

# Licensing Panel Report



Report of Head of Environmental Health

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Date of meeting: 31 May 2007

AGENDA ITEM NO

## Purpose of Meeting:

1. To consider the relevant representations received in respect of an application for a Premises Licence for USA Chicken, 6 St Mary's Street, Wallingford under the Licensing Act 2003.

## Introduction

2. The Licensing Act 2003 has established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the "licensable activities"
3. The standard procedure for the hearing of all licensing applications is attached as **Appendix A**.

## Section 17 Crime and Disorder Act 1998

4. Section 17 states: "Without prejudice to any other obligation imposed upon it, it shall be the duty of each Authority to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can, to prevent crime and disorder in its area."

## Application

5. The following information has been supplied by the applicant.

|   |  |
|---|--|
| Type of application:  | Application for a premises licence under the Licensing Act 2003  |
| Applicant / Address   | Nesimi Keskin<br>USA Chicken<br>6 St Martins Street<br>Wallingford<br>Oxon<br>OX10 0AL                       |
| Supply of Alcohol:  | No   |
| Designated premises supervisor name and licence number:   | N/A  |
| Summary of new application:<br><br>The applicant has applied for a premises licence to allow the sale of late night refreshment until 11.45pm on Friday and Saturday nights. The application form is attached at <b><u>Appendix B</u></b> . |  |
| Details of application  | a. To be able to serve late night refreshment from 11.00pm until 11.45pm on Friday and Saturday nights only. |

## Promotion of Licensing Objectives

6. The operating schedule upon the existing premises licence, which is attached in **Appendix C** shows that the licensing objectives will be met as follows:

|                                      |  |
|--------------------------------------|--|
| General Licensing Objectives         | All below described licensing objectives will be implemented once the licence is permitted. (Most of the objectives are already in place in the current operation.)  |
| The Prevention of Crime and Disorder | Liaise with local police.<br>CCTV cameras already in place.<br>Displaying clear signs that anti social behaviour will not be tolerated.<br>Training of staff to prevent any anti social behaviour in or around the premises. |

|                                      |  |
|--------------------------------------|--|
| Public Safety                        | <p>Liaise with local police.</p> <p>CCTV cameras already in place.</p> <p>Training of staff.</p>   |
| The Prevention of Public Nuisance    | <p>Notices asking patrons to leave quietly.</p> <p>Controlling noxious odours from cooking etc.</p> <p>No loud background noise or music played in the premises.</p> <p>Noise is kept to a minimum during cleaning up and closing times.</p> <p>Training of staff on preventing public nuisance.</p> |
| The Protection of Children From Harm | <p>To warn families to keep their children with them at all times.</p> <p>Keep hot, flammable and sharp objects out of children's reach.</p>   |

## Background

### 7. The following background information is known about this premise.

|                             |   |
|-----------------------------|---|
| Previous licences held:     | The premise has not held any licences under the Licensing Act 2003 prior to this application.   |
| Current convictions:        | None  |
| Details of licence reviews: | None  |
| Complaints:                 | Environmental Health has 20 complaints on file in relation to this premise which date back to 1999. The complaints relate to a variety of issues which include noise nuisance from fan units operated by the premise and odours from the premises extraction systems. The applicants for this premises licence have only been responsible for the premise since November 2006. 5 of the 20 complaints have been made to Environmental Health since November 2006 and relate to food safety, noise and odour issues. |

## Relevant Representations

**8. Relevant representations from responsible authorities have been made in respect of the application listed in paragraph 5. Full details of these representations are attached to the report at Appendix C. A summary of the responses from the relevant authorities are as follows:**

|                        |   |
|------------------------|---|
| Police:                | No response   |
| Fire & Rescue Service: | No response   |
| Environmental Health:  | The environmental protection officer has objected to the grant of the licence on the grounds of the prevention of public nuisance. The full comments of the Environmental Protection Officer are included in the report at <u>Appendix C</u> .  |
| Planning:              | <p>The planning officer had no objections to the application and has informed the Licensing Authority that the premises currently only holds planning permission allowing them to trade until 11.30pm on Fridays and Saturdays. The officer has made the following observations:</p> <p><i>Planning permission will be required if they wish to extend their opening hours on a Friday and Saturday until 11.45pm.</i></p> <p>Planning permission is unlikely to be granted for any further extension as there are first floor flats above the premises which would be adversely affected by any further extensions to the opening times.</p> |
| Trading Standards:     | No objections   |
| Child Protection:      | No response   |

**9. The conditions proposed by the environmental protection officer have not been accepted by the applicant.**

### **Interested Parties**

**10. No representations have been received from local residents.**

### **Legal Implications**

**12. Under Schedule 5 of the Licensing Act 2003 the applicant or a person who made a relevant representation may appeal to the Magistrates Court in the event of not accepting the decision of the Licensing Panel.**

### **Policy Considerations**

**13. In determining applications the authority must give appropriate weight to:**

- a. Representations received from Responsible Authorities;**
- b. Relevant Representations made by Interested Parties;**
- c. The Secretary of State's Guidance;**
- d. The Statement of Licensing Policy;**
- e. The steps necessary to promote the Licensing Objectives**

**14. The Licensing Officer considers the following policies taken from the Statement of Licensing Policy should be considered for this application.**

|   |
|---|
| <b>Policy LH 3: Licensing hours not limited</b>   |
| The Authority will not reduce the hours permitted for licensable activities to less than those stated in an application, unless representations indicate that this is necessary and then only in the context of the individual merits of that application. In considering a limitation on trading hours, regard will be had to the nature of the locality around the premises.  |
| <b>Policy LH 5: Closing Times</b>   |
| In determining applications, the Authority will take into account the time that it is proposed to close the premises where patrons have been attracted to attend by a licensable activity. Regard will also be had to matters such as the nature of the locality and the availability of public transport at the time that the premises propose to close.   |
| <b>Policy LH 6: Dispersal procedures</b>  |
| <p>The Authority will require applicants for Premises Licences where there is likelihood for nuisance to the neighbourhood due to patrons leaving the premises, to submit a written statement with their application, covering procedures for orderly dispersal of patrons at closing time. Frequently, but not exclusively, these types of premises will be those that open for regulated entertainment or sale of alcohol after midnight,</p> <p>Such a statement should show how all staff in the premises are trained in its implementation.</p> <p>The Authority expects any dispersal procedure to state the time at which the licensable activities cease and the later, actual, closure time of the premises.</p> |
| <b>Policy LH 7: Latest admission times</b>  |
| In appropriate premises, where there is the possibility of customers moving between premises late at night or in the early hours of the morning in a way that could have a negative effect on any of the licensing objectives, the Authority expects latest admission times to apply where premises continue to sell alcohol for consumption on the premises and provide Regulated Entertainment after midnight.  |

The Authority expects the latest admission time to be at least one hour before cessation of the licensable activity.

**Policy OS 3: Operating schedule – Log book**

The Authority suggests that the managers of appropriate premises maintain a log of activities for the premises, that records the details of the manager and staff and the times that they are on duty, with details of incidents such as where people have been refused admission or have been ejected from the premises.

**Policy OS 11: Operating schedule – CCTV**

For appropriate premises, the Authority expects the use of CCTV equipment to capture images of appropriate quality, location and frequency. The Authority expects applicants for licences for such premises to demonstrate in their operating schedules that the installation and operational procedures for the equipment at the premises comply with Thames Valley Police's "Standard Minimum Closed Circuit Television Requirements".

**Policy OS 13: Operating schedule – Door Supervisors**

The Authority generally expects Premises holding regulated entertainment that continues beyond midnight to employ door supervisors in furtherance of the licensing objectives, unless it is shown to be unnecessary. In addition to the SIA requirements for registration, the Authority will require Door Supervisors to comply with the requirements of the "Thames Valley Door Safe" code of conduct whilst they are on duty. Where appropriate, the Authority will attach conditions to Premises Licences about the minimum numbers of male and female door supervisors on duty and their roles, which will reflect the layout of the premises, the location, the type of entertainment or function provided and the periods when regulated entertainment normally takes place. Where Representations have been made, the Authority may require premises to use door supervisors for particular types of regulated entertainment which have a significant potential to provoke disorder, or where there are special promotional events in which the sale of alcohol is significant. At premises that have regular entertainment or where special events are taking place, other attendants who do not engage in security activities, may be required to supervise areas within the premises. The Authority expects door supervisors and other staff undertaking security or supervisory duties to be readily identifiable by members of the public and where appropriate to wear high visibility clothing.

**Policy OS 14: Operating schedule – 'Pub-Watch' Schemes**

The Authority strongly recommends that all premises licensed to sell alcohol will participate in a 'pub-watch' or similar approved scheme and become part of any alert system(s) that such schemes may implement to alert members about potential troublemakers.

## **Licensing Officer's Observation**

- 15. A plan showing the location of the premises is attached at Appendix D.**
- 16. This report provides information submitted by the applicant. The Panel is obliged to determine this application with a view to promoting the Licensing Objectives which are:**

- **The Prevention of Crime and Disorder**
- **Public Safety**
- **The Prevention of Public Nuisance**
- **The Protection of Children From Harm**

- 17. In making its decision, the Panel is obliged to have regard to the relevant provisions of the Act, Guidance and Policy.**
- 18. The Panel must also have regard to all the relevant representations made and the evidence it hears. Members of the Panel when considering the application must confine themselves to considering only those aspects of the application in respect of which relevant representations have been made.**
- 19. The Panel must either grant the application as applied for OR take such of the following steps as it considers necessary for the promotion of the licensing Objectives:**
- i. Modify the conditions of the licence, by altering or omitting or adding to them.**
  - ii. Reject the whole or part of the application**
- 20. The Panel cannot modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote one or more of the Licensing Objectives.**

## **APPENDIX A**

### **PROCEDURE FOR THE HEARING BY THE LICENSING PANEL**

#### **INTRODUCTION**

- 1. Where both parties intend to produce documents in support of his/her case they shall exchange documents not less than 7 working days prior to the date of the hearing and further shall supply copies of these documents to the Council's Licensing Officer not less than 7 working days prior to the date of the hearing.**
- 2. By reason of the confidential nature of some types of case heard by the Licensing Panel the public and press may be excluded from the proceedings.**

**3. The applicant will have the right to be accompanied at the hearing by his/her representative, who may present the case for or on behalf of the applicant.**

**4. At the commencement of the hearing, the applicant, or his/her representative and the Council's Licensing Officer, will present to the Licensing Panel details of any witnesses to be called.**

#### **LICENSING OFFICER**

**5. The Licensing Officer will then present the circumstances of the case, as supported by any documentary evidence, and may call witnesses.**

**6. The applicant or his/her representative may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.**

**7. Objectors to the application may then ask questions of the Licensing Officer and any witnesses called**

**8. The Licensing Panel members may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.**

#### **APPLICANT**

**9. The applicant and his/her representative may present his/her case/submission to the Licensing Panel as supported by any documentary evidence and may call witnesses.**

**10. The Licensing Officer may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.**

**11. The Objectors to the application may ask questions of the applicant and any witnesses on their evidence.**

**12. The Licensing Panel members may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.**

#### **THE OBJECTORS**

**13. The Objectors will give details of their objections to the application, this may be supported by documentary evidence and witnesses may be called.**



**14. The Applicant may then ask questions of the objectors and any witnesses called by the objectors.**

**15. The Licensing Officer may then ask questions of the objectors.**

**16. The Licensing Panel members may then ask questions of the objectors and any witnesses called by the objectors.**

#### **SUMMING UP**

**17 The Licensing Officer, the applicant and/or his/her representative and the objectors will then have the opportunity to sum up their cases if they so wish.**

**18 All parties and their witnesses will then be asked to withdraw from the meeting whilst the Licensing Panel deliberates in private. In the event of uncertainty on any of the evidence, all parties will be recalled regardless of the fact that the point in question may relate only to the evidence of one of the parties.**

**19 When the Licensing Panel has completed its deliberations all parties will be recalled to the meeting and the Chairman will announce the Licensing Panel's decision and the reasons for that decision.**

#### **APPENDIX B**

**Application for a premises licence under the Licensing Act 2003.**

**USA Chicken, 6 St Mary's Street, Wallingford.**

**APPENDIX C**

**Representations from the Relevant Authorities**

**Memo**

To: Licensing

Date: 30 March 2007

From: Environmental Health

Ask For: Simon Hill

Our Ref:

Extension:

**RE: Premises Licence Variation Application**

**AT: USA Fried Chicken, 6 St. Martins Street, Wallingford, Oxon.**

**Thank you for consulting this Service regarding the above application.**

**I have reviewed the application and consulted our records and would like to make representation against the application. I am concerned that due to the residential location of the premises, the measures outlined in section Q (d) of the application would not be sufficient to prevent a public nuisance.**

**The areas of concern are:**

- **General break out noise from the premises;**
- **Noise from people leaving the venue at the end of the night.**

**We have concerns about the proposed extension to the premises current licensing hours causing additional noise disturbance to the surrounding residential properties. People living in close proximity to a fast food premises can expect to experience a level of noise disturbance until the premises closes at its current time of 23:00. Any later opening may result in this noise disturbance being unacceptable.**

**We are also currently investigating noise complaints relating to the premise (noise from the extraction system). I visited the residential property above the premises on Friday 23 March 2007 as part of this noise investigation. In addition to the noise from the extraction system, people can be clearly heard talking and working within the premises from the property upstairs. We have significant concerns about the acoustic integrity of the current structure and its ability to contain noise. The structure seems to be acoustically weak in this regard because of its age and design. Therefore, any extension to opening hours would lengthen the time of noise exposure.**

**Until these issues have been resolved, it is felt that any extension to their opening hours would be unacceptable. Due to the concerns mentioned above, I would recommend refusing the application to extend the licensing hours.**

**If you have any further questions or queries, please do not hesitate to contact me.**

**Regards**

**Simon Hill**

**Environment Officer - Environmental Health**

**APPENDIX D**

**Site plan of showing the location of USA Chicken**

