisfied that there were exceptional and compelling reasons to depart from the Statement of Licensing

Policy and therefore agreed to grant a private hire vehicle licence for Mr Hills' Skoda Octavia 1.2 TSI as, in light of technical advances, it was satisfied that the vehicle adequately met the criteria required by the policy. The Chairman advised that the Sub-Committee was minded to suggest that the Licensing Committee reviewed the Council's Licensing Policy with regard to requirements for the engine size of licensed vehicles.

RESOLVED:

That the Sub-Committee is satisfied that there are exceptional and compelling reasons to depart from the Statement of Licensing Policy and therefore agreed to grant a private hire vehicle licence for the Skoda Octavia 1.2 TSI owned by Mr David Hills.

2. **VARIATION OF PREMISES LICENCE – NO 5 BRIDGE STREET, WINCHESTER**

(Report LR405 refers)

The Sub-Committee met to consider an application by representatives of No 5 Bridge Street, (Winchester) Limited for a variation to the premises licence, under Section 34 of the Licensing Act 2003, of No 5 Bridge Street, Winchester.

Present at the meeting were Mr Oliver Weeks and Mr Matthew Boyle, representatives of the applicants. A local resident who made a representation about the application, Mr Gregory, was not in attendance at the hearing.

Mr Myall presented the application as set out in the Report. Mr Myall advised that the application sought to extend the hours for the sale of alcohol to 0100 Mondays to Saturdays and midnight on Sundays. He drew attention to a correction to the hours requested, as set out in paragraph 1.2 on page 1 of the Report.

No representations had been received from Responsible Authorities with regard to the application; however one had been received from another person (Mr Gregory) a resident of St Johns' Street. Mr Gregory's written representation was included within the Report and the Sub-Committee's attention was drawn to his concerns which were related to noise from the premises, cigarette litter around the front entrance and safety issues from smokers congregating outside on the pavement adjacent to the busy Bridge Street. Mr Gregory had suggested that smokers be relocated to Water Lane.

Mr Myall advised that there had been one complaint since the new licence holder had taken over the premises in December 2011. The premises were now a more food led pub, with bed and breakfast accommodation.

Mr Myall clarified that there were no recommended additional conditions if the Sub Committee was minded to grant the requested variation to the premises licence.

In response to questions of the Sub-Committee, Mr Myall clarified that the above complaint related to noise emanating from the courtyard garden area of the establishment, which had been dealt with by the licence holder. He referred to the existing restrictions on the use of this area after 10pm.

Mr Weeks and Mr Boyle also responded to questions of the Sub-Committee. It was explained that No 5 Bridge Street catered particularly to those who wished to dine later in the evening and stay on afterwards for drinks. During the peak trading time Thursday – Sunday (including the bed and breakfast accommodation), customers were greeted by staff on entry and escorted to their seats. Customers were encouraged to disperse quickly and quietly and staff arranged for taxis when requested. Mr Boyle reiterated that the type of operation of the licensed premises was very different to that previously undertaken and, although it was not considered necessary at this time, joining 'Pubwatch' could be given further thought.

In summing up his application for the variation, Mr Boyle reported that the establishment took its position in the neighbourhood very seriously and had notified residents of the application to vary the licence. There had been no objections from residents of Water Lane in the immediate vicinity. With regard to use of the courtyard garden, this was utilised by smokers until 10pm, at which time it was closed and they would then have to use the pavement outside the main entrance. He also advised that he had responded to Mr Gregory's concerns of cigarette litter to this area and had ordered wall fitted bins, and advised his staff to clear up the area too. Mr Boyle acknowledged the narrow pavement by the main entrance, however he reported that there were rarely more than two or three smokers outside at one any one time.

Mr Myall also reminded Members that the concerns of Mr Gregory about setting a precedent by granting the variation need not be a concern, as each application had to be considered on its own merits. The Sub-Committee was therefore unable to compare applications with conditions relating to other licensed premises in the vicinity.

The Sub-Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made and the matters raised during the hearing. It 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 concluded that it would approve the extension of hours as requested and detailed on page 7 of the Report for the following reasons. In coming to its decision, the Sub-Committee had considered the concerns raised by objectors. With regard to noise complaints, it was noted that only one had been received since 2011 and there had been no objection to the application to vary the hours by the Head of Environment on prevention of Public Nuisance grounds. The Sub-Committee also did not consider it appropriate to relocate smokers to Water Lane and agreed that the applicant had addressed the concerns about cigarette litter. As an advisory, the Sub-Committee suggested that the applicant consider becoming a member of Winchester Pub Watch. Members were also satisfied that the decision was not setting a precedent for future applications to vary licensed hours for other premises in Winchester.

RESOLVED:

That the application to extend the hours for sale of alcohol at No5 Bridge Street be agreed as follows:

(i)	Monday to Saturday	1000 to 0100
(ii)	Sunday	1200 to 0000
(iii)	Christmas Day	1200 to 1500 1900 to 2230
(iv)	Good Friday	1200 to 2230
(v)	New Years Eve	1000 to 1000 1 January (1200 if on a Sunday)

3. **NEW PREMISES LICENCE – DOMINO’S PIZZA, 49 UPPER BROOK STREET**

(Report LR406 Refers)

The Chairman welcomed to the meeting Mr Moore and Mr Parker representing the applicant and Mr Sclater, another person, who was a local resident. Also present was Councillor Nelmes, a Ward Member and Mrs Toms from the Council’s Environmental Protection Team.

Mr Myall introduced the Report which set out the details of the application made under Section 17 of the Licensing Act 2003 for a premises licence for Domino’s Pizza, 49 Upper Brook Street. The purpose of the application was to supply late night refreshments (hot food) from 2300 to 0500 every day. The intention was to operate a take away service until 0100, and then delivery only from 0100 – 0500. He advised that the premises previously had the benefit of a premises licence to allow such activities; however, owing to the premises licence holder’s company having been dissolved, the licence had lapsed. Therefore this application was for the same licence conditions under which the premises had previously operated.

Mr Myall referred to the representations made with regard to perceived nuisance from the premises and confirmed there were no complaints officially recorded. He advised that mention of other premises in the vicinity within the representations should be disregarded. In addition to this, issues related to cars exiting the car park opposite the establishment were also outside the control of the applicant. Mr Myall also noted that as the petition signatories referred to in the representation had not been verified, it was for the Sub-Committee to apply as much weight to this as was considered appropriate. Possible additional conditions as set out on page 6 of the Report mirrored those of the previous licence held at the premises.

Mr Myall reported that additional and amended Conditions had been agreed by the applicant’s representative (a local resident) in consultation with Mr Sclater. He reiterated that if the Sub-Committee was mindful to accept the conditions,

then it must be satisfied that that they were relevant to furthering the Licensing Objective relating to Public Nuisance.

In response to questions of the Sub-Committee, Mr Myall advised that currently there was no licence in place at the premises for it to operate after 11pm.

Mr Moore addressed the Sub-Committee as the applicant's representative.

Mr Moore advised that the franchise was operated by Solent Pizza who ran 11 others in the area and also in Cardiff. The application for the new premises license would match the standard of the other franchises operating until 5am. He acknowledged the representations made by local residents were the consequence of issues in the local area over a period of time. However, a number of the issues raised had occurred in the past and could not necessarily be directly linked to the current franchisee. He reported that the applicant (the current franchisee) had established communication with local residents to try and address their concerns and that this communication would be maintained.

Mr Moore circulated amended and new conditions to those already suggested in the Report to help further the Public Nuisance licensing objective. These had been agreed in consultation with a representative of local residents and a Ward Councillor, in advance of the hearing:

1. Prominent clear notices shall be displayed at all exits and leaflets made available requesting customers respect the needs of local residents and leave the premises and the area quietly and dispose of all litter responsibly.
2. Litter patrols take place throughout opening hours before 1am, and after closing
3. With regard to suggested Condition 4 in the Report, delivery vehicles additionally not be used in Parchment Street.

Mr Moore also clarified that although he would require the licence to allow the supply of late night refreshments (hot food) from 2300 to 0500 every day, this would only be used for the time being until 0300. He undertook that local residents would be consulted in advance of any future proposals to extend beyond 0300. With regard to concerns of residents of Upper Brook Street, he advised that pizzas would only be delivered to a residential address, and that they would also no longer deliver to any address to this road in the future.

Mr Moore referred to concerns raised by local residents of mechanical noise from extractor plant equipment and also of smells from the premises. He reported that noise levels were within permissible levels and that smells could not be directly attributed to this establishment. The franchisee was aware of a general issue with regard to extraction units at the premises being at a low level and it was hoped that a resolution could eventually be found to improve this.

In response to questions from the Sub-Committee, Mr Moore advised that delivery drivers currently used the car park opposite the premises and that litter patrols would also cover this area.

Mr Sclater (a local resident) addressed the Sub-Committee. He advised that the proposed late hours of operation of the premises was in conflict with the highly residential area. However, he had been pleased to have been given the opportunity to work constructively with the applicant and he welcomed the proposed amended and additional conditions proposed by the applicant. Mr Sclater also requested that the applicant's suggestion that residents are consulted on any future proposals to extend operating hours beyond 0300 be secured by way of an Informative. With regard litter collection, whilst welcoming the applicant's undertaking to commence regular inspections, he requested that also encompass the rear of the premises as residents had concerns of rats in this area.

Mrs Toms (Environmental Health Officer) responded to questions from the Sub-Committee and confirmed that only one formal complaint had been registered with the Team during the previous 10 years. As a Responsible Authority, no representation had been made with regard to the application, as all key controls had been dealt with. She suggested that the concerns of residents could be further alleviated by asking that the Council's Neighbourhood Wardens and Pest Control officers include the vicinity of the premises in their patrols of 'hot spot' areas. Mrs Toms confirmed that Environmental Health would welcome open discussion with the applicant and residents with regard to the concerns of noise from the mechanical plant of the extractor units.

The Sub-Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made and the matters raised during the hearing. It 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 concluded that it would approve the application subject to the conditions as detailed on pages 6 and 7 of the Report and as amended by the applicant. With reference to the objections raised by local residents, the Sub-Committee was satisfied that the conditions addressed the prevention of Public Nuisance licensing objective. The Sub-Committee noted that the applicant had agreed to introduce a formal complaints procedure and that a representative of local residents had provided a contact telephone number. The Sub-Committee also noted that the applicant had agreed to open dialogue with local residents and the Environmental Health Officer to endeavour to address the odour emanating from the premises.

The Sub-Committee also agreed to add an Advisory to the granted permission for the licence. This was that should the applicant wish to use the right to deliver hot food from 2300 to 0500 every day, (as opposed to 0300, as currently undertaken) then local residents (particularly those in Upper Brook Street and Parchment Street) would be consulted in advance.

RESOLVED:

That the application be granted, subject to the following conditions:

Crime and Disorder

1. All staff shall be trained to monitor all trading areas and report any suspicious incidents, criminal activity or disorder.
2. A CCTV system shall be installed and maintained. Cameras shall cover both inside and outside of the premises.

Public Safety

None

Public Nuisance

1. Staff shall be given appropriate instructions and training to encourage customers to leave the premises quietly and not to loiter in the vicinity of the premises so as to minimize disturbance to local residents.
2. Prominent clear notices shall be displayed at all exits, and leaflets made available, requesting customers, to respect the needs of local residents, to leave the premises and area quietly, and to dispose of litter in a responsible manner.
3. All doors and windows shall be kept closed after 2300 to prevent transmission of noise.
4. The premises licence holder shall ensure that litter patrols are carried out in the vicinity of the premises during opening hours and at the time the premises closes to the public.
5. Delivery drivers shall be instructed to enter and leave their vehicles quietly and considerately, not to leave engines running, to park considerately and at all times to have in mind the residents of neighbouring properties.
6. The Northern section of Upper Brook Street, and Parchment Street, shall not be used by delivery vehicles after 2300 on any day.

Protection of Children

None

Advisory

As the current advertising states deliveries may be made up to 0300, should the applicant wish to use his right to deliver from the premises up to 0500, he should consult with the local residents, particularly in Upper Brook Street and Parchment Street.

REASONS:

- (i) The Sub Committee had specific regard to the representations made and confirmed the additional conditions offered by the applicant. These conditions addressed the public nuisance licensing objective.
- (ii) The Sub Committee noted that the applicant agreed to introduce a formal complaints procedure and that a representative of the local residents will be provided with a contact number.
- (iii) The Sub Committee also noted that the applicant agreed to open a dialogue with local residents and the Environmental health officer to endeavour to address the odour emitting from the premises.

The meeting commenced at 10.30am and concluded at 12.25pm.

Chairman