

Licensing Act Sub-Committee - Record of Hearing held on Tuesday 24 March 2009 at 6.00pm

MEMBERS: Councillor Mrs HEAPS (Chairman); Councillors BELSEY and Mrs SALSBURY.

1 Declarations of Interest.

None were received.

2 Application for Variation of Premises Licence – Vina Kebabs, 24 Seaside Road.

The Chairman introduced members and officers present and detailed the procedure to be followed. The Licensing Officer outlined the report detailing the application for a variation of a premises licence for Vina Kebabs, 24 Seaside Road to permit the premises to open and provide late night refreshment until 3.00am.

Reference was made to the Council's Cumulative Impact Policy which was adopted on 25 July 2007 and that the premises were located within the area identified as being subject to the policy.

Written representations had been received from Councillor S Wallis, Ward Councillor as an interested party under the prevention of public nuisance and crime and disorder licensing objectives.

He addressed the Sub-Committee on behalf of the Pevensey Neighbourhood Residents Association who were concerned that an extension to the opening hours until 3.00am would exacerbate the existing problems for residents who suffered from littering, noise and disturbance and anti-social behaviour in the early hours from customers of late night entertainment venues and takeaway premises.

Residents who lived on the routes to and from Seaside Road also suffered from disturbance in the early hours of the morning. Owners of local guest houses had reported guests leaving before the end of their stay because of the noise, which had resulted in lost business and financial hardship.

Reference was also made to the new housing development between Susans Road and Cavendish Place which would increase the number of residents living in the area.

Councillor Wallis stated that some degree of noise and disturbance was expected at weekends, but Seaside Road was generally busy on other nights of the week. A saturation point of premises opening until the early hours of the morning had now been reached and a further premises opening until 3.00am was opposed. Councillor Wallis queried the validity of the petition submitted by the applicant in support of their application.

Mr A Masters, Sussex Police had made written representations as a responsible authority under the prevention of crime and disorder licensing objective. Mr Masters stated that a recent decision of the Council's Planning Committee to refuse a planning application for the extended hours had been overturned following an appeal. The police representations had taken account of the decision of the Planning Inspector to allow the appeal on the grounds that the application would not have a significant impact on the number of customers in the area and therefore would not add to the cumulative impact already being experienced.

The legal adviser made reference to section 11 of the Council's Statement of Licensing Policy which recognised that when making decisions, account must be taken of the outcome of appeals against decisions taken by the Planning Committee. The Inspector had considered the Cumulative Impact Policy and the impact of the application on the licensing objectives therefore the Sub-Committee was required to take into account the appeal decision as part of its deliberations.

The legal advisor also stated that the Cumulative Impact Policy covered all licensed premises and did not just refer to drinking establishments. Paragraph 1.3 referred to "the problems that can arise when large numbers of premises providing licensable activities are in close proximity to one another" and that cumulative impact is defined as "The potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area."

Inspector Williams stated that local knowledge of an area remained an important consideration and that Vina Kebabs was known to be a gathering point for groups of youths who tended to remain in the area and cause problems. There was no evidence that the applicant was able to assist with the control of this on-going problem outside the premises.

Mr Masters reported on the conditions requested to ensure the proper operation of CCTV equipment. A visit to the premises in February had determined that a camera monitoring the external area of the premises had not been operating. The Sub-Committee was advised that a recent inspection had confirmed that all the equipment was working as required by the operating schedule.

Representations in support of the application were made by Mr R Ibrahim and Mr S Ali.

With reference to the petition, the signatures represented neighbours and local business operators who had been invited to support the application by signing the petition. The conditions requested by Sussex Police regarding the operation of the CCTV system had been accepted and the applicant had agreed to cease hot food at 2.30am if a closure time of 03.00am was permitted.

CCTV was already in operation during opening hours both inside and outside the premises to provide security. The applicant considered that the standard of both the premises and the food compared more favourably with that of other takeaways in the area. The major business of late night takeaways was between 12.00 and 3.00am which were the hours the majority of other late night takeaways in the area traded until.

The police concerns were acknowledged and the applicant would try to move on any youths congregating outside the premises. The use of a door supervisor on Fridays and Saturdays until closing time was also offered.

The legal adviser advised the applicant of the implications of not complying with the requirement of employing an SIA Registered Door Supervisor should it be agreed as a condition of the licence.

The Sub-Committee then retired to consider and determine the application having regard to the representations submitted and the further evidence presented at the meeting, guidance under Section 182 of the Licensing Act 2003, the four licensing objectives and the Council's Statement of Licensing Policy.

Having taken into account all the relevant considerations the Sub-Committee reconvened and announced the decision as follows.

RESOLVED: That the variation application in respect of Vina Kebabs, 24 Seaside Road be granted as set out in the attached appendix.

The meeting closed at 7.00p.m.

**Mrs C Heaps
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Tuesday 24 March 2009

- Applicant: Mr Tareq Ibrahim
- Premises: Vina Kebabs
24 Seaside Road
Eastbourne
- Reasons for Hearing: Relevant representations received from responsible authorities and interested parties under the prevention of crime and disorder and public nuisance licensing objectives.
- Parties in attendance: Applicant and representatives – Mr R Ibrahim and Mr S Ali.
- Responsible Authorities - Sussex Police - Inspector J Williams and Mr A Masters (Licensing Officer).
- Interested Parties - Councillor S Wallis (Ward Councillor) and on behalf of the Pevensey Neighbourhood Residents Association.
- Decision made: To grant the variation of the Premises Licence as follows:

Standard Hours

Late Night Refreshment: (indoors & outdoors)

Monday – Sunday 23.00 hours – 02.30 hours

Open to the Public:

Monday – Sunday 11.00 hours – 03.00 hours

Subject to the following conditions (in addition to applicable mandatory conditions prescribed by section 19 of the Licensing Act 2003):

- (i) A Security Industry Authority registered Door Supervisor shall be employed and on duty at the premises on Fridays and Saturdays from 23.00 until the premises is closed.
- (ii) The CCTV system will incorporate a recording facility and any recording shall be retained and stored in a secure manner for a minimum of 31 days and made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
- (iii) The CCTV system will display on any recording the correct time and date of the recording.

- (iv) The CCTV system will be maintained and fully operational throughout the hours that the premises are open.

Reasons for Decision: The Sub-Committee has granted the application for a variation of the Premises Licence subject to the conditions and hours specified having given due weight to the evidence placed before it, as well as the regulations and guidance under the Licensing Act 2003, the Council's Licensing Policy and the licensing objectives.

The Sub-Committee has weighed up the applicant's submissions alongside the representations made by the responsible authorities and interested parties. It was considered that the concerns relating to crime and disorder and public nuisance could be met only by the imposition of conditions.

The applicant had accepted the conditions put forward by Sussex Police and offered the condition relating to the employment of an SIA Registered Door Supervisor.

Date of Decision: 24 March 2009

Date decision notice issued: 2 April 2009

A written or electronic copy of this Notice will be publicly available to all Parties and published on the Council's website.

RIGHT OF APPEAL

Under the provisions of S.181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal against the decision of the Licensing Sub-Committee, should you be aggrieved at the outcome.

This right of appeal extends to the applicant in the case of refusal or restrictions on the licence, or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations where the licence has been granted, or that relevant conditions have not been imposed on the licence.

Full details of all the rights of appeal can be found within Schedule 5 of the Act. If parties wish to appeal against the Sub-Committee's decision, this must be made to the Magistrates Court, Old Orchard Road, Eastbourne, BN21 1DB within 21 days of receipt of this decision notice.