

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

**APPLICATION: GRANT OF A PREMISES LICENCE – MOBILE FOOD VAN,
TOTTON WESTERN BYPASS**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Tuesday, 18 December 2012 at 10.00am**

1. Members of the Licensing Sub-Committee

Councillor G C Beck - Chairman
Councillor J Heron
Councillor P R Woods

2. Parties and their Representatives attending the Hearing

Mr Tayar – Applicant
Mr Crier – Applicant’s Solicitor
Mr Worsely, Environmental Health (Pollution) – Objector
Mr Hocking, New Forest National Park Authority (Planning) – Objector
Cllrs Buxton, Mrs Gordon and Mr Puttock, Netley Marsh Parish Council –
Objector

3. Other Persons attending the Hearing

None.

4. Parties not attending the Hearing

Mr Rise - Objector

5. Officers attending to assist the Sub-Committee

Amanda Fairclough – Legal Advisor
Melanie Stephens - Clerk

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

L: Late Night Refreshment

Monday 23.00 to 24:00
Tuesday 23.00 to 24:00
Wednesday 23.00 to 24:00
Thursday 23.00 to 24:00
Friday 23.00 to 02:00
Saturday 23.00 to 02:00
Sunday 23.00 to 24:00

Hours premises to be open to the public

Monday 16.00 to 24:00
Tuesday 16.00 to 24:00
Wednesday 16.00 to 24:00
Thursday 16.00 to 24:00
Friday 16.00 to 02:00
Saturday 16.00 to 02:00
Sunday 16.00 to 24:00

Conditions:

1. CCTV will be installed and maintained on the van to the satisfaction of the Licensing Authority and Police. As a minimum it will enable surveillance of both internal and external areas of the licensed van and the immediate vicinity. Recordings from the system will be to a standard acceptable as evidence in a court of law and will be securely retained for a minimum of 30 days. The CCTV system will be capable of producing immediate copies of recordings on site and will be surrendered in a playable format to Hampshire Constabulary or the Licensing Authority if requested as soon as reasonably practicable but in any case within 24 hours. The system will be maintained and fully operational, as a minimum, throughout the hours of trade.
2. Appropriate lighting will be installed and maintained on the van to the satisfaction of the Licensing Authority and Police to ensure that individuals can be identified from the CCTV recordings.
3. Any generator used on the van will be acoustically treated to limit noise to a decibel level to be agreed between the licence holder and Environmental Health and hidden behind the van during the hours of trade.
4. A litter sweep will be undertaken every two hours throughout the hours of trade and all litter and refuse will be stored in a secure and suitable container on site.
5. The licence holder shall ensure that all staff encourages responsible behaviour on site during hours of trade to ensure the orderly dispersal of customers.
6. Clear notices will be displayed on the van reminding customers to show respect for the premises' neighbours and requesting that customers be considerate to local residents by leaving the van and the immediate vicinity quietly.

7. Clear Notices will be displayed confirming that the premises licence holder has the right to refuse sale to disorderly customers.
8. There will be no public seating on site.

7. Reasons for the Decision

In reaching its decision the Sub-Committee must only have regard to the four licensing objectives, which are:-

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- The protection of children from harm

The Sub-Committee has considered all the representations made to it, both written and oral.

Having considered all the representations, the Sub-Committee considers that a grant of the application with a reduction in hours, along with the imposition of conditions as set out above, will promote the licensing objectives.

In considering the concerns of the Council's Environmental Health Officer and the representations from the local resident in relation to the potential for public nuisance from noise omitted from any power generator, the Sub-Committee considered that a condition requiring the Applicant to install an acoustically treated generator, to limit noise to a decibel level to be agreed with Environmental Health and to be installed in a position hidden behind the van, would alleviate this concern.

In relation to noise from customers visiting the van to buy food the Sub-Committee noted that there had only been one complaint received by the Council's Environmental Health Department in the past and that appropriate signage and management on site would limit any noise disturbance. Further, a condition prohibiting customer seating would reduce the likelihood of customers congregating outside the van.

In relation to the promotion of the licensing objective, the prevention of public nuisance, the Sub-Committee considered that the hours of late night refreshment applied for, 11.00 to 03.00 everyday, were excessive, particularly given the proximity of local residents to the van and the potential for unreasonable noise disturbance. The Sub-Committee concluded that a reduction in the hours of late night refreshment was, therefore, appropriate. The Sub-Committee noted that the objection from the local resident focused on disturbance caused during the working week. The Sub-Committee felt that the reduction of hours of late night refreshment from those applied for would further eliminate unreasonable noise disturbance to local residents.

In relation to the objection raised by the New Forest National Park Authority the Sub-Committee noted the planning and licensing are separate, albeit related statutory regimes. The Sub-Committee was aware that there had been a history of planning enforcement on the site. However, the existence of the extant Enforcement Notice on the site did not necessarily engage the prevention of crime and disorder licensing objective as the Applicant could remedy any planning issues before trading on the site commenced.

The Sub-Committee reminded the Applicant that any planning matters must be resolved with the National Park Authority as the local planning authority prior to commencement of trading and to trade in breach of an existing enforcement notice would be a criminal offence.

The Sub-Committee, whilst mindful of the concerns raised by the Parish Council and the public objector, felt that the conditions imposed would ensure that the licensing objectives would not be compromised.

Date: 21 December 2012

Licensing Sub-Committee Chairman: Cllr G C Beck

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Decision notified to interested parties on 21 December 2012