

Crawley Borough Council

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Report to Licensing Committee

14th November 2007

Licensing Scrutiny Panel Referrals to Licensing Committee and Proposed Training and Amendments to Process

1. Summary

- 1.1 The manner in which Crawley Borough Council implemented the Licensing Act 2003 and the connections with other subsequent legislation such as the Gambling Act 2005 where subject to review by the Licensing Scrutiny Panel in 2007.
- 1.2 The results of the review resulted in a number of recommendations being proposed and accepted by the Executive. Recommendations 9 and 10 were not adopted by the Executive and a request was made for these matters to be discussed at a Policy Development Forum. This report suggests a means of developing a process to enable recommendations 16 and 17 to be successfully implemented. It is also suggested that recommendations 14 &15 be amended following further legal advice taken on the matter.

2. Recommendations

- 2.1 To adopt the proposed training plan to enable the Recommendations 16 &17 of the Licensing Scrutiny Panel to be realised.
- 2.2 To adopt the revised Licensing Committee Report format at Appendix B.
- 2.3 To adopt the proposed standing agenda for Licensing Committee business.
- 2.4 To amend Recommendations 14 &15 of the Licensing Scrutiny Panel to prevent potential legal challenge to any decisions of the Committee

ANGELA TANNER
Head of Environmental Services

COUNCILLOR KEITH BLAKE
Executive Member for Environmental Services

3. Background

- 3.1 The Licensing Act 2003 had a massive impact on the manner which issues concerning the sale of alcohol, regulated entertainment and late night refreshment houses were regulated. In essence all the former control regimes were repealed and control of all these matters were brought under one statute.
- 3.2 This exercise has produced a massive amount of work for Local Authorities who were given the responsibility for administration and certain enforcement functions under the said Act.
- 3.3 The process of transferring all previously held Alcohol Licences concerning premises and person licensed to sell alcohol Personal Licences has now been completed.
- 3.4 It is therefore timely to examine the lessons learnt from the processes used to facilitate the transfer to the new regime in order to improve the function of the Council in its role as the Licensing Authority. This exercise has been undertaken by way of the Licensing Scrutiny Panel in 2007. This report therefore sets out the manner in which the Council will revise its processes for dealing with matters in regard of the Licensing Act 2003 to implement the Panel's Recommendations.

4. Proposals to Realise the Recommendations of Licensing Scrutiny Panel

- 4.1 As a result of a presentation made by Dave Hawkins, a representative of the Sussex and Surrey Ambulance Trust the following Licensing Scrutiny Panel recommendations will be discussed at a Policy Development Forum. Whilst some concerns were raised by the Executive it is hoped that pursuing a joint working agenda with partner agencies such as the Police and Businesswatch some pragmatic interventions on this theme can be realised. The Head of Environmental Services is currently working on a timetable with the Cllr K Blake in his capacity as Portfolio Holder to accommodate a number of Policy Development Forums which will include these issues.

RECOMMENDATION 9 OF LICENSING SCRUTINY PANEL

That the Head of Environmental Services be requested to work with the Ambulance Service and Pub-watch to further investigate the possibility of a member of the Ambulance Service carrying a Pub-watch radio. If Pub-watch members identify someone on their premises who they believe requires medical assistance because of alcohol, they could contact the Ambulance Service member, who would then assess if the individual were 'police drunk' or 'hospital drunk.'

RECOMMENDATION 10 OF LICENSING SCRUTINY PANEL

That the Head of Environmental Services be requested to work with the NHS, Business-watch and VCRAAG, to investigate the possibility of hiring a private ambulance to assist the Ambulance Service in dealing with alcohol related medical emergencies at peak times.

- 4.2 Whilst it is imperative that all applications for Premises Licences made in accordance with the provisions of the Licensing Act 2003 are considered on their own merits and are necessary for the promotion of the licensing objectives, a decision made may not be improperly influenced by matters concerning planning aspects of the case in question.. Decisions reached must not go further than what is necessary for that purpose. If a condition is attached it should be tailored to the size, style, characteristics and activities taking place at the premises concerned, it should not duplicate any other regulatory regime.

It is important to realise that the Council in its role as the Planning Authority has a separate important part to play in this regard, being a 'Responsible Authority' having the power to make representations accordingly. Proper separation of Licensing and Planning is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

However, it should be noted that in the absence of any representation, it is not possible to resist issuing a Premises Licence and in such cases, no conflict with regard to additional information resulting in prejudice to an application would therefore arise. This is due to the fact only matters subject to 'Representations' are dealt with by way of a Committee and associated report.

A report template on this theme is also included as Appendix A for the Committees perusal. A report from another Sussex Authority is also included at Appendix A to outline the additional information it is intended to include.

With regards to Recommendation 15, following further investigation into this matter, it should be noted that a licensing officer may draft and present a report to members outlining the known facts of the case together with any relevant information, representations, guidance, policy statements and legislation of relevance. Such information will assist the committee in its decision making but it should be noted it is not possible for officers to make any specific recommendation or take an active part in the decision making process at the conclusion of the hearing.

RECOMMENDATION 14 OF LICENSING SCRUTINY PANEL

That additional information concerning existing permissions granted regarding development control be included where necessary and appropriate in Licensing Sub Committee reports.

RECOMMENDATION 15 OF LICENSING SCRUTINY PANEL

That the Licensing Officer indicates, during the submission of the report, which of the standard recommendations in a Sub Committee report they feel to be most appropriate.

- 4.3 It is recognised that the Licensing Act 2003 is a complex and lengthy piece of legislation and the guidance issued to Licensing Authorities is extremely extensive. As a consequence it is necessary to assist members of the Licensing Committee to keep up to date with any changes and to refresh their knowledge in a structured manner, and this is also a legal requirement incumbent upon the Council as detailed in the guidance document. Further to the wholesale conversion of the existent plethora of licences regarding

alcohol, regulated entertainment and late night refreshment houses transferring to the new control regime by way of the Licensing Act 2003, it is difficult for Members to gain experience in all salient areas of the subject. A structured training plan designed to assist Members of the Licensing Committee to gain experience is therefore set out below to realise Recommendation 16.

- 4.4 Whilst the work of the Licensing Committee has drastically reduced now the initial conversion process has been completed resulting in the cancellation of some meetings, it is recommended that all meetings scheduled in the committee cycle take place to provide an opportunity for training to be delivered accordingly. It should be noted that the powers of the Licensing Committee extend to numerous other areas of Environmental Health as well as Licensing matters and training in all aspects of the departments work would be very advantageous. This is of particular importance in respect of the regulation of Public Safety in Licensed premises as no annual renewal of a Public Entertainment Licence is now required, thus no annual safety checks are undertaken by Officers from this service.

RECOMMENDATION 16 OF LICENSING SCRUTINY PANEL

That the training programme for the Licensing Committee be enhanced through a six-month training programme covering more advanced issues, such as reviews, appeals, the decision making process, licensing objectives and any other areas the members feel they require extra knowledge on to assist them in the decision making process. This training to take place as appropriate.

- 4.5 To assist in covering all areas of the Committees business it is recommended that the Committee meeting itself be held followed by an informal 'Licensing Briefing'. Issues where public access is required will continue to be considered at the Committee meeting. The briefing would be used to deliver training and for presenting a report concerning operational and strategic matters by or on behalf of the Head of Environmental Services. This would appraise Licensing Committee Members of work programmes and matters of interest. A standard agenda for the proposed briefing session is included at Appendix C of the report for Members' perusal.

4.6 Proposed Training Schedule

Committee Date and Time	Subject Area	Attendance Requested	Presenter	Duration
14/11/07	EH Strategy	All	Angela Tanner Tony Baldock	1 hour
Jan 08	Private Hire and Hackney Carriages	All	Mike Lyons Tony Baldock	1 hour
March 08	Licensing Act 2003	All	Angela Tanner Mike Lyons	1 hour

			Tony Baldock	
May 08	How the Constitution Works	All	Angela Tanner Tony Baldock Julie Green	1 hour
July 08	Food and Health and Safety Enforcement	All	Angela Tanner Tony Baldock	
Sept 08	Charities and Lotteries	All	Angela Tanner Tony Baldock Mike Lyons	1 hour
Nov 08	Statutory Nuisance	All	Angela Tanner Karl Bock	1 hour

- 4.7 The length of the Licensing Act 2003 and amount of statutory guidance issued by the Department of Culture Media and Sport presents a problem for a single member of the Licensing Committee to become expert in all the areas of the subject. To overcome this potential problem it is therefore suggested that a number of 'Subject Champions' amongst the Licensing Committee be developed who may be used to assist and support less experienced members of the Committee accordingly. This would also assist in demonstrating the resource invested in training Members dealing with Licensing Act 2003 matters and could be extended to Gambling Act 2005 to meet the Council's training obligations to better effect.

RECOMMENDATION 17 OF LICENSING SCRUTINY PANEL

That additional, more in depth training be provided to those more experienced members of the Licensing Committee who wish to receive it. These members, where possible, to act as 'mentors' to less experienced members of the Licensing Committee as appropriate.

5. Ward Members' Views

- 5.1 Wards Members were privy to the findings of the Overview and Scrutiny Review of Licensing and will be to participate in Policy Development Forums.

6. Staffing, Financial and Legal Implications/Powers

- 6.1 There are no direct staffing or other operational costs. It should nevertheless be noted that any appeals that result from decisions made by the Council in its role as the Licensing Authority may result in significant legal fees being awarded against the organisation.

7. Other Implications

8. Links to the Community Strategy and Corporate Plan

8.1 The proposals contained in this report relate to the following key areas of the Community Strategy

Local Economy	y	Health and Social Care	y
Affordable Housing		Community Safety	y
Lifelong Learning		Local Environment	y

8.2 The following key principles are applicable:-

(i) Working together	y
(ii) Dignity, respect and opportunities for all	y
(iii) Leaving no-one behind	y
(iv) Making it last	y

8.3 This report achieves the following aims as set out in the Corporate Plan

Providing high quality services	y	Giving exemplary customer service and satisfaction	y
Being financially efficient and well managed	y	Developing motivated, positive and empowered staff	y

9. Reasons for the Recommendation

9.1 To develop processes and procedures to deliver the recommendations of the Executive leading from the Overview and Scrutiny Review of the Licensing Act 2003 as regards its implementation in the Borough of Crawley.

Background Papers

1. Final Report of the Overview and Scrutiny Panel OSC/57
2. Guidance Issued under Section 182 Licensing Act 2003.

Contact Officer:- Tony Baldock
Direct Line:- 01293 438

EXAMPLE OF LICENSING REPORT FROM OTHER SUSSEX AUTHORITY

Agenda Item No: **Report No:**

Report Title: Application for Variation of Licence for Efes Kebab House, Lewes

Report To: Licensing Sub-Committee **Date:** 12 October 06

Lead Councillor: Councillor J L Carr

Ward(s) Affected: Lewes

Report By: Director of Planning and Environmental Services

Contact Officer(s): I Kedge (Head of Environment and Health) T
Albright (Principal Environmental Health Officer)

1. The Application

1.1 Applicant Mr Ali Aslan, 205 High Street, Lewes, East Sussex
BN7 2NS

1.2 Premises Efes Kebab House, 205 High Street, Lewes, East Sussex
BN7 2NS

1.3 Type of Application Application for the variation of a premises
licence

1.3.1 Purpose of Application

The purpose of the hearing is to consider the application for variation in operating hours and any impact of that variation related to the four licensing objectives, not any issues arising from the current operation of the premises.

The Committee may

- (a) grant the variation;
- (b) grant the variation with conditions imposed; or
- (c) refuse to grant the variation.

1.4 Relevant licensable activities

Current

1.4.1 Provision of late night refreshment –
Sunday to Thursday 11pm to 12 midnight,
Friday and Saturday 11pm to 12.30am (the following morning).

Hours open to the public
Sunday to Thursday 12 noon to 12 midnight,
Friday and Saturday 12 noon to 12.30am (the following morning).

The Licence was granted on 2 November 2005 without any representations from the public or relevant authorities.

Variation Application

- 1.4.2** Provision of late night refreshments –
Monday to Sunday 11pm to 1am (the following morning).

Hours open to the public Monday to Sunday –
12 noon to 1am (the following morning).

- 1.4.3** All application procedures have been correctly complied with.

1.5 Steps to promote the licensable activities

Current

1.5.1 Crime and Disorder

We will ensure anyone who behaves in a violent, aggressive or threatening manner is removed from the premises and the Police informed.

1.5.2 Public Safety

We will ensure any guidance given by the Fire Brigade and Environmental Health is complied with.

1.5.3 Prevention of Public Nuisance

We shall advise customers to leave the premises in a quiet manner so not to disturb local residents.

Will ensure outside areas are kept clear of litter and food debris.

1.5.4 Protection of Children from harm

Children under the age of 16 will not be served after 11pm unless accompanied by an adult.

2. Background Information

- 2.1** Efes Kebab House is a small late night take-away food premises situated in the town centre within an area of mixed business and residential accommodation and the High Street, at this point (known as School Hill) is a busy thoroughfare for both traffic and pedestrians throughout the day and night.

- 2.2** The nearest public houses in the vicinity of the premises are the Volunteer in Eastgate Street and the Crown at the top of School Hill adjacent to the War Memorial. The Volunteer is a busy public house that can open until 12.30am during the week and 1.30am at weekends. There are another 14 pubs in the town centre within walking distance of Efes and the majority of the public houses in Lewes enjoy longer opening hours as a result of the provision of the Licensing Act 2003.

- 2.3** The peak closing time at weekends of the town centre public houses would be 12.30-1am and it is around this time that there are a great number of young people on the streets leaving premises as they make their way home and/or look for late night food to eat. The Charcoal Grill and Efes are the only two premises in the town that service that need.

- 2.4** Efes have traded at 205 High Street for many years and prior to November 2005 there was no requirement for them to be licensed.

- 2.5** In November 2005, under the provisions of the Licensing Act 2003, the premises applied for, and was granted, a Premises Licence for late night refreshments from 11pm to 12 midnight on Sunday to Thursday, and 11pm to 12.30am Friday and Saturday

No objections from the responsible authorities or representations from the public were made to this application.

- 2.6** Subsequently, the current owner and applicant, Mr Ali Aslan, applied for the licence to be transferred into his sole name, and submitted an application for the variation of the operating hours to be increased Monday to Sunday until 1am to meet customer demand.
- 2.7** The Council have received 3 nuisance complaints regarding the premises since the provisions of the Licensing Act 2003 came into force in November 2005, one of which concerns noise from the internal ventilation system causing a nuisance at 204 High Street, Lewes (this issue is also subject to representations at the hearing by the Environmental Health Department).
- 2.8** The other complaints relate to noise from customers generated outside the premises, mainly at weekends, and an allegation of trading later than the authorised hours.
- 2.9** Observations have been carried out by Licensing Officers on the premises on Friday and Saturday nights regarding the complaints detailed in paragraph 2.8 above. On 4 August 2006 the premises was observed to be trading after its permitted hours. A number of advisory visits were made and a warning letter was sent to all late night licence holders. The premises was monitored again on 1 September 2006 and was observed to be complying with its permitted hours of operation.

3. Representation received

3.1 Responsible authorities

- | | |
|--|---------------------------------|
| 3.1.1 <u>Police:</u> | No objections |
| 3.1.2 <u>Environmental Health:</u> | Representations see 3.2.4 below |
| 3.1.3 <u>Fire Officer:</u> | No comment |
| 3.1.4 <u>ESCC – Child Protection:</u> | No response |
| 3.1.5 <u>Trading Standards:</u> | No response |
| 3.1.6 <u>Health & Safety:</u> | No comment |
| 3.1.7 <u>Planning</u> | No response |

3.2 Interested parties

- 3.2.1** Letters received within the relevant time advised wishing to make representations about the licence application by Efes Kebab House are attached at Appendix 1
- 3.2.2** Three written representations have been made by local residents in the vicinity of Efes Kebab House against the proposed variation application for late night refreshment until 1am.
- 3.2.3** The grounds for their objections are that the application to vary will undermine one or more of the Licensing Objectives relating to crime and disorder and public nuisance. They are considered to be relevant to the application and not frivolous, vexatious or repetitious.
- 3.2.4** The Environmental Health Department has made representation on the grounds of public nuisance and their report is attached at Appendix 2.

4. Licensing Policy Considerations

- 4.1** Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activities for retail sale of alcohol, regulated entertainment and late night refreshment which is the subject of this licence variation application.

- 4.2** The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the Act. Namely;
- Prevention of crime and disorder
 - Public Safety
 - Prevention of public nuisance
 - Protection of children from harm
- 4.3** The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.
- 4.4** All residents living in the vicinity of licensed premises have an equal right to make representations concerning applications for premises licences and hours of trading and to have those representations given equal weight regardless of the area of the District in which they live.
- 4.5** In each case that arises following representations the Policy states the Council will:
- a) Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved.
 - b) Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
 - c) Consider restricting the hours of trading as a last resort and only in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.
- 4.6** The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions that are necessary to promote the Licensing Objectives arising out of consideration of the representations.
- 4.7** The Council licensing policy states that it shall avoid duplication with other regulatory regimes wherever possible.

5. Licensing Guidance under section 182 of the Licensing Act 2003

- 5.1** Paragraph 6.8 of the licensing guidance states:
'In relation to the prevention of public nuisance, in each individual case that arises following representations, the licensing authority should consider the potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises in order to examine the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation. The licensing authority should consider restricting the hours of trading only where this is necessary because of the potential impact on the promotion of the licensing objectives from fixed and artificially early closing times.'
- 5.2** The Council may tailor its own conditions or draw from the model conditions in the National Guidance and the important sections are conditions relating to crime and disorder, Annex D and conditions relating to the prevention of public nuisance Annex G.

6. Financial Implications

There are no financial implications to this report.

7. Environmental Implications

I have completed the Environmental Implications questionnaire and there are no significant effects as a result of these recommendations.

8. Risk Management Implications

I have completed the Risk Management questionnaire and this report does not require a risk assessment.

9. Background Papers

- Existing Licence Efes Kebab House
- Application for variation of the Licence
- Statement of Licensing Policy
- Model Pool of Conditions Annex D
- Model Pool of Conditions Annex G

10. Appendices

Appendix 1: Letters of representation from interested parties

Appendix 2: Representation from LDC Environmental Health Department

11. Location Plan

Efes Kebab House, 205 High Street, Lewes showing area surrounding premises.
1:500 and 1:1000

APPENDIX B

CRAWLEY BOROUGH COUNCIL

LICENSING COMMITTEE
Friday 26th October 2007

REPORT NUMBER: ES/191

ITEM NUMBER:

LICENSING ACT 2003

APPLICATION: - GRANT OF A NEW PREMISES LICENCE

APPLICANT; Mr. Turan Koksal
PREMISES; TROY KEBABS
LOCATION: 43 HIGH STREET
CRAWLEY

REFERENCE NUMBER: P00398

1.	Content	
1.1	On the 7 TH September 2007, Mr Koksal of 'Troy Kebabs' submitted an application to the Council for the grant of a premises licence in accordance with the provisions of the Licensing Act 2003, 'the Act'.	Appendix A Application Form
1.2	'Troy Kebabs' currently has a premises licence with conditions	Appendix B Copy of current premises licence
1.3.	The premises are licensed for 'late night refreshments' subject to the provisions of the Act and attached conditions.	
1.4.	Mr. Koksal is applying for the grant of a new premises licence for the existing established premises	Appendix A Copy of Application Form
1.5	The applicant is intending to promote the four 'licensing objectives' with the steps he proposes to take in the submitted 'operating schedule' (included in the attached application form).	Appendix A Copy of Application Form
1.6.	The application is for the grant of a premises licence for 'late night refreshments' only which is the supply of 'hot' food or drink to members of the public or section of the public, on or from any premises, whether for consumption on or off the premises.	

1.7.	The proposed trading hours are as follows:- Monday 23.00 – 03.00 Tuesday 23.00 – 04.30 Weds 23.00 – 03.00 Thurs 23.00 – 04.30 Fri 23.00 – 04.30 Sat 23.00 – 04.30 Sun 23.00 - 03.00	Appendix A Copy of Application Form
2	Consultation	
2.1	The application was advertised in accordance with legislation.	
2.2	The Council has received no public representations either for or against the application. Planning - no comment received Environmental Health - no comment received Trading Standards - no comment received Fire & Rescue - no comment received Child Protection - no comment received Public - no comment received Police - comment received	
2.3	Sussex Police as a 'responsible authority' has submitted a relevant representation in accordance with the provisions of the Act. The substance of the representation is an objection to the grant of the proposed application in its present form and as it does not in the opinion of Sussex Police promote the following licensing objective:- 'Prevention of Crime and Disorder'	Appendix C Copy of the submitted Sussex Police 'representation'.
3	Background	
3.1	In 2005, with the introduction of the Licensing act 2003, a premises licence with conditions was granted as part of the above premises for the trading hours currently applicable.	
3.2	The conditions were proposed by the applicant as a result of negotiations with Sussex Police to promote the 'Prevention of Crime & Disorder' licensing objective and were subsequently added to the issued premises licence.	
3.3	The agreed conditions consistent with the Operating Schedule were as follows:- (1) CCTV will remain in place and will be maintained and operated to the standard required by Sussex Police, (2) The panic button will remain in place and will be maintained and operated to the standard required by Sussex	

	Police, (3) A door supervisor will be present on the premises throughout the times the licence authorises licensable activities on Tuesdays, Thursdays, Fridays and Saturdays.	
3.4	On the 30 th January 2006, an application was submitted to vary this licence to include extending the trading hours and to remove in part the condition relating to the requirement for door supervisors (Tues & Thurs)	
3.5	On the 22 nd March 2006, as a result of a Sussex Police representation, this matter was referred for the consideration of the Licensing Sub-Committee where the application for the variation of the premises licence was refused .	
3.6	Members saw fit following due consideration of the merits of that particular case to refuse the application giving the reasons for their decision.	Appendix D Copy of Committee's decision
4	Staffing, Financial and Legal Implications	
4.1	There are no extra staffing or financial implications to the Council, save for those laid out in Part 10 of the Information Pack in respect of possible appeals	Information Pack: Part 10 (General)
4.2	The Council is required to consider the impact any decision may have on an individual's Human Rights.	Information Pack: Part 10 (General)
4.3	The Council is required to consider the impact any decision may have on crime and disorder in the area (Section 17, Crime and Disorder Act, 1998).	Information Pack; Part 10 (General)
5	Community Strategy and Corporate Plan;	
5.1	See part 10 (General); Information pack	Information Pack: Part 10
6	Consideration	
6.1	Members must give due consideration to the merits of each individual case. Attention is drawn to the following sections of the 'Members' Information Pack'; Council's Licensing Policy, LACORS Guidance, CBC Hearing Procedures, Premises Guidance, Licensing Act (premises), Regulations (premises),	Part 1 Part 2 Part 2 Part 3 Part 3 Part 3

	Conditions (premises)	Part 8 & 9
6.2	Examples of conditions which may assist in the promotion of this licensing objective can be found in the information pack.	Information Pack: Part 1, Policy Part 9, conditions
6.3	Applicants are expected to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including: <ul style="list-style-type: none"> . • the nature and style of the venue; . • the activities being conducted there; . • the location; and • the anticipated clientele 	Appendix A (Application Form -Part B) 'Operating Schedule'
6.4	In preparing 'Operating Schedules', the Licensing Authority expects that applicants should have regard to statements of licensing policy published by this authority for the Crawley area	Licensing Policy 3.20
6.5	It is also expected that applicants will seek the views of key responsible authorities before formally submitting applications and having completed drafts of their own operating schedules (after considering the effect on the four licensing objectives). For example on matters relating to crime and disorder, the police and local authority safety officers and local community groups might be consulted.	Licensing Policy 3.21
6.6	Members will need to incorporate the provisions of the operating schedule into any licence granted by imposing on the licence the provisions of the operating schedule as conditions. However, if Members believe that it is necessary to modify the provisions of the operating schedule in order to ensure that the licensing objectives are promoted, appropriate alternative conditions may be drafted and imposed.	
6.7	If Members believe that the operating schedule fails to promote the licensing objectives in some way, conditions not covered by the provisions of the operating schedule may be drafted and inserted. Members may also exclude elements of the operating schedule which do not promote the licensing objectives by the imposition of negative conditions or conditions otherwise appropriately drafted.	
6.8	Council Policy states that conditions will be used if they can control issues that directly impact on the behaviour of those under the licensee's direction, when on his premises or in the immediate vicinity of the premises as they seek entry or leave. The Conditions laid down in Annex D of the Statutory Guidance will be used as a pool of conditions in respect of	Licensing Policy 2.14

	General Management Controls on Crime and Disorder.	
6.9	The Licensing Authority will look to the Police as the main source of advice on these matters and this advice will be given considerable weight.	Licensing Policy 2.14
6.10	Members are reminded, however, that if conditions which do not precisely mirror the operating schedule are to be imposed, the Members must satisfy themselves that appropriate evidence exists to justify the imposition of these conditions.	
6.11	Section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent	
6.12	However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and as long as licensing authorities have properly understood the Guidance they may depart from it if they have reason to do so as long as they are able to provide full reasons.	
6.13	Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.	
6.14	Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case.	Statutory Guidance S182 1.15
6.15	In addition, when considering a new premises licence or following reviews that have identified problems with a particular premises, licensing authorities may consider imposing conditions as appropriate such as door supervisors, CCTV etc	Statutory Guidance S182 1.27
6.151	Door supervisors Conditions relating to the provision of door supervisors and security teams may be valuable in: <ul style="list-style-type: none"> • preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder; • keeping out individuals excluded by court bans or by 	Statutory Guidance S182 Annex D

	<p>the licence holder;</p> <ul style="list-style-type: none"> . • searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and . • maintaining orderly queuing outside venues. <p>Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:</p> <ul style="list-style-type: none"> . • the number of supervisors; . • the displaying of name badges; . • the carrying of proof of registration; . • where, and at what times, they should be stationed on the premises; and . • whether at least one female supervisor should be available (for example, if female customers are to be given body searches). <p>Door supervisors also have a role to play in ensuring public safety</p>	
6.152	<p>CCTV</p> <p>The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.</p>	<p>Statutory Guidance S182 Annex D</p>
6.16	<p>All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.</p>	<p>Statutory Guidance S182 1.28</p>
6.17	<p>Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area</p>	<p>Statutory Guidance S182 1.29</p>
6.18	<p>The Government's expectation is that the police will have a key role in undertaking the following tasks:</p> <p>Premises providing late night refreshment; working with venue owners and managers to resolve drug-related problems and problems of disorder, drunkenness and antisocial behaviour.</p>	<p>Statutory Guidance S182 2.2</p>
6.19	<p>The essential purpose of the licence or certificate in this context is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives</p>	<p>Statutory Guidance S182 2.4</p>

6.21	Conditions are best targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television cameras both inside and immediately outside the premises can actively deter disorder, nuisance and anti-social behaviour and crime generally.	Statutory Guidance S182 2.6
6.22	Similarly, the provision of requirements for door supervision may be necessary to ensure that people who are drunk or drug dealers or carrying firearms do not enter the premises, reducing the potential for crime and disorder, and that the police are kept informed.	Statutory Guidance S182 2.7
6.23	In preparing an operating schedule, the Secretary of State expects applicants to have had regard to the statement of licensing policy for their area. They should also be aware of the expectations of the licensing authority and the responsible authorities about the steps that are necessary for the promotion of the licensing objectives.	Statutory Guidance S182 8.28
6.24	The steps to be taken should be both realistic and within the control of the applicant and management of the premises. If a licence is granted with conditions attached requiring the implementation of such steps, the conditions will be enforceable in law and it will be a criminal offence to fail to comply with them (under section 136 of the 2003 Act). As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises	Statutory Guidance S182 8.31
6.25	In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to: <ul style="list-style-type: none"> • the steps that are necessary to promote the licensing objectives; • the representations (including supporting information) presented by all the parties; • this Guidance; • its own statement of licensing policy. 	Statutory Guidance S182 9.25
6.26	The conditions that are necessary for the promotion of the licensing objectives should emerge initially from a prospective licensee's or certificate holder's risk assessment which applicants and clubs should carry out before making their application for a premises licence.	Statutory Guidance S182 10.7
6.27	Conditions which relate to the four licensing objectives could be used where necessary and appropriate to the particular circumstances of an individual licensed premises. It is important that they should not be applied universally and treated as standard conditions irrespective of circumstances	Statutory Guidance S182 10.5

6.28	The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardised conditions which ignore these individual aspects. It is important that conditions are proportionate and properly recognise significant differences between venues	Statutory Guidance S182 10.13
6.29	Licensing authorities should therefore ensure that any conditions they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose. Public safety concerns (and the concerns identified in the other objectives) should not of course be ignored and in considering a proportionate response to the licensing needs for such events, the physical safety of those attending such events should remain a primary objective.	Statutory Guidance S182 10.14
6.30	However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested	Statutory Guidance S182 10.20
6.31	If members consider a door supervisory presence to be necessary the following will apply:- Mandatory conditions will apply to this application; Section 21; <u>Door Supervisors</u> “(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority	
7	Recommendations	
7.1	Grant the application subject to conditions which are consistent with the operating schedule accompanying the application, and any relevant mandatory conditions, or,	Appendix A (Application Form -Part B) ‘Operating Schedule’ Section 18(2)
7.2	Grant the application subject to conditions which are consistent with the operating schedule (and any relevant mandatory conditions) modified to such extent as the authority considers necessary for the promotion of the licensing objectives, or,	Appendix A (Application Form -Part B) ‘Operating Schedule’ Information Pack Part 1, Policy Part 9, (conditions) Section 18(4)(a)
7.3	Do either of the above, but exclude from the scope of the	Appendix A

	licence any of the licensable activities to which the application relates, or,	(Application Form -Part B) 'Operating Schedule' Section 18(4)(b)
7.4	Reject the application, giving reasons for doing so.	Section 18(4)(d)
	Background Papers	
	All associated paper work regarding this application.	
	The information pack	
	Statutory Guidance	
	Statement of Policy	

Contact Officer:- Mike Lyons
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DECISION:	GRANT	REFUSE
REASON:		

SUGGESTED ADDITION TO STANDING 'LICENSING BRIEFING' AGENDA

1. Head of Environmental Services Report

To include

Progress against work plans EH
Numbers of Licences Issued
Contentious Issues
Current operation
Stakeholder engagement (To include Responsible Authorities)
Future Work Plan and New Developments
Licensing Committee Questions and Comment