

Crawley Borough Council

Minutes of Licensing Sub Committee at 6.30 pm

Present:

Councillors A G Brown, L A Seekings and D J Shreeves

Officers Present:

T Baldock	Group Manager for Food, Licensing and Occupational Health
M Lyons	Licensing Officer
M Shopland	Committee Clerk
A Williams	Legal Clerk

Also in Attendance:

Applicant	M Cete	
Applicant's Agent	M Kilic	
Applicant's Representative	D Dadds	
Responsible Authority	C Boyle	Sussex Police
	PC S McCowan	Sussex Police Licensing (North Downs Division)

1. Appointment of Chair

RESOLVED

That Councillor D J Shreeves be appointed Chair for the meeting.

2. Apology for Absence

Councillor D P Kavanagh

3. Members' Disclosures of Interest

There were no disclosures of interest.

4. Application to Grant a Premises Licence – Best Kebab, West Green

The Sub-Committee considered an application to grant a new premises licence in respect of Best Kebab, Ifield Road, West Green, Crawley.

The Chair outlined the procedure for the Licensing Sub Committee and confirmed that Members had asked for clarification on some points of the application prior to the meeting. The Sub Committee went on to agree that the Applicant be represented by Mr Dadds.

The Sub Committee were notified that the Police had additional written evidence. It was agreed that should the Applicant agree, the additional evidence could be considered. Mr Dadds asked that the Applicant be given time to look at the information before agreeing or otherwise, to its examination by the Sub Committee.

RESOLVED

That, in accordance with Regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005, the hearing be adjourned for such a time as to allow the Applicant to consider the additional written evidence provided by the Police.

The Sub Committee reconvened at 7 pm.

Mr Dadds confirmed that the evidence should be taken into account. Members were advised that the Police had withdrawn part of the evidence from their representation and that events referred to, dating to 6th March 2007 and 2nd August 2006 were no longer to be taken into consideration.

Report ES/201 of the Council's Head of Environmental Services was presented by Mike Lyons, a Licensing Officer for Crawley Borough Council. Mr Lyons also informed the Applicant and the Responsible Authority that point 3.30 of the Council's Licensing Policy stated that 'In dealing with new applications for a premises licence (not applications for variations) for a premises already previously granted permission, where the said licence has not been surrendered, a condition shall be imposed to require the same prior to any second licence being approved and issued.'

The Application

The Sub Committee were notified that the Council had received an application on 17th March 2008 for the grant of a new premises licence for Best Kebab under the Licensing Act 2003 from the Applicant, Mr Mustafa Cete.

The application was for the grant of a new premises licence. It was noted that the Applicant had agreed to reduce the proposed cease of trading hour from 04:30 to 04:00 on Tuesdays, Thursdays, Fridays and Saturdays.

A premises licence with conditions was granted to Best Kebab in 2005. (Appendix B to the report)

One written representation had been received from the Police, a Responsible Authority (set out in Appendix C of the report), which had been made on the basis that the application did not promote the licensing objective of prevention of crime and disorder. Pc McCowan and Mr Boyle were present at the meeting.

It was confirmed that the application had been advertised in the press and that notice had been displayed at the premises during the consultation period in accordance with the statutory requirements and the Council's Licensing Policy Statement.

The Applicant

Mr Dadds, representing the Applicant, addressed the Sub Committee. He indicated that the existing premises licence had been applied for by Best Kebab Ltd, whereas the application for a new premises licence had been made by Mr Cete, an individual. He stated that Mr Cete, a director of Best Kebab Ltd, had indicated his commitment to taking personal responsibility as a licence holder, by applying as an individual. Members enquired whether the Applicant had consulted with the Responsible Authorities prior to completing the application form. Mr Dadds commented that whilst this formed part of CBC policy guidance, it was not a pre-requisite of Licensing Act 2003 guidance. However, there been discourse with the Police during the 28 day consultation period.

The Applicant's Representative took Members through each of the incidents highlighted by the Police in their written representation, which they believed indicated that the licensing objective of the prevention of crime and disorder was not being met. With regards to the incident dating 12th March 2008, he commented that staff had acted proactively by contacting someone, who had then contacted the Police. He commented that staff at Best Kebab had again acted proactively by contacting the Police in relation to the incident dating to 27th January 2008. The Applicant's Representative believed that there was no means of linking the premises with a fight that occurred outside on 15th December 2007. The Sub Committee were notified that the Applicant did not remember the incident which took place on 9th September 2007, that the information provided was based on an allegation and that CCTV had been unavailable because at the time a cassette CCTV system had been used which only recorded 24 hours at a time. Four digital CCTV cameras had now been installed which the Police were satisfied with. On 7th May 2007, Best Kebab was found to be selling hot food at 03:15 when the existing licence states that they were permitted to trade until 02:00. Members were told that the Police had, had until 7th May 2008 to prosecute should they had felt it necessary. A warning had been issued and there had been no re-occurrence. Mr Dadds suggested that breaching the licence did not stop the four licensing objectives being met. He questioned why the Police had not called for a review of the existing premises licence if they thought that there was so much cause for concern.

Mr Dadds drew the Members' attention to the fact that under the existing premises licence, Best Kebab was able to sell hot food until 03:00 on Tuesdays, Thursdays, Fridays and Saturdays. The application for a new premises licence proposed that Best Kebab be able to sell hot food until 04:00 on these days. However, he felt that the Responsible Authority had not presented sufficient evidence to indicate that the licensing objective of prevention of crime and disorder would be contravened between 03:00 and 04:00 on these days if this were allowed.

In response to Members' questions as to why a new premises licence was being applied for as opposed to a variation to the existing licence, Mr Dadds stated that he advised his clients to apply for a new premises licence, as he believed that some local authorities abused the variation route.

It was noted that the Applicant would be willing to surrender either the existing premises licence or the newly granted premises licence if the Sub Committee granted a new premises licence.

Responsible Authority

PC McCowan addressed the Members. He reminded them that the Police had objected to the application on the grounds that they believed the licensing objective of prevention of crime and disorder was not being met. He suggested that the steps the Applicant indicated he would take to promote all four licensing objectives, did not go far enough.

Pc McCowan stated that he and Mr Boyle met with the Applicant on the 8th April 2008 and that during discussions the Applicant had said that once people had purchased food and left the premises they were no longer his concern. PC McCowan voiced concerns that if Best Kebab were allowed to sell hot food until 04:00 on certain days, the opportunity for late night refreshment might keep people in the area, which in turn might cause an increase in disorder.

He also took the Sub Committee through the list of incidents relating to Best Kebab. Pc McCowan stressed that staff should have contacted the Police instead of a colleague concerning the incident on 12th March 2008. However, he went on to agree that staff had acted proactively in contacting the Police on 27th January 2008. He also conceded that the fight reported on 15th December 2007 that had occurred outside the premises could not definitely be linked to it. Members asked to see the crime report relating to the incident on 9th September 2007.

RESOLVED

That, in accordance with Regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005, the hearing be adjourned for such a time as to allow the Responsible Authority to collect the crime report relating to the incident dated 9th September 2007.

The Chair reconvened the Sub Committee at 8 pm.

The Sub Committee inspected the crime report. PC McCowan emphasised that staff should have contacted the Police when the member of the public entered the shop, acting in a confrontational manner. The Applicant's Representative suggested that the licensee should take reasonable steps to diffuse tension where possible, only contacting the Police if the situation escalated.

Members were reminded of the conditions that the Police wished to see attached to the premises licence, should the Sub Committee be minded to grant it. PC McCowan asked that any CCTV be kept for 28 days. The Applicant agreed that it could be kept for 31 days.

In response to questions, PC McCowan indicated that the meeting between the Police the Applicant on 8th April had not been minuted and that he agreed that an individual was accountable in their own right once a distance away from the premises.

Members' Questions and Closing Comments

Members asked why the Police had not requested a review of the existing premises licence. PC McCowan stated that they worked closely with the licensee and a review would always be a last resort.

Councillor Seekings enquired whether the Police had viewed the new digital CCTV system, whether they were satisfied with it and if they had any ongoing concerns

regarding the premises. PC McCowan responded that they were happy with the system and had no ongoing concerns.

It was confirmed that the Police wished to see two SIA registered doormen in place on Tuesdays, Thursdays, Fridays and Saturdays instead of one. PC McCowan commented that having two doormen in place helped to improve the doormen's safety.

Mr Dadds questioned how many times PC McCowan had visited the premises as a licensing officer, on matters of concern. PC McCowan indicated that only two of the incidents detailed as part of the Police's representation, had occurred whilst he had been in post.

The Applicant's Representative stressed that in his opinion, there was inadequate evidence to suggest that the Applicant should need to hire two SIA registered doormen, an expensive measure. He went on to state that the incidents detailed by the Police did not sufficiently indicate that the licensing objectives were not being met.

He indicated that the Applicant had agreed with the Police's recommendations concerning CCTV and faults to the CCTV system. He emphasised that whilst the Applicant had agreed with the Police's recommendation to place adequate external lighting outside the shop for CCTV to be able to see what is occurring, this was subject to planning permission. This had been applied for, but should this planning permission be refused the Applicant was willing to install a day/night camera as an alternative.

The Chair commented that the Sub Committee were aware that the premises were situated in the town centre and sympathised with the Police regarding limited resources. However, they had to consider each application on its own merits and would appreciate more and stronger evidence in future.

RESOLVED

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the hearing taking place in public.

5. Application to Grant a Premises Licence – Best Kebab, West Green

The Sub-Committee gave further consideration to the application and to the matters raised at the meeting. The Sub Committee took into account how the Licensing objectives had been promoted in the application.

RESOLVED

- (1) That the application submitted by the Applicant (Mr M Cete) for a new premises licence under the Licensing Act 2003 in respect of Best Kebabs, Crawley, be granted subject to:-
 - (1.1) conditions which are consistent with the operating schedule accompanying the application, and relevant mandatory conditions

(1.2) Permitted Hours for Supply of Hot Food or Drink

Permitted Days of Operation

Permitted Hours of Operation

Monday, Wednesday, Sunday	23.00 - 02.00
Tuesday, Thursday, Friday and Saturday	23.00 – 04.00

- (1.3) The licensee shall ensure that all parts of the premises and the pavement immediately outside the premises is kept clean and free of litter to the satisfaction of the Council.
- (1.4) Notices shall be exhibited in prominent positions on the premises requesting patrons to protect the environment by disposing of their rubbish in the bins provided.
- (1.5) An adequate number of waste receptacles for use by patrons shall be provided in positions agreed with the responsible authority and it shall be the responsibility of the licensee to empty and dispose of the collected refuse at a frequency to be agreed with the responsible authority.
- (1.6) The existing CCTV cameras inside and outside the shop need to be maintained and operated correctly to the satisfaction of the Sussex Police. The CCTV system shall be subject to an annual service contract. Recording media shall be retained for at least 31 days and shall be readily available for inspection by the Police or authorised person.
- (1.7) If any faults occur to the CCTV system, they should be notified in writing to CBC and Sussex Police within 48 hours.
- (1.8) Should the current planning application for external lighting enhancement at the premises be successful, lighting should be maintained to a sufficient level for CCTV recording. Should the current planning application for external lighting enhancement at the premises be refused or withdrawn, within 31 days of the refusal or withdrawal, a day/night camera shall be installed and maintained to a sufficient standard and location for CCTV recording.
- (1.9) This licence shall not come into effect whilst the premises has a current premises licence applicable to it.

6. Re-admission of the Public

The Chair declared the meeting re-opened for consideration of business in public session and announced the Sub Committee's decision with regard to the licence application to the Applicant, the Applicant's Agent, Applicant's Representative and the Responsible Authority.

He stated that conditions 1.6 to 1.9 had been considered necessary by the Sub Committee for the promotion of the licensing objective, prevention of crime and disorder. The Applicant had also indicated a willingness to accept these conditions.

Conditions 1.3 to 1.5 were also conditions of the existing premises licence for Best Kebab.

He went to emphasise that whilst the Sub Committee noted that the Police had wished to see two SIA registered door staff on the premises from 23:00 to close of business on Tuesday, Thursday, Friday and Saturday, Members had felt that there was insufficient evidence to suggest that such action was necessary for Best Kebab.

7. Closure of Meeting

With the business of the Sub-Committee concluded, the Chair declared the meeting closed at 9.20 p.m.

D J SHREEVES
Chair