

Decision Licensing Sub Committee on 7 April 2022

Application for the review of the premises licence at The Best Kebab House, 14 Langney Road, Eastbourne, BN21 3EU

The hearing concerned an application for the review of the premises licence at The Best Kebab House, 14 Langney Road, Eastbourne, BN21 3EU. The premises licence was first issued on 15 September 2005. It is currently licensed for late night refreshments between 23:00hrs and 03:00hrs, with opening times between 10:00hrs and 03:00hrs.

In discharging its functions, the Sub Committee considered the promotion of the licensing objectives, the Council's own Licensing Policy, the Home Office guidance, the relevant legislation, and the rules of natural justice.

The Sub Committee considered the review application made by Sussex Police. The Police asked the licensing authority for a review of the licence due to breaches of the premises licence because the premises were opening after 03.00am, despite warning letters having been issued by the Police and the Licensing Authority itself. The Police considered that the premises are encouraging users of the night-time economy to remain in the Langney Road area resulting in public place violence and anti-social behaviour. At the Sub Committee hearing PC Buck outlined the incidents that had occurred in the Langney Road area which he stated were connected with the premises including that Officers had been assaulted and that on one occasion a Police dog had to be deployed. He stated that commonly those incidents arose on a Saturday night into Sunday morning. PC Buck stated that the premises attracted custom from a nearby nightclub when those premises closed and this contributed to disorder in the area. He accepted that since the review application had been made that there had been no reported incidents at the premises. However, he stressed that The Best Kebab House had ignored the warning letters and he had no confidence that the premises would not revert back to being a drain on Police resources unless steps were taken.

When asked by a Member if there were other premises in the area that attracted customers from the nightclub PC Buck stated that the customers of the nightclub were dispersed in the direction of The Best Kebab House and other late night food premises were closed by the time the nightclub closed. He informed the Licensing Sub Committee that there had been no problems with other late night refreshment premises in the area. In his closing remarks, PC Buck reiterated that the premises were attracting customers from the nightclub by being open after hours.

Due regard was also given to the written and oral representations of Trevor Moule, for the Licensing Authority as a Responsible Authority. Those concerns related to all four licensing objectives. At the Sub Committee hearing he supported the Police's review application and outlined the warnings given to the premises by the Licensing Authority, as set out on pages 29-30 of the Report.

The Sub Committee considered the representations made by Simon Gordon the representative for the current licence holder. He stated that they were not disputing that there had been incidents of disorder in the past and accepted that the premises had been opening after 03:00 hrs, in breach of its licence. He reminded the Members that the premises licence had recently been transferred. He stated that the new premises licence holder was only distantly related to the previous premises licence holder, although they shared the same last name it was a common name. He said the current premises licence

holder was experienced in late night food premises and that he had other such premises at which there were no problems. He contended that the problem with disorder in the Langney Road area would exist even if the premises were not there as they related to the nightclub rather than The Best Kebab House. He stated that the witness statement from the neighbour (in the Report at pages 26-27) was not credible. He pointed out that The Best Kebab House had previously applied for TENs, which had not been contested by the Police, and that if there had been longstanding problems at the premises, as was suggested in the review application, he wondered why the Police had not objected. He stated that the current premises licence holder would agree to changing the hours to close at 02:45hrs (so 15 minutes earlier) and having door staff until 03.30 hrs, or 30 mins after closing. He stated that there would be new regime at the premises, with all new people, and that the current premises holder would ensure that the licence conditions and hours would be complied with going forward. He stated that the previous premises holder was not in charge anymore. He stated that the review was a wakeup call and that there would, for example, be no more serving of food at 03.30hrs to staff from the nearby nightclub. He reiterated that the current premises licence holder was committed to change. He explained that the current premises holder would be able to keep control at The Best Kebab House because his other premises closed at an earlier hour. In his closing remarks, Simon Gordon stated that The Best Kebab House supported the Police and the Licensing Authority and were content to slightly modify the licence but believed that the problems in the area arose from the nearby nightclub. He promised that the premises would be better managed going forward.

Decision

The Sub Committee decided that the appropriate and proportionate steps to be taken for the promotion of the relevant licensing objections following this review were to modify the conditions of the licence and to modify the times that licensable activities could take place. Therefore, it decided to add a condition to the licence that there should be SIA door staff (one) on the premises on Wednesday, Friday, and Saturday nights between the hours of 22:00 and 03:00. Further that the licensable/closing hours be changed to 02:30am on seven days a week.

Reasons for the decision

The Licensing Sub Committee noted that the specific breaches of the premises licence as outlined on the review application made by the Police and the Licensing Authority as a Responsible Authority were not contested by the premises licence holder. Those specific incidents occurred on 12 December 2021, 1 January 2022, 9 January 2022, 23 January 2022, and 27 January 2022. Further the Licensing Sub Committee took into account that the current premises licence holder did not contest that there had been no disorder and/or anti-social behaviour in the area of the premises.

The Sub Committee considered that this decision was appropriate to prevent late night revellers congregating (at the premises and in the area of the premises) and prevent anti-social behaviour in the future.

The Sub Committee took into account in making its decision that there had been a recent transfer of the premises licence and that there had been no recent reported issues at the premises. However, that was balanced with the concerns that the premises would revert

to opening late in the future, given the failure by the premises licence holder at the relevant time to comply with warnings, and that would lead to incidents of disorder.

The Licensing Sub Committee noted that the current premises licence holder had offered to amend the licence by closing at 02:45hrs but the Sub Committee considered that would not be likely to address the issues and it was considered that closing at 02:30hrs would be more likely to address the problems.

Given the accepted disorder in the area the Sub Committee considered that having SIA door staff was appropriate. It noted that the Police had asked for SIA door staff on Monday night (as well as Wednesdays, Fridays, and Saturdays), but the Sub Committee did not consider that sufficient evidence had been presented that there were problems on Mondays. Further it noted that the Police had asked in their application for the Licensing Sub Committee to condition door staff from 21:00hrs but the Members considered a start time of 22:00hrs to be more appropriate.

The Licensing Act 2003 provides a right of appeal to the Magistrates' Court. This right of appeal is open to the review applicant, to any person who made a relevant representation and the Licence Holder. An appeal must be commenced by notice of appeal being given by the appellant to the Magistrates' Court within a period of 21 days beginning on the date the appellant is notified in writing of the decision of the Licensing Sub Committee.

The determination of the Licensing Sub Committee will have no effect until the end of the period for the appeal has passed or until the disposal of the appeal.

This decision will be provided to all parties in writing within five working days.