



Democratic Services

30 October 2013

Town Hall  
Chapel Road  
Worthing  
BN11 1HA

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Dear Councillor

**Licensing and Control Sub Committee - B**

A meeting of the Licensing and Control Sub Committee - B will be held on **Wednesday 30 October 2013 at 10.00am** in Committee Room 2 to consider the business set out in the following Agenda.

Yours sincerely

Executive Head of Corporate and Cultural Services

**LICENSING AND CONTROL SUB COMMITTEE - B**

**Councillors Norah fisher, Roger Oakley and Vicky Vaughan  
(Christine Brown – Sub)**

\*This licensing authority will only allow licensing decisions to be taken by a minimum of three Councillors. In the event of one Councillor being unable to attend, their place will be taken by another Councillor taken from the membership of the full Licensing and Control Committee - B. In the event of this happening all parties will be informed of the change of membership at the beginning of the meeting.

## AGENDA

1. **Welcome**

2. **Apologies and Reconstitution of Membership (if appropriate)**

To note any apologies for absence and resulting reconstitution of the membership of the Sub Committee, if appropriate.

3. **Declarations of Interest**

Members and Officers are invited to make any declarations of disclosable pecuniary interests that they may have in relation to any items on this Agenda. The declaration should refer both to the nature of the interest as well as its existence.

Members and Officers may seek advice upon any relevant interest from a Legal or Democratic Services Officer prior to the meeting.

4. **Licensing Act 2003 – Application for a new Premises Licence at:**

**Venue:** 138-140 Montague Street, Worthing, BN11 3HG

5. **Licensing Act 2003 - Application for a Variation of a Premises Licence under Section 34**

**Venue:** 'Worthing Kebab House' 32 Teville Road, Worthing BN11 1UG

**Ward**

Central

Central

Please note that the Procedure to be followed by the Sub Committee will be circulated at the start of the meeting.

**Licensing Act 2003 – Application for a new Premises Licence at:  
138-140 Montague Street, Worthing, BN11 3HG**

**Report by the Executive Head of Housing, Health & Community Safety**

**1. Recommendation**

- 1.1 That a Sub Committee of Licensing & Control Committee “B” consider and determine an application made by :

**Brantwick Ltd.**

for a new Premises Licence to authorise the sale of alcohol for consumption on the premise, the provision of regulated entertainment and the sale of late night refreshment at the above premise.

**2. Reasons for Hearing**

- 2.1 The application has been the subject of formal representation by two responsible authorities and it therefore falls to this sub-committee to determine.

**3. Background**

- 3.1 The proposed new restaurant is to be situated in the Montague Street pedestrian precinct. The double retail unit was until recently occupied by ‘Poundwise’ but is currently closed & vacant.
- 3.2 An application was made by Brantwick Ltd. to Worthing Borough Council on the 10 September 2013 for a new Premises Licence for a proposed new Italian Delicatessen & Restaurant, yet to be named, to be situated at the site.
- 3.3 A plan of the area is attached (**Appendix A**)
- 3.4 A plan of the proposed premise is attached. (**Appendix B**)
- 3.5 The application is for authorisation for the sale of alcohol, provision of regulated entertainment and the sale of late night refreshment. (**Appendix C**)
- 3.6 A copy of the letter received from Sussex Police. (**Appendix D**)

3.7 A copy of the letter received from Adur & Worthing Councils' Environmental Protection Team. (**Appendix E**)

#### 4. **The Application**

4.1 The Application is attached at **Appendix C**. However, in summary, **Brantwick Ltd** is applying for:

i) Authorisation for the sale of alcohol for consumption on the premises between the hours of:

10.00hrs and 23.00hrs Sunday to Thursday  
10.00hrs and 00.00hrs (midnight Friday & Saturday)

ii) Authorisation for the provision of recorded music between the hours of:

10.00hrs and 23.00hrs Sunday to Thursday  
10.00hrs and 00.00hrs (midnight Friday & Saturday)

The application refers to live music and facilities for dancing but members should note that the implementation of the Live Music Act 2012 means the provision of live music between 08.00hrs and 23.00hrs for an audience of less than 200 persons in a premises licensed for the sale of alcohol for consumption on the premise and the provision of entertainment facilities are no longer licensable activities.

iii) Authorisation for the sale of late night refreshment for consumption on the premises between the hours of:

23.00hrs and 23.30hrs Sunday to Thursday  
23.00hrs and 01.00hrs, of the following morning, Friday & Saturday

iv) Proposed opening hours of the premises to be:

10.00hrs and 23.30hrs Sunday to Thursday  
10.00hrs and 01.00hrs, of the following morning, Friday & Saturday

4.2 As recommended by the Guidance issued under section 182 of the Licensing Act 2003 the applicant has completed an operating schedule as to how it is intended to address the Licensing Objectives if this application were granted.

4.3 The proposed designated supervisor detailed in the application is Rasib Hussain who holds a personal licence issued by Horsham District Council.

#### 5. **Promotion of the Licensing Objectives**

5.1 The Licensing Act 2003 and regulations require that the Council, as local licensing authority, carries out its functions with a view to promoting the four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

- 5.2 In carrying out its licensing functions, the licensing authority must also have regard to the Guidance issued by the Secretary of State and its own Statement of Licensing Policy. Members are advised that the following sections of the Worthing Borough Council's Policy may be particularly relevant to consideration of this matter, though of course the Policy in its entirety must be considered. Sections indicated relate to paragraph numbers in the Policy itself:

***The Prevention of Crime & Disorder***

- 4.2 *The Council places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over licensed premises.*
- 4.3 *In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself, the Guidance issued under section 182 to the Act and this policy. The Council will give "due regard" to all possible implications and its Licensing & Control Committee will always consider all the information available and relevant representations made, including those from interested parties and the responsible authorities, particularly the Police.*
- 4.4 *In their role as a responsible authority, Sussex Police are an essential source of advice and information on the impact and potential impact of licensable activities in the borough, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and usually have good working relationships with those operating in the local area. The council recognises that Sussex Police are the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The Council will accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.*
- 4.5 *Licensed premises, especially those offering late entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Council will expect Operating Schedules submitted with applications to satisfactorily address these issues, from the design of the premises through to the daily operation of the business, including, where appropriate, the policy and arrangements proposed in respect of the prevention of both alcohol and drug misuse.*
- 4.6 *Applicants will be expected to identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective in their particular case. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.*
- 4.7 *Applicants are expected to seek advice, where necessary from Council Licensing Officers and Sussex Police, as well as taking into account, as appropriate, local*

*planning and transport policies, and crime prevention strategies when preparing their plans and schedules.*

- 4.8 *In addition to the requirements for the Council to promote the licensing objectives, it also has a duty, as detailed in paragraph 4.2, under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. The Council will consider attaching conditions to licences and permissions to deter and prevent crime and disorder within the vicinity if relevant representations are received. Whether or not incidents can be regarded as being in the vicinity of licensed premises is a question of fact and will depend on the particular circumstances of the case.*
- 4.9 *The Council recognises that the Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.*

### **Prevention of Public Nuisance**

- 4.17 *Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.*
- 4.18 *Noise disturbance can arise from entertainment or activities held within licensed premises and also from people or motor vehicles outside licensed premises. The Council will expect Operating Schedules to address these issues. Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. If representations are received the Council may utilise appropriate conditions to control noise disturbance and the use of such conditions will depend upon the activities/entertainment/hours of operation proposed; the nature of the locality; and existing background noise levels and ambient noise levels. Noise control conditions may include the satisfactory sound insulation of licensed premises; compliance with maximum noise levels; and limiting hours of operation.*
- 4.19 *When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type/construction of their premises, proposed activities and nature of locality) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule.*
- 4.20 *Anti-social behaviour such as excessive noise from access and egress or patrons littering should also be addressed in the Operating Schedule.*
- 4.22 *Patrons may no longer smoke inside licensed premises and consequently may go outside to smoke. Applicants and existing licence holders are encouraged to assess whether the noise from such patrons could potentially disturb nearby residents and whether there is potential for smoke to drift to nearby residential properties.*
- 4.23 *The Council will consider attaching conditions to licences and permissions to prevent public nuisance, but will seek to avoid duplication with the requirements of other regulatory regimes.*

## **6. Consultation**

- 6.1 The application has been subject to the statutory consultation and statutory public advertisement arrangements in accordance with the provisions of the Act, in respect of which relevant representations were received from the following:
- Members of the public – None.
  - Responsible Authorities – Two representations

## **7. Relevant Representations**

- 7.1 Details of the relevant representations received are reproduced at appendices D & E. They are considered to relate to the statutory licensing objectives as follows:
- Prevention of Crime and Disorder.
  - Prevention of Public Nuisance
  - Protection of Children from Harm
- 7.2 Those making relevant representation have been invited to attend the Sub-Committee and included in the report are the representations reproduced in full.
- 7.3 Sussex Police made a number of comments and listed a number of conditions that they consider the minimum required to enable this premise to meet the licensing objectives if this licence were granted. (Appendix D)
- 7.4 Adur & Worthing Councils' Environmental Protection Team identified a number of issues that they felt Brantwick Ltd. had not adequately addressed in their application and stated they were unable to support the application in its current form. (Appendix E)

## **8. Mediation**

- 8.1 The Licensing Unit invited Brantwick Ltd. to contact the responsible authorities to explore the possibility of a mediated solution but no detail regarding any agreement was available as this report was published but members will be fully updated prior to any hearing commencing.

## **9. Consideration**

- 9.1 Members must take into consideration the following when determining this application:
- The four statutory licensing objectives
  - Worthing Borough Council's Statement of Licensing Policy
  - Guidance issued by the Home Secretary
  - The relevant representations from all the parties.
- 9.2 These are the only matters to be addressed by the authority when considering this application. The statutory Licensing objectives are the only grounds on which representations can be made, and the only grounds on which an authority will be

able to refuse an application or impose conditions in addition to statutory conditions and those proposed by the applicant in the Operating Schedule.

- 9.3 When considering this application for a premises licence the following options are available to the Sub-Committee:
- a. Grant the licence, as requested,
  - b. Grant the licence, as requested, with additional conditions appropriate to the promotion of the specific licensing objectives on which relevant representations have been received.
  - c. Reject the whole or part of the application.

Members may also:

- d. Grant the licence but exclude certain licensable activities from the licence,
- e. Refuse to specify a particular person as a premises supervisor,
- f. Approve different parts of the premises for different activities.

- 9.4 Members are required to give reasons for their decision.

## 10. Legal Implications

- 10.1 Under Section 181 and Schedule 5 of the Act, the following rights of appeal to the Magistrates' Court in respect of applications for a premises licence includes:

- (1) The applicant may appeal against any decision to modify the conditions of the licence.
- (2) The applicant may appeal against a rejection in whole or part of an application.
- (3) A person who has made relevant representations may appeal against a licence being granted, or against the modification or lack of modification of any conditions.

- 10.2 Members are reminded that the Act allows for the local licensing authority to undertake a review following the grant of a premises licence, when requested to do so by a responsible authority, such as the police, or the fire authority, or any other person, such as a resident living in the vicinity of the premises. The Government's guidance states: *"The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. It is the existence of these procedures which should, in general, allow licensing authorities to apply a light touch bureaucracy to the grant and variation of premises licences by providing a review mechanism when concerns relating to the licensing objectives arise later in respect of individual premises."*

- 10.3 In determining this application, the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due weight.



- 10.4 Members must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 10.5 All applications, before Committee, must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 10.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from interested parties and the responsible authorities particularly the Police.

## **11. Other Implications**

- 11.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account.

## **12. Recommendation**

- 12.1 Members are requested to determine the application for a new Premises Licence made by Brantwick Ltd. for a proposed new delicatessen & restaurant to be situated at 138-140 Montague Street, Worthing and give reasons for that determination.**

**Paul Spedding**  
**Executive Head of Housing, Health and Community Safety**

### **Principal Author and Contact Officer:**

Simon Jones

Senior Licensing Officer - Tel: 01273 263191 or [simon.jones@adur-worthing.gov.uk](mailto:simon.jones@adur-worthing.gov.uk)

### **Background Papers:**

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003  
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing>
- Worthing Borough Council's Statement of Licensing Policy  
<http://www.adur-worthing.gov.uk/media/media,98561,en.pdf>

### **Appendices:**

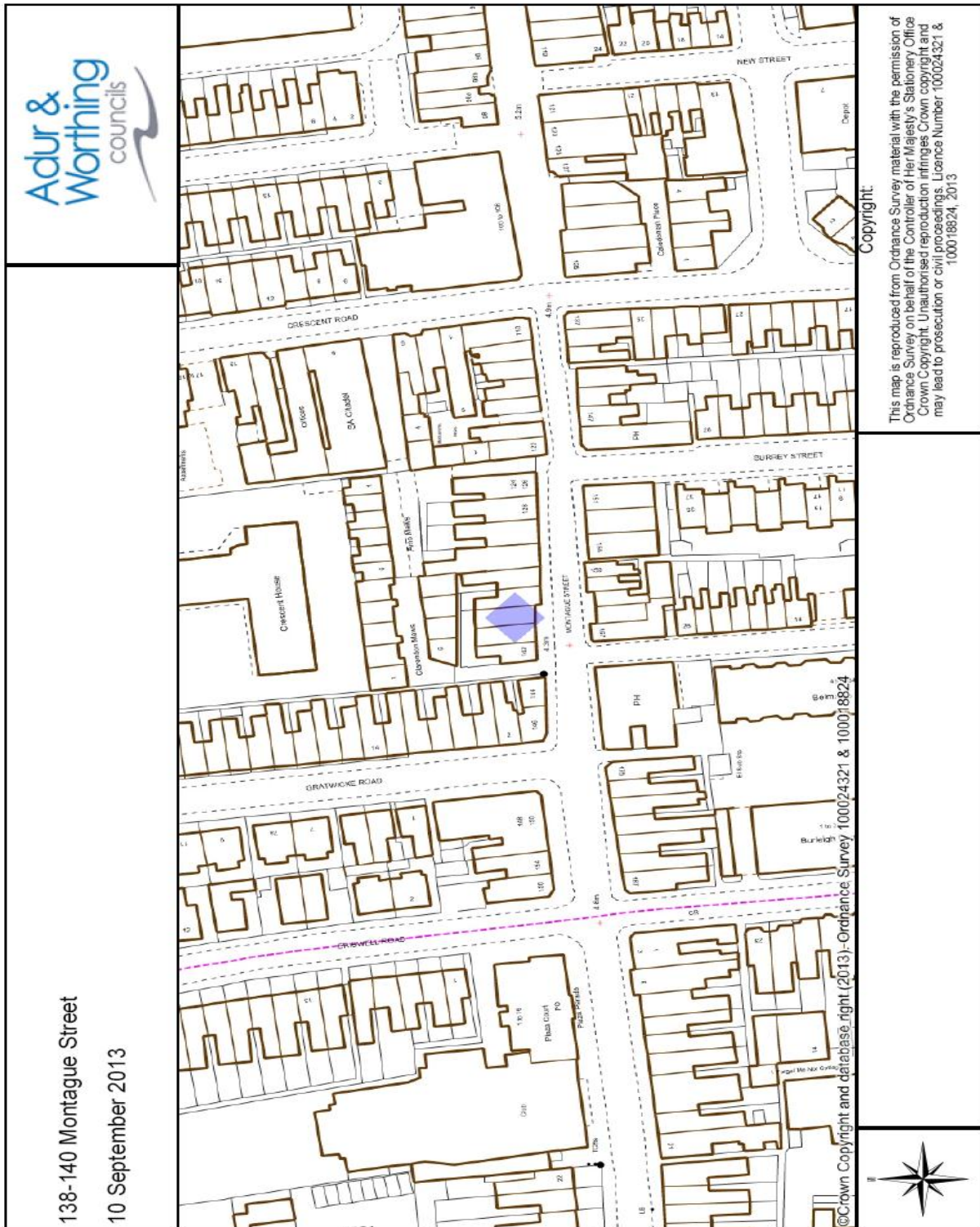
- Appendix A - Plan of area.
- Appendix B - Plan of the building.
- Appendix C - The Application Form.
- Appendix D – Representation made by Sussex Police.
- Appendix E – Representation made by the Environmental Protection Team

Commerce Way, Lancing

Ref: SJ/Lic.U/LA03/NEW – 138-140 Montague Street

Date: 19 October 2013.

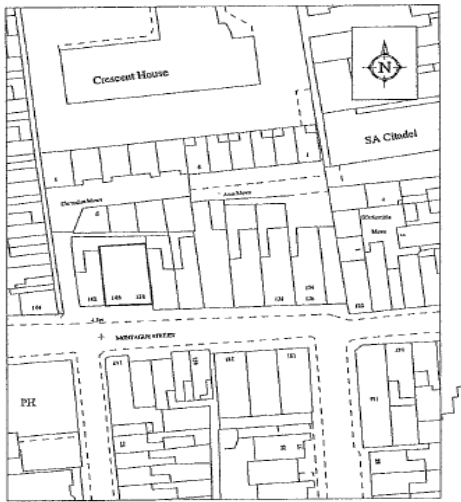
Plan of Area



Plan of Premise

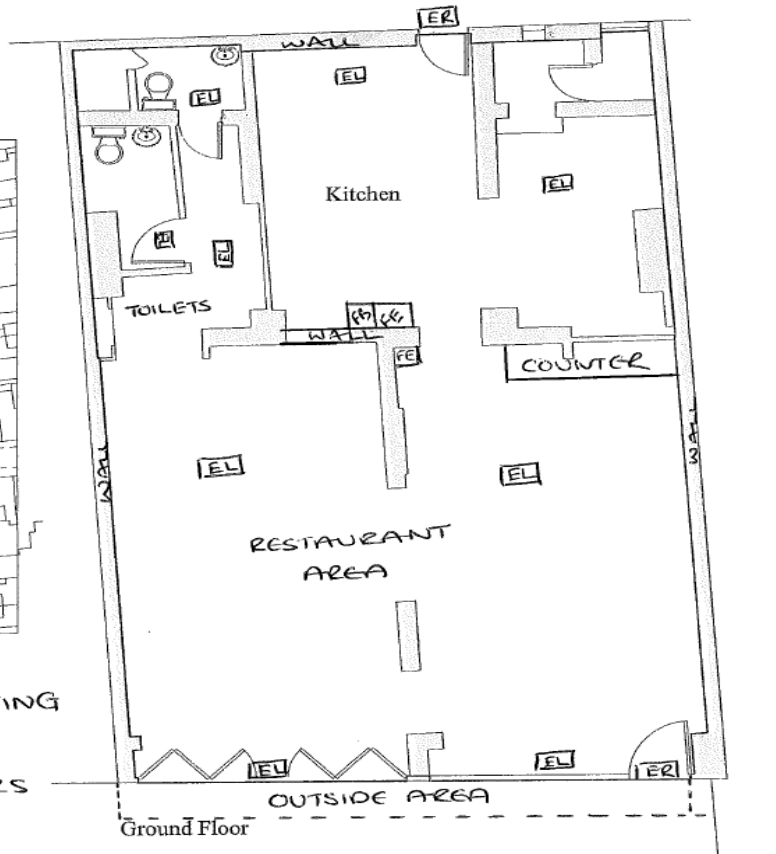



Adur & Worthing Councils  
Licensing Unit  
RECEIVED  
10 SEP 2013  
..... Initials



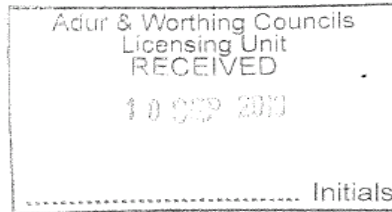
Location plan Scale 1:1250

- EL = EMERGENCY LIGHTING
- ER = EMERGENCY ROUTE
- FE = FIRE EXTINGUISHERS
- FB = FIRE BLANKET



	<p>Trueplan (UK) Ltd Bank Chambers 36 Mount Pleasant Tunbridge Wells Kent TN11 1RB</p>	<p>138-140 Montague Street, Worthing, West Sussex, BN11 3HG</p>	<p>Scale 1:100 @A4 Drawing no: 20285/3647 Drawn on: 12/08/2013 Revision 0</p>
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Application



**Application for a Premises Licence to be granted under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING APPLICATION**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We .....BRANTWICK LIMITED..... (insert name(s) of applicant) apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

**Part 1 – Premises Details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> <u>138-140 MONTAGUE STREET</u>	
<b>Post town</b> <u>WORTHING</u>	<b>Post code</b> <u>BN11 3HG</u>
<b>Telephone number at premises (if any)</b>	
<b>Non domestic rateable value of premises</b>	<b>£</b> <u>20,750</u>

**Part 2 – Applicant Details**

Please state whether you are applying for a Premises Licence as:

- Please tick ✓**
- a) an individual or individuals\*  please complete section (A)
  - b) a person other than an individual\*
    - i. as a limited company  please complete section (B)
    - ii. as a partnership  please complete section (B)
    - iii. as an unincorporated association or  please complete section (B)
    - iv. Other (for example a statutory corporation)  please complete section (B)
  - c) a recognised club  please complete section (B)
  - d) a charity  please complete section (B)

- e) The proprietor of an educational establishment  please complete section (B)
- f) A health service body  please complete section (B)
- g) A person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital  please complete section (B)
- h) The chief officer of police of a police force in England and Wales  please complete section (B)

**Please tick ✓**

\*If you are applying as a person described in (a) or (b) please confirm:

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
- Statutory function; or
- A function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

Surname  First names

I am 18 years old or over

**Please tick ✓**

Current postal address if different from premises address

Post Town  Postcode

Daytime contact telephone number

Email address (optional)

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

Surname  First names

I am 18 years old or over

Please tick

Current postal address if different from premises address

Post Town  Postcode

Daytime contact telephone number

Email address (optional)

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	BRANTWICK LIMITED
Address	138-140 MONTAGUE STREET WORTHING BN11 3HG
Registered number (where applicable)	08397347
Description of applicant (for example, partnership, company, unincorporated association etc.)	LIMITED COMPANY
Telephone number (if any)	
E-mail address (optional)	

**Part 3 Operating Schedule**

When do you want the premises licence to start?

Day	Month	Year

AS SOON AS POSSIBLE

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year

If 5000 or more people are expected to attend the premises at any one time, please state the number expected to attend

--

Please give a general description of the premises (please read guidance note 1)

GROUND FLOOR DOUBLE FRONTED SHOP  
IN COMMERCIAL AREA CONVERTED  
INTO AN ITALIAN STYLE RESTAURANT  
AND TAKE-AWAY



What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

**Provision of regulated entertainment:**

Please tick ✓

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performance of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

✓
✓

**Provision of entertainment facilities:**

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

✓

**Provision of late night refreshment** (if ticking yes, fill in box L)

✓
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**Sale by retail of alcohol** (if ticking yes, fill in box M)

✓
---

**In all cases complete boxes N, O and P**

**E**

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	18:00	23:00	Please give further details here (please read guidance note 3)  LIVE BACKGROUND MUSIC ACCOUSTIC + ELECTRONIC	Both	<input type="checkbox"/>
Tue	18:00	23:00			
Wed	18:00	23:00	State any seasonal variations for the performance of live music (please read guidance note 4)  NONE		
Thur	18:00	23:00			
Fri	18:00	23:00	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list. (Please read guidance note 5)  NONE		
Sat	18:00	23:00			
Sun	18:00	23:00			

**F**

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	10:00	23:00	Please give further details here (please read guidance note 3)  GENERICALLY BACKGROUND MUSIC VERY OCCASSIONAL PARTY MUSIC	Both	<input type="checkbox"/>
Tue	10:00	23:00			
Wed	10:00	23:00	State any seasonal variations for the playing of recorded music (please read guidance note 4)  NONE		
Thur	10:00	23:00			
Fri	10:00	00:00	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list. (please read guidance note 5)  NONE		
Sat	10:00	00:00			
Sun	10:00	23:00			

**J**

Provision of facilities for dancing Standard days & timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>		
Day	Start	Finish		Outdoors			
Mon	<del>18:00</del>		Please give a description of the facilities for dancing you will be providing <b>IN RESTAURANT AREA</b>	Both			
	18:00	23:00					
Tue				Please give further details here (please read guidance note 3) <b>VERY OCCASIONALLY</b>			
	18:00	23:00					
Wed					State any seasonal variations for providing dancing facilities (please read guidance note 4)  <b>NONE</b>		
	18:00	23:00					
Thur							
	18:00	23:00					
Fri							
	18:00	00:00					
Sat			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list. (please read guidance note 5)  <b>NONE</b>				
	18:00	00:00					
Sun							
	18:00	23:00					

**L**

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>	
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3) <b>ALCOHOL TO ACCOMPANY MEALS ALREADY ORDERED BY 23:00</b>	Both		
	23:00	23:30				
Tue				State any seasonal variations for the provision of late night refreshment (please read guidance note 4)  <b>NONE</b>		
	23:00	23:30				
Wed						
	23:00	23:30				
Thur						
	23:00	23:30				
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 5)  <b>NONE</b>			
	23:00	01:00				
Sat						
	23:00	01:00				
Sun						
	22:00	23:30				

**M**

<b>Sale of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the sale of alcohol be for consumption on or off the premises or both – please tick (✓)</b> (please read guidance note 7)	<b>On the premises</b>	<input checked="" type="checkbox"/>			
				<b>Off the premises</b>	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the sale of alcohol</b> (please read guidance note 4)  <p style="text-align: center;">NONE</p>					
Mon	10:00	23:00						
Tue	10:00	23:00						
Wed	10:00	23:00						
Thur	10:00	23:00				<b>Non standard timings. Where you intend to use the premises for the sale of alcohol at different times to those listed in the column on the left, please list.</b> (please read guidance note 5)  <p style="text-align: center;">NONE</p>		
Fri	10:00	00:00						
Sat	10:00	00:00						
Sun	10:00	23:00						

**State the name and details of the individual whom you wish to specify on the licence as premises supervisor**

Name: MR RASIB HUSSAIN

Personal licence number (if known) XXXXXXXXXX

Issuing licensing authority (if known): HOESHAM COUNCIL

**N**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)



**O**

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	10:00	23:30	NONE
Tue	10:00	23:30	
Wed	10:00	23:30	
Thur	10:00	23:30	
			NONE
Fri	10:00	01:00	
Sat	10:00	01:00	
Sun	10:00	23:30	

## P

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d, e) (please read guidance note 9)

ALL STAFF TRAINED IN ALL ASPECT OF LICENSING ACT PERTAINING TO RESTAURANTS PREMISES SUPERVISOR IN ATTENDANCE AT ALL TIMES

b) The prevention of crime and disorder

CCTV WILL BE INSTALLED WITH 28 DAY IMAGE RECORDING (COPIES AVAILABLE TO POLICE)  
LATE NIGHT REFRESHMENT NOT ALLOWED OUTSIDE PREMISES

c) Public safety

RISK ASSESSMENT IN ALL AREAS INCLUDING FIRE PREVENTION PROCEDURES EMERGENCY LIGHTING + ESCAPE PROCEDURES

d) The prevention of public nuisance

GIVING NOTICE TO RESPECT NEIGHBORS. PRIVACY AND REFUSE DISPOSED IN DAYTIME PERIODS ONLY  
DOOR + WINDOWS KEPT CLOSED IF REGULATED ENTERTAINMENT BEING STAGED

e) The protection of children from harm

CHILDREN ONLY PERMITTED ON PREMISES UNDER ADULT SUPERVISION  
CHALLENGE 21 POLICY - WITH SIGNAGE.

Please tick YES ✓

- I have made or enclose payment of the fee (please read guidance note 14)
- I have enclosed a plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the proposed premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

✓
✓
✓
✓
✓
✓

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**


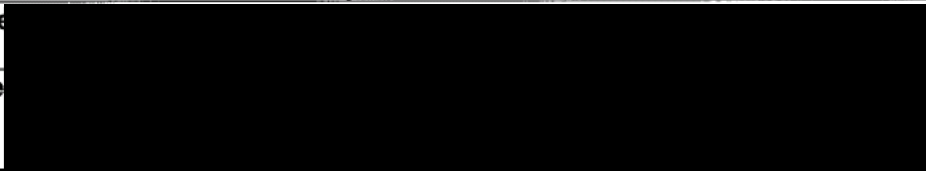
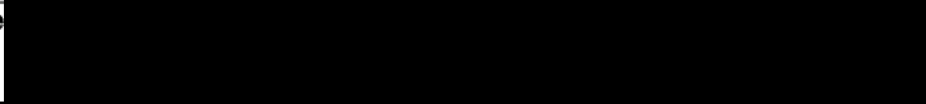
**Part 4 – Signatures** (please read guidance note 10)

**Signature of applicant or applicant’s solicitor or other duly authorised agent.** (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature   
Date .....  
Capacity DIRECTOR

**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant’s solicitor or other authorised agent.** (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature .....  
Date .....  
Capacity .....

<b>Contact Name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 19) <u>SOPIA KHAN</u> 	
<b>Post town</b> <u>WORTHING</u>	<b>Post code</b> <u>BN11 3HG</u>
<b>Telephone number</b>	
<b>If you would prefer (optional)</b>	



## MEMORANDUM

To: **Simon JONES, Licensing Officer, Worthing & Adur District Council**

---

From: **West Sussex Neighbourhood Licensing Team**

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Extension: **81179**

Date: **19<sup>th</sup> September 2013**

---

Dear Mr Jones

**RE: APPLICATION FOR GRANT OF A NEW PREMISES LICENCE FOR 138-140 MONTAGUE STREET, WORTHING, BN11 3HG.**

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application on the ground of the Licensing Objectives Protection of Children of Harm, Prevention of Crime and Disorder and Prevention of Public Nuisance. Sussex Police are willing to withdraw a representation if the following conditions are to be included onto the premise licence.

A number of the below conditions are in keeping with the steps included in section (P) of the application demonstrating the promotion of the four licensing objectives and therefore should not prove onerous as conditions of the premises licence.

- The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age.
- Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
- The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the "PASS" mark hologram.
- All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
- Induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than eight (8) weeks.
- All restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to the Sussex Police Local Authority Licensing officers and the local Trading Standards service upon request.

---

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- The premises shall at all times maintain and operate a sales refusals book and an incident log which shall be reviewed by the Designated Premises Supervisor at intervals of no less than four (4) weeks and feedback given to staff as relevant.
- Both a refusal register and an incident register will be kept on the premises to record all refusals and incidents of crime or disorder. These records will be made available to the Authorised members of the Local Licensing Authority and/or the Police upon request
- CCTV to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System.
- CCTV Images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the proprietor, shall be made available upon request to the police. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- It will be the responsibility of the DPS, or duty manager, to ensure that any request from the police for a recording to be made for evidential purposes, is carried out as soon as possible in compliance with data protection legislation
- Hot food (substantial refreshment) will be available each day when the premises license permits the sale of alcohol.
- All alcohol must be served to persons situated at a table by a waiter or waitress.
- No alcohol shall be sold or supplied on the premises otherwise than to persons with a table meal or for consumption by such person as an ancillary to a table meal
- After 21:00 hours, all Children under the age of sixteen (16) must be accompanied by a responsible adult

Please do not hesitate to contact me, if you wish to discuss this matter further.

Yours sincerely

Chief Inspector Jo Banks  
Sussex Police.

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## Appendix E

**From:** Kathryn Adderson  
**Sent:** 20 September 2013 15:19  
**To:** Simon Jones  
**Subject:** Application for Premises Licence - 138-140 Montague Street, Worthing.

I am in receipt of the above application made by Brantwick Ltd on 04/09/13.

I should like to make representation under the 'Prevention of Public Nuisance' licensing objective on behalf of the Environmental Protection Team.

In my opinion this application does not adequately address the public nuisance objective with respect to the potential noise impact of recorded music until midnight on Fridays and Saturdays and 23:00hrs on any other day.

I have no information on the quality and quantity of sound insulation between the commercial premises on the ground floor and the residential flat(s) above and adjacent. I do not have information regarding the sound attenuating properties of the windows and doors to the front façade. The applicant states that these will be kept closed during regulated entertainment. There is no lobby around the entrance door so music is likely to escape when customers enter and leave the premises. The plans also show folding doors covering half the frontage, with unknown acoustic resilience.

There is a residential development directly behind the premises at Clarendon Mews with a residential window directly behind the property (approximately 4 metres away) which could also be subject to noise escape from the regulated entertainment proposed.

It is unclear from the application how often regulated entertainment events involving recorded music are proposed.

In conclusion, I do not believe that the operating schedule is sufficient to prevent a public nuisance. As a result I am unable to support the application in its current form.

**Kathryn Adderson**  
**Team Leader – Environmental Protection**

Housing, Health & Community Safety, Adur & Worthing Councils, Portland House, Richmond Road,  
Worthing BN11 1HS  
Telephone: 01273 263305  
Email: [kathryn.adderson@adur-worthing.gov.uk](mailto:kathryn.adderson@adur-worthing.gov.uk)

**Licensing Act 2003  
Application for a Variation of a Premises Licence under Section 34**

**'Worthing Kebab House'  
32 Teville Road, Worthing BN11 1UG**

**Report by the Executive Head of Housing, Health & Community Safety**

**1. Recommendation**

- 1.1 That a Sub Committee of Licensing & Control Committee "B" considers and determines the application made by:

**Miss Nazzat Riaz**

for a variation of the above Premises Licence (No. LN/000001216) which currently authorises the sale of late night refreshment at the above café/takeaway.

**2. Reasons for the Hearing**

- 2.1 The application has been the subject of formal representation by a local residents' association and two responsible authorities and it therefore falls to this authority to determine the application.

**3. Background**

- 3.1 An application was made by Miss Riaz to the Licensing Authority, Worthing Borough Council, on the 11 September 2013 for grant of a variation to her existing Premises Licence.
- 3.1 A plan of the café/takeaway & a plan of the area are attached (Appendix A)
- 3.3 A copy of the application is attached. (Appendix B)
- 3.4 A copy of the current Premises Licence is attached. The licence allows the:-
- a) Sale of late night refreshment between the hours of:  
23.00hrs & 02.00hrs, of the following morning, Monday to Sunday incl.
- b) The premise to open to the public between the hours of:  
07.00hrs & 02.00hrs, of the following morning, Monday to Sunday incl.  
(Appendix C)

- 3.5 A copy of the representation received from Adur & Worthing Councils' Development Control, Planning. (Appendix D)
- 3.6 A copy of a representation received from Adur & Worthing Councils' Environmental Protection Team. (Appendix E)
- 3.7 A copy of the representation received from South Broadwater Residents' Association (Appendix F)

#### **4. The Application**

- 4.1 The application is attached at Appendix B. However, in summary, Miss Riaz is applying to:
- a) Amend the hours for the sale of late night refreshment to:  
23.00hrs - 03.00hrs, of the following morning, Friday & Saturday
  - d) Amend the hours the café may open to the public to:  
07.00hrs - 03.00hrs, of the following morning, Friday & Saturday
  - e) Allow the premises to remain open and sell late night refreshment until 03.00hrs, of the following morning, on Bank Holidays.

No further changes to the hours for licensable activities, or changes to conditions of the licence are proposed by this application.

#### **5. Promotion of the Licensing Objectives**

- 5.1 The Licensing Act 2003 and regulations require that the Council, as local licensing authority, carries out its functions with a view to promoting the four licensing objectives:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance;
  - the protection of children from harm.
- 5.2 In carrying out its licensing functions, the licensing authority must also have regard to Guidance issued by the Home Secretary and its own Statement of Licensing Policy. Members are advised that the following sections of the Worthing Borough Council's Policy may be particularly relevant to consideration of this matter, though of course the Policy in its entirety must be considered. Sections indicated relate to paragraph numbers in the Policy itself:
- 4.8 *In addition to the requirements for the Council to promote the licensing objectives, it also has a duty, as detailed in paragraph 4.3, under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. The Council will consider attaching conditions to licences and permissions to deter and prevent crime and disorder within the vicinity if relevant representations are received. Whether or not incidents can be regarded as being in the vicinity of licensed*

*premises is a question of fact and will depend on the particular circumstances of the case.*

- 4.9 *The Council recognises that the Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.*

#### **Prevention of Public Nuisance**

- 4.17 *Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.*
- 4.18 *Noise disturbance can arise from entertainment or activities held within licensed premises and also from people or motor vehicles outside licensed premises. The Council will expect Operating Schedules to address these issues. Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. If representations are received the Council may utilise appropriate conditions to control noise disturbance and the use of such conditions will depend upon the activities/entertainment/hours of operation proposed; the nature of the locality; and existing background noise levels and ambient noise levels. Noise control conditions may include the satisfactory sound insulation of licensed premises; compliance with maximum noise levels; and limiting hours of operation.*
- 4.19 *When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type/construction of their premises, proposed activities and nature of locality) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule.*
- 4.23 *The Council will consider attaching conditions to licences and permissions to prevent public nuisance, but will seek to avoid duplication with the requirements of other regulatory regimes.*

#### **Licensing Hours**

- 6.3 *The Government has acknowledged that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement. The guidance recognises that local licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, the Council will always consider each application and will not impose pre-determined licensed opening hours, without giving individual consideration to the merits of each application.*
- 6.4 *Following relevant representations the Council will deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated in mainly residential areas. This will particularly apply in circumstances where, having regard to the location, size and nature of the licensed premises, it is likely that disturbance will be caused to residents in the vicinity of the premises, or its environs, by concentrations of people either present or leaving during normal night-time sleeping periods (23.00hrs to 07.00hrs).*

- 6.5 *The Council recognises that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction focused on late night fast-food outlets, taxi ranks, and other sources of transport that can lead to disorder and disturbance. Nevertheless, they may need to be satisfied that suitable arrangements are in place to ensure public transport is available at appropriate times and that the licensing objectives regarding the Prevention of Public Nuisance or of Crime & Disorder are not compromised. This aspect should, therefore, be addressed in operating schedules in the appropriate circumstances.*

### **Late Night Refreshment – Cafes & Takeaways**

- 7.13 *Fast food premises which are open after 23.00hrs can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises leads to additional noise and disturbance and further congestion in the area. Although premises which serve cold food and drink are not subject to licensing and may stay open all night, they are not so attractive to people who have been drinking as those providing hot food and drink. The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are consequently more likely to be involved in anti-social behaviour.*
- 7.14 *Sussex Police have in the past raised concerns about the levels of crime & disorder that can occur outside fast food premises late at night due to alcohol fuelled behaviour, and the opportunities for crime afforded by the congregation of people. Fast food premises have a comparatively high association with reports of crimes of violence against the person. The consumption of food outside premises can result in food waste and litter on pavements, to an extent that amounts to a public nuisance.*
- 7.15 *In addition, where there are fast food premises in the vicinity of public houses and nightclubs the rapid dispersal of people leaving these venues is significantly hindered. This delay in dispersal causes the potential for the licensing objectives to be compromised.*
- 7.16 *Where the police or others make representations against the grant or variation of a licence for late night refreshment regarding a premise in the vicinity of alcohol licensed premises because of serious concerns over dispersal problems the council will want to be assured that the Operating Schedule of the premise, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Applications for extended hours may be refused in such circumstances where relevant representations on problems of late night disorder in an area are expressed. Alternatively the licence may be conditioned to include measures to address any concerns. Such as the provision of SIA door supervisors for example.*

### **Duplication**

- 10.34 *It is recognised that there should be a clear separation of the land use planning and licensing regimes. It is expected that any necessary planning consents will be obtained prior to any licence application.*

## **6. Consultation**

6.1 The application has been subject to the statutory consultation and statutory public advertisement arrangements in accordance with the provisions of the Act, in respect of which representations have been received from the following:

- Members of the public – One representation.
- Responsible Authorities – Two representations

## **7. Relevant Representations**

7.1 Details of the representations received are reproduced in full at Appendices D - F. The comments made by those objecting are considered to relate to the statutory licensing objectives as follows:

- Prevention of Public Nuisance.

7.2 Those making representation have been invited to attend the Sub-Committee and included in this report are the letters of representation reproduced in full.

7.3 Adur & Worthing Councils' Development Control – Planning made a number of comments and request that the application is rejected. (Appendix D)

7.4 Adur & Worthing Councils' Environmental Protection Team identified a number of issues that they felt Miss Riaz had not adequately addressed in her application and stated they were unable to support the application in its current form. (Appendix E)

7.5 South Broadwater Residents Association has registered its opposition to the application.

## **8. Mediation**

8.1 The Licensing Unit invited Miss Riaz to contact the responsible authorities and South Broadwater Residents Association to explore the possibility of a mediated solution but no detail regarding any agreement was available as this report was published but members will be fully updated prior to any hearing commencing.

8.2 Considering the nature of the representations made a mediated agreement must be considered unlikely.

## **9. Consideration**

9.1 Members must take into consideration the following when determining this application:

- The four statutory licensing objectives
- Worthing Borough Council's Statement of Licensing Policy
- Guidance issued by the Home Secretary
- Relevant representations made by all the parties

9.2 These are the only matters to be addressed by the authority when considering this application. The statutory licensing objectives are the only grounds on which

representations can be made, and the only grounds on which an authority will be able to refuse an application or impose conditions in addition to statutory conditions and those proposed by the applicant in the Operating Schedule.

9.3 When considering this application for a variation to the premises licence, pursuant to section 35 of the Act the following options are available to the Sub-Committee:

- a. Grant the variation, as requested,
- b. Grant the variation as requested, with additional conditions appropriate to the promotion of the specific licensing objectives on which relevant representations have been received.
- c. Reject the whole or part of the application.

9.4 Members are required to give reasons for their decision.

## **10. Legal Implications**

10.1 Under Section 181 and Schedule 5 of the Act, rights of appeal to the Magistrates' Court in respect of applications for variation of an existing licence include:

- (1) The applicant / licence holder may appeal against any decision to modify the conditions of the licence.
- (2) The applicant may appeal against a rejection in whole or part of an Application.
- (3) Those that have made relevant representations may appeal against a variation being granted, rejected, or against the modification or lack of modification of any conditions.

10.2 The Act allows for the local licensing authority to undertake a review following the grant of a premises licence, when requested to do so by a responsible authority, such as the police or the fire authority, or any other party, such as a resident living in the vicinity of the premises. The government's guidance states:

*"The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with licensing objectives are occurring after the grant or variation of a premises licence.*

*At any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.*

10.3 In determining this application, the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due weight.

10.4 Members must consider each application on its own merits, and in accordance with the principles of natural justice as well as the provisions of the Licensing Act 2003.



All relevant factors must be taken into account, and all irrelevant factors must be disregarded.

- 10.5 All applications before Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 10.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from the public and the responsible authorities particularly the Police.

## **11. Other implications**

- 11.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account. There are no significant direct race relations or equal opportunity implications that have been identified.

## **12. Recommendation**

- 12.1 Members are requested to determine the application made by Miss Nazzat Riaz for a variation to the Premises Licence at 'Worthing Kebab House', 32 Teville Road, Worthing and give reasons for that determination.**

**Paul Spedding**  
**Executive Head of Housing, Health and Community Safety**

### **Principal Author and Contact Officer:**

Simon Jones  
Senior Licensing Officer  
Telephone: 01273 263191

### **Background Papers:**

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003  
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing>
- Worthing Borough Council's Statement of Licensing Policy  
<http://www.adur-worthing.gov.uk/media/media,98561,en.pdf>

## **Appendices:**

- Appendix A - Plan of premises & area.
- Appendix B - Application Form
- Appendix C - Current Premises Licence
- Appendix D - Representation from Adur & Worthing Development Control Team
- Appendix E - Representation from Adur & Worthing Environmental Protection Team
- Appendix F – Representation from South Broadwater Residents' Association

The Licensing Unit, 9 Commerce Way, Lancing

Ref: SJ/Lic.U/LA03/Variation – Worthing Kebab House

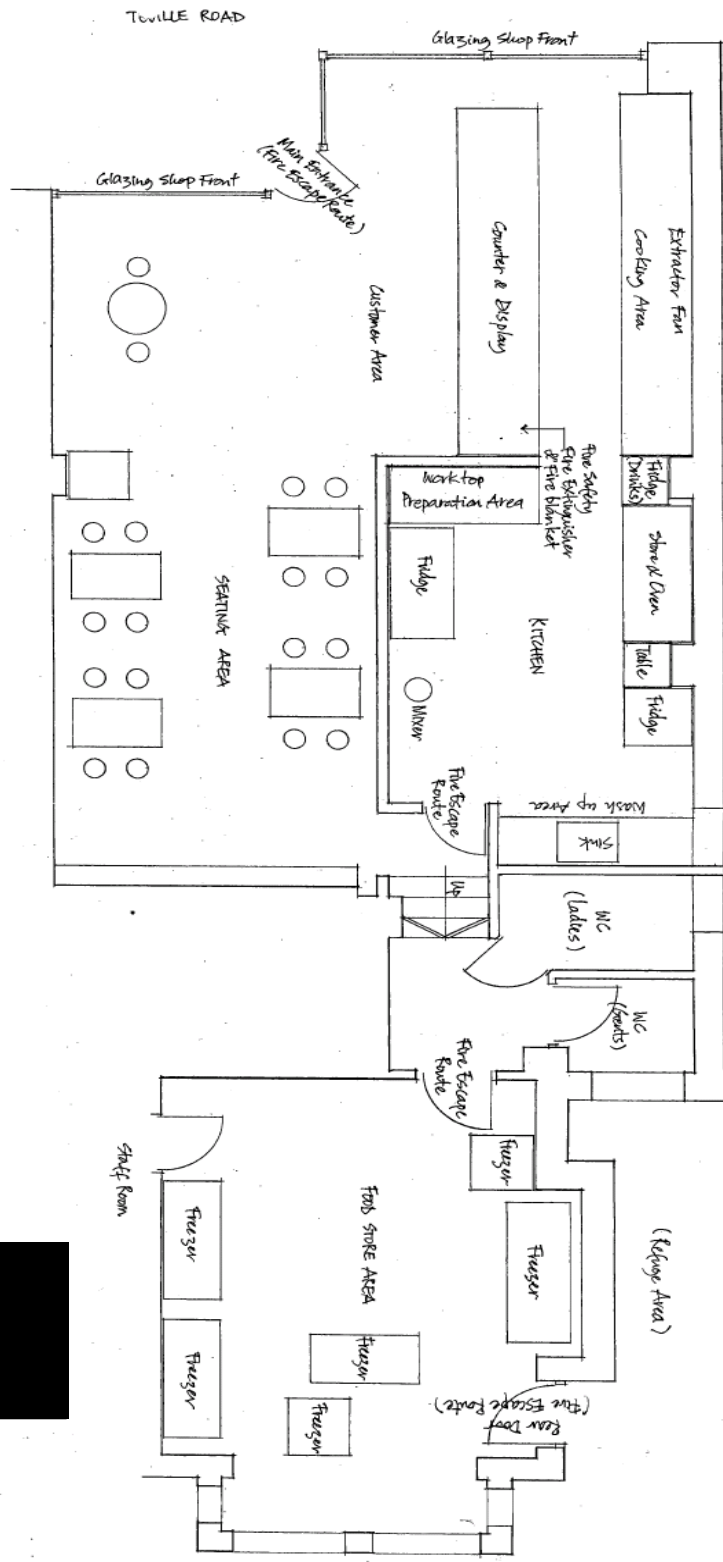
Date: 19 October 2013.



**Title: Worthing Kebab House      Scale 1:1250      Date Plotted 14/11/2005**

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Passage To Back Yard

Back Yard

Project		"MORTHING KEBAB HOUSE"		Project No.		05-11-1135	
32 TERVILLE ROAD		MORTHING		Revision			
WEST SUSSEX				Prepared by		RN	
GROUND FLOOR PLAN				Date		NOV 05	
				Checked by		Date	
<b>GEORGE MAH</b>							

Appendix B – Application



ADUR  
DISTRICT COUNCIL



Adur & Worthing Councils  
Licensing Unit  
RECEIVED

11 SEP 2013

..... Initia

9 Commerce Way, Lancing, BN15 8TA

**Application for a full variation of a premises licence  
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/we MISS NAZZAT RIAZ.....(insert name(s) of applicant)  
being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description  
WORTHING KEBAB HOUSE & CAFE  
32 TEVILLE ROAD

Post town WORTHING Post code BN11 1UG

Telephone number at premises (if any) 01903 238023

Non domestic rateable value of premises

**Part 2 – Applicant Details**

Daytime contact telephone number

Email address (optional)

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

Surname RIAZ First names NAZZAT

Current postal address if different from premises address

Post Town WORTHING Postcode

**Part 3 - Variation**Please tick 

Do you want the proposed variation to have effect as soon as possible?

If not do when do you want the variation to take effect from?

Day	Month	Year

If your proposed variation would mean that 5000 or more people are expected attend the premises at any one time please state the number expected to attend

Please describe briefly the nature of the proposed variation (please read guidance note 1)

The premises is a cafe & takeaway with some seating inside for use by customers between the hours of 07:00 & 11:00  
 We also deliver food to customers which prepared on the premises.  
 No alcohol is sold by the shop.  
 We are seeking an extension of 1 hour to 03:00 as a number of our customers have said that they leave the clubs etc at 02:00 & no food outlets are open & they would like something to eat after a nights clubbing

**Part 4 - Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if the application to vary is successful.

**Provision of regulated entertainment**

Please tick ✓

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performance of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of entertainment facilities:**

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

**Provision of late night refreshment (if ticking yes, fill in box L)**

**Sale by retail of alcohol (if ticking yes, fill in box M)**

**In all cases complete boxes N, O and P**

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	07:00	02:00	Please give further details here (please read guidance note 3) Sale of takeaway food & non-alcoholic drinks	Both	<input type="checkbox"/>
Tue	07:00	02:00			
Wed	07:00	02:00	State any seasonal variations for the provision of late night refreshment (please read guidance note 4) Bank Holidays		
Thur	07:00	02:00			
Fri	07:00	03:00	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 5) Bank Holidays 07:00 to 03:00		
Sat	07:00	03:00			
Sun	07:00	02:00			



# O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	07:00	02:00	Bank Holidays 07:00 to 02:00
Tue	07:00	02:00	
Wed	07:00	02:00	
Thur	07:00	02:00	
Fri	07:00	03:00	
Sat	07:00	03:00	
Sun	07:00	02:00	
			Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 5)
			Bank Holidays 07:00 to 02:00

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

Please tick ✓

I have enclosed the premises licence

I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of the premises licence

## P

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d, e) (please read guidance note 9)

We will continue to have <sup>an</sup> SIA trained door supervisor on duty, together with CCTV cameras & notices requesting customers to refrain from noise

b) The prevention of crime and disorder

~~We~~ Our SIA trained door supervisor together with CCTV cameras will continue to operate until 03:00 & we will call Sussex Police should an incident occur.

c) Public safety

Together with our door supervisor we have a first aider on the premises until 03:00

d) The prevention of public nuisance

Our door supervisor will be on hand to quieten any rowdy behaviour & we will display notices requesting our customers to respect our neighbours

e) The protection of children from harm

No children unaccompanied by an adult are allowed on the premises after 23:00

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

Please tick ✓

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 5 – Signatures** (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent. (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature ..... [Redacted] .....

Date ..... 11th September 2013 .....

Capacity ..... Owner .....

Where the premises licence is jointly held signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> applicant’s solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature .....

Date .....

Capacity .....

<b>Contact Name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 13)	
<b>Post town</b>	<b>Post code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	



Licensing Act 2003 – Sections 16 and 18  
Premises Licence – Part A

Housing, Health & Community Safety  
Civic Centre  
Ham Road  
Shoreham-by-Sea  
BN43 6PR

## Premises Licence Number - LN/000001216

### Part 1 – Premises Details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
Worthing Kebab House 32 Teville Road Worthing West Sussex BN11 1UG	
<b>Telephone number</b>	01903 238023

<b>Licensable activities authorised by the licence</b>
See attached Schedule

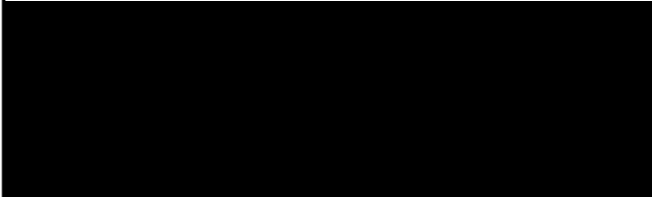
<b>The times the licence authorises the carrying out of the licensable activities</b>
See attached Schedule

<b>Opening hours of the premises</b>		
Location : Cafe & Takeaway		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Sunday	07:00	02:00
Monday	07:00	02:00
Tuesday	07:00	02:00
Wednesday	07:00	02:00
Thursday	07:00	02:00
Friday	07:00	02:00
Saturday	07:00	02:00
Non Standard Timings & Seasonal Variations		

<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b>
Not applicable

**Part 2 – Premises Licence Holder Details**

<b>Name</b>
Miss Nazzat Riaz

<b>Registered Address</b>


<b>Registered number of holder, for example company number, charity number (where applicable)</b>
Not applicable

**Designated Premises Supervisor Details** (Where the premises licence authorises for the supply of alcohol)

Not Applicable – Sale of alcohol not authorised
---

**Schedule 1 – Licensable Activities authorised by this Licence**

Times the licence authorises the carrying out of the licensable activities

<b>Location :</b>	Cafe & Takeaway	
<b>Activities :</b>	Late Night Refreshment (L)	
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Sunday	23:00	02:00
Monday	23:00	02:00
Tuesday	23:00	02:00
Wednesday	23:00	02:00
Thursday	23:00	02:00
Friday	23:00	02:00
Saturday	23:00	02:00
<b>Non Standard Timings &amp; Seasonal Variations</b>		

<b>Signed on behalf of the issuing licensing authority</b>
<b>Senior Licensing Officer</b>
<b>Date : 24 October 2012</b>

## Worthing Kebab House

### Annexe 1 : Mandatory Conditions

#### 1. Permitted Hours

Late Night refreshment shall not be provided except during the premise's permitted hours.

#### 2. Mandatory conditions: door supervision

When employed each such individual must be licensed by the Security Industry Authority.

#### 3. Mandatory conditions: Free tap water

Free tap water must be provided on request to customers where it is reasonably available on the premises.

### Annexe 2 : Conditions consistent with the Operating Schedule

1. At least one SIA Trained and Registered Door Supervisor will be deployed on the premises every evening from 23.00hrs until the close of daily business. The Door Supervisor will not perform any other role when engaged for the purpose of Door Supervision activities.
2. CCTV to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System. CCTV cameras are to be positioned so as to provide coverage of all internal areas to which members of the public have access and so as to provide coverage of customers as they enter and leave the premises. The CCTV Images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the proprietor, shall be made available upon request to the police. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable. The CCTV will operate at all times the premises are open. Lighting for the CCTV system must be to the satisfaction of the Sussex Police. It will be the responsibility of the licence holder or duty manager to ensure that any request from the police for a recording to be made for evidential purposes, is carried out as soon as possible in compliance with data protection legislation.
3. No children under the age of 16 to be served after 23.00hrs unless they are accompanied by an adult.
4. The provision of late night refreshment is for consumption off the premises only.
5. If external seating is provided, all tables and chairs for this purpose must be removed from outside the premises by 23.00hrs each evening.
6. No Service will be given to customers that behave in a disorderly manner.
7. There will be no music played.
8. No alcohol is to be sold or supplied.
9. The Licensee is to be aware of his/her obligations under Health & Safety legislation.

### Annexe 3 : Conditions attached after hearing by the Licensing Authority

1. The licence holder must display prominent notices inside the premises asking customers to leave quietly and not to disturb residents.
2. There must be regular litter patrols outside the shop during opening hours and at close of business each day to collect all litter generated from the premises.

### Annexe 4 : Plans

See attached plan no. 05-11-1135 dated Nov 05.

## Appendix D Development Control - Planning Representation

**From:** Peter Devonport  
**Sent:** 27 September 2013 10:35  
**To:** Simon Jones  
**Cc:** Gary Peck  
**Subject:** RE: License; LN/000001216; Worthing Kebab House 32 Teville Rd

**Attachments:** 08-0564.rtf

Simon,

Please consider the representation below as an objecting from the planning department to the current application to vary the trading hours license (LN/000001216) at Worthing Kebab House 32 Teville Road.

The approved trading hours for the premises were set out in condition 3 of the planning permission WB/159/85 (change of use from a retail use to a restaurant with a takeaway service of hot food) approved in 1985. This restricted trading hours of 8.30 am and 12 midnight on any day.

Since that time four applications have been submitted to vary the condition of the planning permission by extending the hours of use beyond 12 midnight. However, they have met with no success and at least one decision have been supported by a Government Inspector at appeal and successful enforcement action to prevent unauthorised late night trading taken;

- Planning permission was refused and dismissed at appeal in 1991 for opening until 3.00 am on any day (WB/99/00041/FULL refers). As a result of continued complaints about opening beyond 12 midnight an Enforcement Notice was served upon the leasehold owner on 28 August 2002. The premises continued to trade beyond 12 midnight, which led to the matter being referred to the local Magistrates Court on 10 November 2004, where the owner was fined a total of £6,000 (including costs). Further prosecution action was authorised by this Committee at its meeting on 13th December 2004.
- A subsequent application (WB/04/01483/FULL refers) was made to seek to regularise the situation (i.e. by applying for an extension of the hours of use to allow opening Thursday, Friday and Saturday to 2.00am on the following morning and Monday, Tuesday and Wednesday to 1.00am the following morning.) This was refused by Planning Committee. Trading beyond the permitted hours, however, continued and the operator was convicted of five further breaches of the Enforcement Notice on 25th May 2005. In spite of this, further observations revealed more breaches and this Committee authorised prosecution action on 12th July 2005. The operator was subsequently convicted of 14 offences and re-sentenced for the 25th May 2005 offences, on which conditional discharge had been given. The total fine was £9,500, plus £2,525 costs awarded to the Council.
- A further identical planning application (WB/06/0156/FULL) was made (to allow opening Thursday, Friday and Saturday to 2.00am on the following morning and Monday, Tuesday and Wednesday to 1.00am the following morning) but also refused in 2006.
- Finally, application WB/08/0564/FULL to extend trading to 8.30am - 1.00am Monday to Thursday and 8.30am - 2.00am Friday and Saturday was refused by Planning Committee in 2008.

The grounds for the refusal of the last application (WB/08/0564/FULL) were similar to those of the previous refusals and relate to noise and disturbance inflicted on surrounding residential neighbour from the late night opening. The precise wording of the refusal notice was;

*The proposal would be harmful to the living conditions of occupiers of nearby properties, due to unacceptable levels of noise and disturbance that would arise during the early hours of the morning from the gathering of customers outside or close to the premises, their movement to and from the premises and their associated activities. As such, the proposal is considered to be contrary to*

*Policies H18 and RES7 of the Worthing Local Plan, Policy DEV1 of the West Sussex Structure Plan 2001 -2016.*

Whilst each planning application is considered on its merits, in these circumstances, the necessary corresponding planning application required to vary the terms of condition 3 of WB/159/85 to allow the extended trading hours sought in the current license is very likely to be resisted by the Planning Department as officers are unaware of any change in material circumstances which would justify a departure from the previous stance of opposition.

A fuller picture of the planning history; local residential neighbour historical concerns and officer's assessment of the problems caused by late night opening are set out in the enclosed report on WB/08/0564/FULL which was considered by Planning Committee at its meeting on 19.8.08.

It will be apparent that local neighbours have reported real problems of noise and disturbance associated with the unauthorised late opening of the premises and officers objections are well grounded. Officers have considered the benefits to the local night time economy but conclude that the harm to neighbour outweighs this and the proposal for extended hours sought would set an undesirable precedent.

It is recognised that the licensing regime is separate to planning control but to allow this proposed license would run contrary to established planning precedent at this site and cause an avoidable and undesirable inconsistency between the two consent regimes.

The Planning department accordingly recommends that the application is rejected on grounds of public nuisance.

**[Peter Devonport](#) - Team Leader Development Control , Planning | [Adur District Council](#)**  
Location: Adur Civic Centre, Ham Road, Shoreham-by-Sea, West Sussex, BN43 6PR  
Internal: 63473 | External: 01903 221345 | E-mail: [Peter.Devonport@Adur-Worthing.gov.uk](mailto:Peter.Devonport@Adur-Worthing.gov.uk)  
Follow us on [Facebook](#) and [Twitter](#) - or search Adur and Worthing

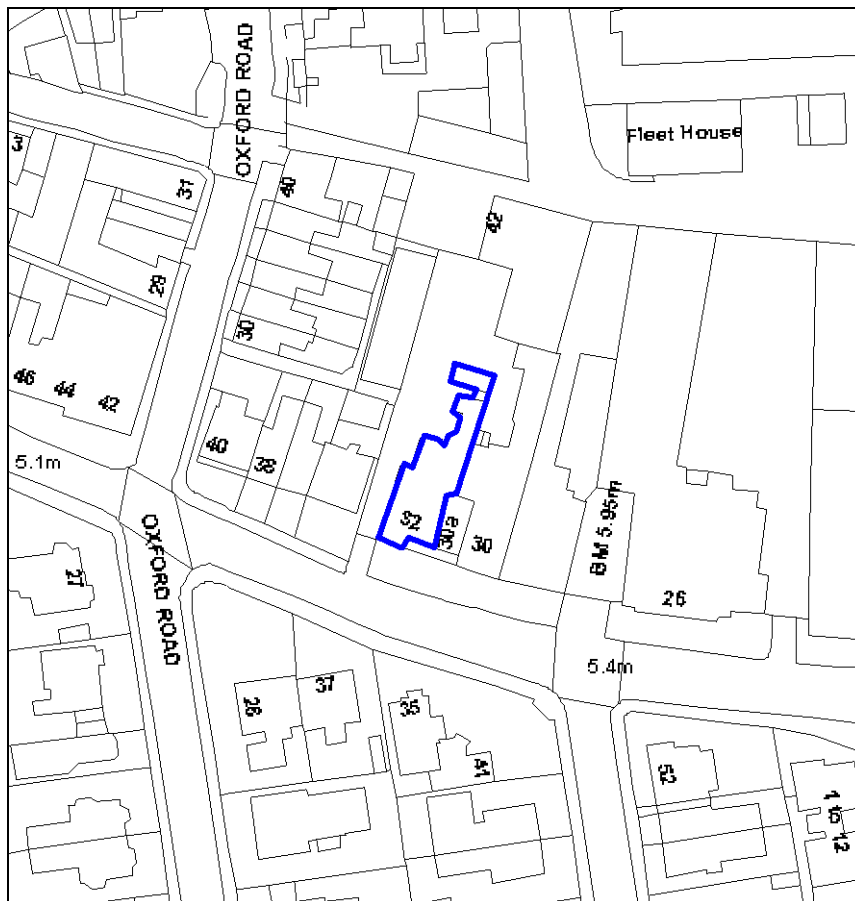
**Please think before you print this and save paper**



Mr M Ekinci  
Mr Graham Moore

Location : 32 Teville Road

Proposal: Amendment to condition 3 of Planning Permission WB/85/00159 to extend the hours open for trade of business from 8.30am - 12 midnight (existing) to 8.30am - 1.00am Monday to Thursday and 8.30am - 2.00am Friday and Saturday.



Not to Scale

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## 1. THE PROPOSAL AND THE SITE

This is similar to two earlier schemes to extend the trading hours of this kebab restaurant and take-away which were refused by the Committee in 2005 and 2006. WB/04/01483/FULL and WB/06/0156/FULL sought identical extensions save that trading on Thursday nights extended to 2.00am rather than the grounds of both refusals were similar, the specific reasoning being as follows for WB/06/0156/FULL:

*“The proposal would be harmful to the living conditions of occupiers of nearby properties, due to unacceptable levels of noise and disturbance that would arise during the early hours of the morning from the gathering of customers outside or close to the premises, their movement to and from the premises and their associated activities. As such, the proposal is considered to be contrary to Policies H18, S16 and RES7 of the Worthing Local Plan, Policy DEV1 of the West Sussex Structure Plan 2001 - 2016 and the duties placed upon the Council in the discharge of its planning functions under the Crime and Disorder Act 1998 and Planning Policy Statement 1.”*

The site comprises a substantial ground floor shop in a two storey Victorian building located on the northern side of Teville Road in close proximity to Teville Gate and the railway station. The premises are at the western end of a short parade of commercial uses. On its east side is a rear access to the service area and commercial premises. Opposite (south) and to the west are mainly residential houses and flats.

As indicated above, the premises have a long planning and enforcement history. In 1985 planning permission was granted for change of use from a retail use to a restaurant with a takeaway service of hot food (WB/159/85 refers). Condition 3 imposed upon the planning permission stated that the use should only be carried out between the hours of 8.30 am and 12 midnight on any day. Numerous applications have been submitted in the past to extend the hours of use beyond 12 midnight without success. In particular, planning permission was refused and dismissed at appeal in 1991 for opening until 3.00 am on any day (WB/99/00041/FULL refers). As a result of continued complaints about opening beyond 12 midnight an Enforcement Notice was served upon the leasehold owner on 28th August 2002. The premises continued to trade beyond 12 midnight, which led to the matter being referred to the local Magistrates Court on 10th November 2004, where the owner was fined a total of £6,000 (including costs). Further prosecution action was authorised by this Committee at its meeting on 13th December 2004.

A subsequent application was made to seek to regularise the situation by applying for an extension of the hours of use (WB/04/01483/FULL refers). As noted above, this was refused by this Committee. Trading beyond the permitted hours, however, continued and the operator was convicted of five further breaches of the Enforcement Notice on 25th May 2005. In spite of this, further observations revealed more breaches and this Committee authorised prosecution action on 12th July 2005. The operator was subsequently convicted of 14 offences and re-sentenced for the 25th May 2005 offences, on which conditional discharge had been given. The total fine was £9,500, plus £2,525 costs awarded to the Council.

In the meantime, a late night refreshment license for the consumption and sale of hot food and drink was issued on 25th January 2006 until 12 midnight with a further 30 minutes finishing up time. This was contested by the Central Worthing Residents Association and one other resident but not by the Environment Health Manager or the Police.

Complaints have since been received claiming that the operator is continuing to trade beyond the approved licensing, including in March of this year, and enforcement action by the Council threatened.

## 2. PLANNING HISTORY

WB/04/1483/FULL - Variation of Condition 3 of application WB/85/00159 to allow opening Thursday, Friday and Saturday to 2.00 am on the following morning and Monday, Tuesday and Wednesday to 1.00 am the following morning. Refused 2005.

WB/06/0156/FULL - Variation of Condition 3 of application WB/85/00159 to allow opening Thursday, Friday and Saturday to 2.00 am on the following morning and Monday, Tuesday and Wednesday to 1.00 am the following morning (Resubmission of WB/04/01483/FULL). Refused 2006.

WB/85/1129/FULL - Change of Use from Retail Shop to Restaurant with Take-Away Service of Hot Food. 32 Teville Road Approved 1985.

WB/93/0054/FULL - Variation of Condition 3 of Consent WB/159/85 to Operate Hours of Use of Restaurant/Take-Away from 8.00 am to 3.00 am the Following Day on Wednesdays to Saturdays and 8.00 am to 1.00 am the following day on Sundays to Tuesdays. 32 Teville Road Refused 1993.

WB/95/0631/FULL - Application to Vary Condition 3 of Planning Consent WB/159/85 to allow the premises to remain open until 2.00 am 32 Teville Road Refused 1995.

WB/98/0423/CLE - Application for Certificate of Lawfulness in respect of use of Premises Contrary to Condition No. 3 of Consent Reference WB/159/85 in relation to hours of operation. 32 Teville Road Refused 1998.

WB/99/0041/FULL - Applicant to amend Condition 3 of planning consent Ref. WB/159/85 to allow the use to be implemented between the hours of 8.00 am and 3.00 am on any day . Refused 1999 and dismissed at appeal 1999.

### 3. CONSULTATIONS

The **Environmental Health Manager** repeats his previous comments that the Environmental Health records reveal that several complaints have been received in the past relating to noise and disturbance arising from late night activity associated with the application site. He states that the proposal is likely to have an adverse impact on residential amenity and there are very many residential units sited within 100 metres of this site and it is considered that increased noise and disturbance at times when background noise levels are relatively low and residents expect to be able to sleep, would be unacceptable.

The **Sussex Police Licensing Officer** comments that:

*“Peter Hardy has passed the planning application to amend the hours of Worthing Kebabs, 32 Teville Road to me to comment.*

*I am obviously aware that there has been enforcement action taken regarding this premises because of the excess hours under which it was trading.*

*As background, the applicant initially asked for later hours upon his premises license before the Licensing Committee. Police conditionally agreed but he declined to observe the conditions of doorstaff and cctv. He was not permitted to trade beyond midnight therefore.*

*The police would not object to the later hours, but when the licensing variation application is made, as it must be, police would again raise a representation requiring conditions upon the premises license.*

*So long as those conditions are part of the operating strategy, police would be content.”*

The **Highway Authority** raises no objections.

#### 4. REPRESENTATIONS

Eleven representations have been received from the occupiers of Nos. 35 and 35A Teville Road and (standard letters) from studio flats 1 and 2 and Rooms 1, 2, 3, 4, 5, and 7 of No. 34 Teville Road citing the following objections:-

- i) The noise and disturbance is very bad now so please do not increase our misery by extending the hours of a badly run business.
- ii) I have suffered sleepless nights in the past after he stayed open until 4.00am or later illegally. I feel certain he will do the same again and encourage binge drinkers from the nightclubs on their way home who make one hell of a noise outside his shop screaming, shouting and arguing etc.
- iii) We and our neighbour are one hundred percent against the plan. We have previously kept a diary of the late hours and the owner was taken to court. Allegations of blackmail were dismissed. He has never closed on his given time.
- iv) This takeaway has a particularly poor history of not keeping to its planning condition concerning midnight/12:30 closing. We understood that he has recently been prosecuted and fined £9,000 plus costs. Quite evidently the establishment has a scant regard for the law in this connection and we have no confidence that even if it were granted later hours that it would keep to them.
- v) My property overlooks No. 32 Teville Road, therefore I am directly subjected to any noise and disturbance associated with the shop, which is the main reason for my objection to this application.
- vi) Previously, the shop has remained open way past its current agreed closure time of midnight, and also past the requested closure time of 2.00 am. I have previously seen the establishment to be trading up to 3.20 am. This has slightly improved recently, which I now believe to be temporary in light of this impending application. Neighbours of mine have complained to the police (on my behalf as well as theirs) regarding noise disturbance during these times. I feel that extending the permitted hours will encourage the shop to trade even later, particularly now that licensing laws allow late night drinking establishments to remain open past 02:00.
- vii) The shop is located in a residential area with homes located in all directions surrounding the premises. Several homes are within very close proximity.
- viii) The customers that use the shop during the evenings and early hours of the morning are generally very intoxicated, and the nature of this kind of fast food establishment attracts very loud groups of people shouting and swearing, as well as cars playing loud music for long periods of time whilst they order and consume their food. I feel that the owners of the business are not able to control the level of noise from its customers, and allow the noise and

rowdiness to spill out onto the street during the early hours of the morning. This regularly disturbs sleep, which is particularly irritating as members of my household work weekend shifts. My neighbours tell me that they have recently (within the past month) directly approached the owner of the business with complaints of loud noise, and have been rudely turned away with no commitment to control the issue. I am hoping that you will receive a comment from my neighbour confirming this.

- ix) I have mentioned above that I feel that the owners of the business are not able to control levels of noise and rowdiness around the shop. One example which leads me to believe this is that over the past year, I have observed many accounts of violence from the window of my home (one particular account involving physical violence between the shop's proprietor and a customer) which resulted in the police being called, and arrests being made. Unfortunately I did not log the date of this incident; however police records would be available. This is one example of many.
- x) I strongly urge that this application is refused as I feel it would encourage groups of loud, drunk people to surround the shop at very unsociable hours, disturbing neighbours in a very built up residential area, with a lack of control from the shop owners.

## 5. PLANNING ASSESSMENT

A very similar application was refused by the Council in March 2006, against a long history of refusals, enforcement action and dismissal at appeal. The main consideration for this new application is whether material circumstances have changed since that decision which might warrant a different outcome.

The principle considerations remain the same and they are the impact that extended opening hours would have on the amenities of local residents and crime and disorder, set against the importance of the night economy and the proprietor's human rights as well as taking into account the licensing consent and recent planning permissions for other late night uses.

As such the appropriate references are to Saved Policies H18, TR9 and RES7 of the Worthing Local Plan and Saved West Sussex Structure Plan Policies DEV1, DEV4 and DEV5, the Crime and Disorder Act and the provisions of National Government policy as set out in Planning Policy Statement 1: Delivering Sustainable Development.

Whilst each application should be considered on its merits, the conclusions of the reports on the previous two proposals refused by this Committee in 2005 and 2006 remain valid.

Firstly, there has been no material change in the treatment of neighbour amenity issues and related circumstances which would justify the relaxation in trading hours sought since the appeal was dismissed in 1999 for a similar proposal (3.00 am rather than 2.00 am as currently proposed). Indeed, there are now more residential properties in the vicinity as a result of various developments along Teville Road.

It is recognised that the emerging curfew for late night trading amongst pubs and restaurant/take-aways is now 2.00 am in the town centre, following the recent Que Pasa (Chapel Road) appeal decision in 2007 and the subsequent permanent permission in 2008, together with similar approvals at Ten (The High Street) and the kebab takeaway/restaurant at Midpoint 27 Chapel Road granted this year. However, these businesses operate in the

commercial heart of the town centre, with a more strongly commercial character and less residential properties nearby.

Even with late night operations limited to Friday and Saturday (i.e. excluding Thursdays), your Officers continue to consider that this late trading would have an unacceptable impact upon the living conditions of the occupiers of nearby residential properties in terms of noise and disturbance. The proposal would, accordingly, conflict with Saved Local Plan Policy H18 which seeks to resist the intensification of a use, where that intensification will result in an unacceptable reduction in amenity for local residents, and Policy RES7 which seeks to control polluting development, including the intensification of existing uses.

Secondly, it remains apparent from the current representations received, previous complaints from local residents, responses from consultees on this planning application, and the successful prosecution of previous breaches of the current extant Enforcement Notice that the extension of trading hours into the early morning has caused and would continue to cause considerable nuisance and disturbance for the occupiers of nearby properties.

Thirdly, an approval of this application would set an undesirable precedent for other takeaway facilities in sensitive areas to extend their opening hours. The Executive Head of Health, Housing and Community Safety has generally recommended that 12 midnight would be an appropriate closing time for Class A3 (Food and Drink) premises outside of the town centre where residents are located within the vicinity of the site. As such, many takeaway premises in the Borough are required by condition to close at 12 midnight. It is acknowledged that there are some takeaway premises within the Borough (and in the locality) which are not subject to this closing time restriction, however, for the most part, these are due to historic planning permissions before the impact of late night opening was identified as a problem, are in more central town centre locations with a more strongly commercial character or, operate as retail premises.

It is acknowledged that the Committee at its meeting on 7th March 2006 agreed to an extension to the trading hours of the nearby kebab take-away at No. 72 Victoria Road to 2.00 am but the Committee viewed the respective locations and circumstances as materially different. In this respect, the current application premises are closer to a number of established residential properties and the area has a clearer residential character. In contrast, the premises at No. 72 Victoria Road are within a predominantly commercial area - close to the railway station and its taxi ranks and near to a late night takeaway pizza establishment and is, therefore, less sensitive, notwithstanding the new residential development at the junction of Cross Street/Victoria Road. At the same time, it must be recognised that the premises are within the station gateway area identified within the Masterplan for leisure, residential, improved transport interchange, commercial and business quarter which, if approved under the LDF process, is likely to represent a material change to the policy considerations for this site.

Fourthly, the Planning Inspector's comments, in dismissing the appeal in 1999 for a similar proposal, remain apposite and support the views received in the current representations and your Officer's concerns, even with a 2.00 am closing. The Inspector commented that:

*"I have little doubt that Teville Road is used by traffic throughout the night. However, I also think it is probable that a number of vehicles, and thus traffic noise levels, normally ease substantially after midnight, providing improved amenities for residents trying to sleep. I am confident that the noise and disturbance associated with customers' activity would appear*

*increasingly loud and discordant as the background noise levels decrease. I conclude that permitting the premises to open until 3.00am would lead to the generation of a significant amount of noise and disturbance which would seriously harm the living conditions of nearby residents.”*

Fifthly, it is acknowledged that the absence of an objection by the Police Licensing Officer does suggest previous concerns over the risk of crime and disorder caused by such a relaxation may not arise in practice. The Police’s previous objections related to the proximity of the premises to the night clubs next to the Grand Victorian Hotel and the delay in the dispersal of clubbers from the area that would result from relaxed trading hours, with the attendant problems. The Police appear to consider the tough conditions imposed on the licence, including CCTV and doorstaff, are sufficient, against the background of the successful Taxi Marshalling scheme. This is a material consideration which merits serious attention but does not, of itself, outweigh the established neighbour amenity concerns.

Finally, the human rights of local residents need to be taken into account and balanced against the applicant’s human rights to carry on his business. In this instance it is still considered that the impact of the use on the ability of local residents to enjoy their properties outweighs any loss of business due to restricting the hours of use.

It is noted that a licence to allow sales to 12.00 midnight and consumption to 12.30 am has been agreed by the Licensing Committee. This is not considered to be materially different to the existing approved trading hours and, in any event, the licensing and planning consent regimes are not identical in their remits.

The impact of the proposal on the night time economy of the town centre and surroundings again, merits some consideration. The site is somewhat remote from the established town centre and even less suited to late night opening than sites in the commercial heart of the town centre. That said, the site is close to the nightclubs in the Grand Victorian Hotel and on a busy road and popular egress route from the town centre and extended trading would serve these markets. However, there are other long established take away businesses which cater for these markets and there appears to be no compelling argument to add to these facilities, other than to foster competition. The benefits to the night time economy are considered to be limited and do not outweigh the harm inflicted on local residents amenity.

The Highway Authority has not raised any objections.

In conclusion, the proposal remains essentially the same as those previously refused applications, the dismissed appeal and enforcement prosecutions and there has been no change in circumstances sufficient to warrant a change of view, notwithstanding the absence of an objection from the Police and the more relaxed trading hours allowed in the town centre. There is some evidence to indicate that breaches of the extant Enforcement Notice continue but, that said, there may be case to accept an extension of the trading hours to align with those agreed under licensing, i.e. allow consumption on the premises to 12.30 am (but sales still restricted to 12 midnight).

## 6. RECOMMENDATION

**Refuse** on the grounds that,

1. The proposal would be harmful to the living conditions of occupiers of nearby properties, due to unacceptable levels of noise and disturbance that would arise during the early hours of the morning from the gathering of customers outside or close to the premises, their movement to and from the premises and their associated activities. As such, the proposal is considered to be contrary to Policies H18 and RES7 of the Worthing Local Plan, Policy DEV1 of the West Sussex Structure Plan 2001 -2016.

7. BACKGROUND PAPERS

Letters of Representation from Members of the Public  
Observations of the Executive Head of Health, Housing and Community Safety  
Observations of the Highway Authority  
Observations of Police Licensing Officer  
Department for Culture Media and Sport: Guidance under S 182 of the Licensing Act 2000

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19<sup>th</sup> August 2008



**Appendix E**  
**Environmental Protection Team Representation**

**From:** Nadeem Shad  
**Sent:** 09 October 2013 12:33  
**To:** Licensing Unit; Simon Jones  
**Subject:** Application to Vary a Premises Licence – Worthing Kebab House & Café, 32 Teville Road  
**Licensing Act 2003**  
**Application to Vary a Premises Licence – Worthing Kebab House & Café, 32 Teville Road, Worthing**

I refer to the above application and make the following representation on behalf of the Environmental Protection Team of the Environmental Health Section with regard to the licensing objective of the *prevention of public nuisance*.

1. It is my opinion that the application does not adequately address the objective of the prevention of public nuisance caused by noise and that if the variation is granted as applied for a public nuisance (as defined by the Licensing Act 2003, “the Act”) would be caused to residents in the vicinity of Worthing Kebab House & Café, 32 Teville Road.
2. Extending the hours for the provision of late night refreshment from the current 02:00 hours to 03:00 hours on Fridays and Saturdays and extending the opening hours from 02:00 to 03:00 hours have public nuisance implications if granted as applied for.
3. Whilst it is acknowledged that the premises are located on a relatively busy road, there are a number of residential properties either side of the premises and also directly opposite. My main concern is the potential for noise from customers arriving and departing either on foot or by car causing unreasonable noise at a time when residents are trying to sleep. Noise will be created by car engines, car doors and people talking outside the premises.
4. I acknowledge that the door supervisor will be on hand to try to reduce noise (Part P, d) , however the fact remains that once the noise has occurred neighbours will already have been disturbed. In any case, once customers have departed the door supervisor will have little control over any noise from those customers.
5. By 2am the background noise will have reduced to a low enough level that any noise produced will be more noticeable, at a time when people would reasonably be sleeping. Furthermore, the other licensed food establishments in the area are either closed after 2am, or are not located so close to residential properties. Therefore noise produced by this variation has the potential to affect residential occupiers in their properties and result in a public nuisance.

In conclusion, it is my opinion that if the application is granted as applied for, nearby residents will be unreasonably disturbed by noise produced by people talking whilst outside and that this will result in a public nuisance. **As a result I am unable to support the application in its current form and make this formal representation to the application.**

**Nadeem Shad** - Senior Environmental Health Officer, Environmental Health | [Adur & Worthing Councils](#)  
Location: Portland House, 44 Richmond Road, Worthing, West Sussex, BN11 1HS  
Internal: 63303 | External: 01273 263303 | E-mail: [nadeem.shad@adur-worthing.gov.uk](mailto:nadeem.shad@adur-worthing.gov.uk)  
Follow us on [Facebook](#) and [Twitter](#) - or search Adur and Worthing

**Appendix F**  
**South Broadwater Residents Association Representation**

**From:** [REDACTED]  
**Sent:** 14 October 2013 20:50  
**To:** Simon Jones  
**Subject:** Re: Licensing Act 2003 - Worthing Kebab House

Dear Mr Jones  
Worthing Kebab House

There has indeed been a misunderstanding regarding alcohol. Apologies. We still nevertheless feel that our other points in the submission are still relevant regarding causing groups to gather outside the establishment and the potential for noise there and in residential streets. we would support the points made by the Planning Department.  
Regards

[REDACTED]  
----- Original Message -----

**From:** [Simon Jones](#)

[REDACTED]  
[REDACTED]  
**Sent:** Monday, October 14, 2013 3:52 PM  
**Subject:** Licensing Act 2003 - Worthing Kebab House

Dear [REDACTED]

[Re: Licensing Act 2003 - Variation  
Worthing Kebab House](#)

I note your representation, made on behalf of one of your members, regarding the above application but need to clarify the first line.

This application is for late night refreshment (hot food & drink after 23.00hrs) not the sale of alcohol. Is this a typo or has your member misunderstood what permission the application is seeking to extend? For clarification Worthing Kebab House does not sell alcohol and is not seeking to.

I look forward to your comments.

Regards

**Simon Jones - Senior Licensing Officer**

**Adur District & Worthing Borough Councils**

Location: The Licensing Unit, 9 Commerce Way, Lancing, BN15 8TA

Phone: 01273 263191 (Internal: 63191) E-mail: [simon.jones@adur-worthing.gov.uk](mailto:simon.jones@adur-worthing.gov.uk) Website: [www.adur-worthing.gov.uk/licensing-and-permits](http://www.adur-worthing.gov.uk/licensing-and-permits)

**From:** [REDACTED]  
**Sent:** 02 October 2013 16:51  
**To:** Julie Dunsmure  
**Subject:** Re: Worthing Kebab House  
South Broadwater Residents Association

Please reply to:

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Sirs  
**WORTHING KEBAB HOUSE 32 Teville Road Worthing**  
**Application to vary Premises Licence**

We refer to the above where the applicant is seeking to partially extend their opening hours and time to sell alcohol to 3am.

We feel that this in response to certain establishments in the town centre applying for later opening hours which we do not approve of but we are unable to present objections to.

The feeling of our committee (we have one member living relatively close to the premises) is that 2 am is quite late enough and should 3 am be granted for one of the premises in that road they will all apply.

We refer to the likely state of customers at that time in the morning and the likelihood to cause groups to gather outside or near the premises drinking alcohol and the potential for anti-social behaviour and loud noise at an unacceptable hour of the night is likely to annoyance to local residents around the premises and further afield as the groups wander home.

Yours faithfully

[REDACTED]  
Chairman