

SUB COMMITTEE
of the
LICENSING AND CONTROL COMMITTEE 'B'

MINUTES
of the
PROCEEDINGS
held on
Wednesday 30 October 2013

Sub Committee Membership: Councillors Christine Brown (Chairman),
Norah Fisher and Roger Oakley.

Hearing to consider an application for variation of a premises licence for

'Worthing Kebab House'
32 Teville Road,
Worthing

Applicant: Ms Nazzat Riaz

Present:	Simon Jones Theresa Cuerva Caroline Perry Neil Terry	Senior Licensing Officer Licensing Officer Solicitor Democratic Services Officer
	Ms Nazzat Riaz Ms Annabel Wilkinson Mr David Dresh M kizalka	Applicant Applicant's representative Doorman for Worthing Kebab House Employee of Ms Riaz
	Ms Kathryn Adderson Mr Gary Peck	Environmental Health Manager Planning Services Manager
	PC David Whitcombe	Sussex Police

LCC/13-14/11 Welcome

The Chairman welcomed the attendants to the meeting.

LCC/13-14/12 Apologies and Reconstitution of Membership

Councillor Christine Brown declared her substitution for Councillor Vicky Vaughan

LCC/13-14/13 Declarations of Interest

There were no declarations of interest made.

LCC/13-14/14 Procedure

The proceedings were as set out on the procedure note circulated to all those present.

LCC/13-14/15 Licensing Act 2003 – Application for a New Premises Licence

Before the Committee was a report by the Executive Head of Housing Health and Community Safety, copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these minutes as item 4.

The Chairman informed the Committee that the applicant was not able to attend the hearing due to personal reasons. Those giving representations were asked if there were any objections to postponing the hearing and given that there were none, the hearing of the application was postponed.

**LCC/13-14/16 Licensing Act 2003 - Application for a Variation of a
Premises Licence under Section 34**

Before the Committee was a report by the Executive Head of Housing Health and Community Safety, copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these minutes as item 5. The report detailed an application for a variation of the licence of Worthing Kebab House. The application sought to extend the hours of the provision of late night refreshments for one hour on Friday and Saturday nights until 3am. The application for a variation had attracted three representations.

The Senior Licensing Officer introduced the report to the Committee and received acknowledgement from the applicant's representative that it was an accurate outline of the application.

A Member received confirmation from the Senior Licensing Officer that another premises in close proximity to the Worthing Kebab Shop called the 'Favourite Chicken Shop' had a licence allowing late night refreshment until 3am.

The Environmental Health Manager summarised the Responsible Authority's representation as detailed below:

- It was felt that the granting of the variation to the licence would not promote the licensing objective the 'prevention of public nuisance';
- The shop was different to other similar premises in the area in that it was flanked by residential premises on either side;
- The background street noise level between 2 am and 3 am was very low, consequently additional noise caused by customers, particularly those who were intoxicated and could cause a public nuisance;
- The business case put before the Committee was that they needed to extend the hours of opening to serve people leaving clubs. Those patrons were likely to be intoxicated and noisy;
- It was put forward that the proposed measures to mitigate potential noise were inadequate;
- It was unlikely that a sign asking people to leave the premises quietly would be read or paid heed to by drunk patrons;
- The presence of a doorman could limit noise in the immediate proximity to the premises, however patrons moving to and from the premises would create a public nuisance which would be beyond the control of the doorman;

A Member asked what the volume of likely business could be attributed to patrons leaving clubs and attending the premises to purchase food. The Senior Licensing Officer stated that the main club in the area was called Club Revive at the Grand Victorian Hotel which opened on an ad-hoc basis. He also mentioned that the Liquid Lounge and Occasions nightclubs were elsewhere in the Town and it was debateable as to whether patrons of these premises would visit the station area to buy food.

A Member estimated that it was possible one hundred or so patrons from clubs would frequent the premises and that they would arrive by foot and also taxi. It was asked whether there would be noise from taxis arriving at the premises. The Environmental Health Manager confirmed that it was expected the later opening of the premises would bring foot traffic and taxi's which would both generate noise.

A Member asked about the relevance of other existing fast food outlets in the local area with 3.00am closing times. The Environmental Health Manager stated that the premises in question was in a more residential area than the other properties.

The applicant had no questions for the Environmental Health Manager.

The Planning Services Manager introduced the Planning Departments representation as detailed below:

- There had been four previous planning applications to extend the premises opening hours beyond 12pm, all of which had been refused. This had included one appeal being refused by the Planning Inspector;
- Members were told that the premises had been issued with enforcement notices following breaches in its opening times;
- The premises would need to apply for planning permission as well as licensing permission and the application would likely be refused by planners.

A Member asked if there had been an increase in the number of residential properties in the area surrounding the premises. The Planning Services Manager informed members that there had been no material change in circumstances in the area, any material change would need to be recognised for planners to consider recommending an approval for a change to the premises' opening hours.

The applicant had no questions for the Planning Services Manager.

The Applicant's representative made her client's case as summarised below;

- Members were told that the area was predominantly commercial and that those residents who lived there should have taken that into account when moving there;
- The current licence holder had been in possession of her current licence since July 2012 and the new application was only asking for an extension of two additional opening hours each week (an hour on Friday and an hour on Saturday);
- Members were told that signs would be erected asking customers to leave the premises quietly and that there would be regular litter patrols outside of the shop;
- The Sub-Committee were told that since the premises had been under its current ownership there had been no complaints received from the Police, Council or Public;
- Councillors were reminded of the conditions put in place on the premises licence in 2012 and they were reminded further that the premises did not serve alcohol and did not have a late night entertainment licence. It was purported that as a result disorder was not a problem for the premises;

- With regards to the objection from Planning it was purported that the objection was based upon historic factors and not on the current licence's operation, furthermore it was put forward that the current applicant should not be prejudiced by the conduct of the apparently disruptive previous owner;
- With regards to the representation from Environmental Health, Members were told that the objection was not outright but expressed concern that the application did not adequately address the promotion of the licensing objective. It was stated that the Environmental Health representative had acknowledged that the premises was located on a busy road and that the SIA door supervisor would go some way to address concerns;
- Addressing the objection made by the resident's association, the applicant's representative suggested that concerns raised regarding anti-social behaviour were the remit of the Police under public disorder rather than public disorder;
- It was relayed that the amendment being sought was only a slight increase to the status quo and did not have a negative impact upon the licensing objectives;
- It was claimed that the business would be meeting a community need and that the business contributed to a local economy at a difficult time.

The Senior Licensing Officer informed the Committee that contrary to claims made by the applicant's representative he had received a complaint about the premises trading past its terminal hour. He told Members that the applicant had responded to the complaint by stating that in some circumstances a patron would arrive close to the terminal hour and order food that took a while to prepare such as pizza. He related further that the premises had received no further complaints to his knowledge

Members received clarification from the Solicitor to the Sub-Committee that commercial need was not a relevant factor in determining the application. Sgt Whitcombe from Sussex Police confirmed upon request that anti-social behaviour could be considered as a public nuisance although they had received no complaints about the property.

A Member established that the commercial properties in the area closed a significant time before the premises and asked why they would be considered as adding to the background street level during the early hours of the morning. The applicant's representative stated that commercial properties would be empty after they had closed and could not be 'disrupted'.

A Member asked how far and where the doorman could leave the premises to deal with unruly or noisy customers. The doorman indicated that he could move to the edge of the pavement directly outside of the shop.

The applicant made a representation. She informed Members that she had been in control of the shop since July 2012 and she'd had no problems since that time. She felt that her customers were nice and had behaved. She remarked that if customers became noisy she would ask them to be quieter and if they didn't comply she would refer the matter to the SIA trained door staff.

The premises doorman remarked that other premises close-by generated foot traffic and he didn't feel that the extension to the hours applied for would create an increase in noise levels at the applicant's premises.

The meeting adjourned at 11.05am

The meeting reconvened at 11.22am

The meeting was told that in reaching its decision, the Licensing Sub Committee had given due regard to the Home Office guidance, the Council's own Licensing Policy and relevant licensing legislation. The Committee also given regard to Human Rights legislation and the rules of natural justice. Due consideration was given to all representations made at the hearing and in writing. In discharging its functions the Sub Committee did so with a view to promoting the Licensing Objectives, the relevant objective being the prevention of public nuisance.

Resolved: that the premises licence should be varied as applied for with the existing conditions to remain in place.

Reasons for Decision:

The Sub Committee were satisfied that the variation of the licence of opening for one additional hour on Fridays, Saturdays and Bank Holidays would not undermine the prevention of public nuisance. The Sub Committee noted that there had only been one complaint to the Licensing Unit in the preceding 12 months and significantly no representations had been made by the Police nor were there any specific representations from local residents.

Additional Observations made by Members:

Those who had made representations in connection with the application were reminded that they may appeal against this decision within 21 days by giving notice to the Magistrates Court

Interested parties were reminded that they may apply for a review of this licence 'after a reasonable interval' pursuant to section 51 of the Licensing Act

The applicant was reminded that it is a criminal offence under the Licensing Act 2003 to carry on licensable activities from any premises in breach of a premises licence

Any licence granted under the Licensing Act 2003 does not override any planning restrictions on the premises nor any restrictions that may be attached to the lease of these premises – the Sub Committee strongly advised the applicant to make a planning application as a matter of urgency

The proceedings finished at 11.25am it having begun at 10:00am