

# Crawley Borough Council



## Minutes of Licensing Sub Committee

14 April 2010 at 7.00pm

**Present:**

Councillors B K Blake, L Gilroy and B MeCrow

**Officers Present:**

Kevin Carr	Principal Lawyer – Corporate Support (Observing)
Steve Kirby	Enforcement and Technical Services Manager
Mike Lyons	Licensing Officer
Mez Matthews	Committee Clerk
Chris Pedlow	Committee Clerk (Observing)
Astrid Williams	Legal Clerk

**Also in Attendance:**

Applicant	Hamavon (Billy) Khan Applicant
	James A Naylor JNA Architects Limited (Applicant's Representative)
Responsible Authority	PC Caroline Green Licensing Enforcement Officer – Sussex Police
	Inspector Rob Lovell Tactical Support Inspector – Sussex Police
	Peter Savill Barrister (Responsible Authority's Representative)
Independent Member	Ms S Moore (Standards Committee Member - Observing)

**50. Appointment of Chair**

**RESOLVED**

That Councillor B K Blake be appointed Chair for the meeting.

## 51. Members' Disclosure of Interests

The following disclosures of interests were made by Members:-

Member	Minute Number	Subject	Nature of Disclosure
Councillor L Gilroy	Minutes 50, 51 and 52	Application to Vary the Premises Licence for Kebabish – 94 High Street, West Green	Personal and Non- Prejudicial Interest in the item as he had been a consumer on the premises

## 52. Application to Vary the Premises Licence for Kebabish – 94 High Street, West Green

The Sub Committee considered an application to vary the premises licence held in respect of Kebabish, 94 High Street, West Green, Crawley.

The Sub Committee noted that the application was due to be heard on 18 March 2010, but at the request of the Applicant, the Council had decided to extend the time limit within which this application could be heard to 40 days due to the Applicant's extenuating circumstances.

Following the introduction of those present at the meeting, the Legal Clerk ascertained that there were no applications to be made by either party. She advised the meeting that she had met with the Sub Committee prior to the Hearing and that she had given them general advice in respect of the procedure for the hearing and that during that meeting the Sub Committee had said that they wished to know whether the plans identified in the application reflected the proposed extension or the existing building. The Legal Clerk asked whether the parties could clarify this point during the hearing.

The Legal Clerk also said that during the meeting with the Sub Committee she had drawn the Members' attention to sections 9.28 and 13.64-13.68 of Section 182 Statutory Guidance which detailed the interaction between licensing, planning and building control, in response to a query from them about the police's submission about planning control. She explained that she had informed the Sub Committee that planning, building control and licensing regimes should be properly separated as those regimes involved consideration of different (albeit related) matters. With those matters placed on record, the hearing was formally opened.

Report RS/017 of the Council's Head of Planning and Environmental Services was presented by Mike Lyons, a Licensing Officer for Crawley Borough Council.

### **The Application**

The Sub Committee was informed that the Council had received an application on 28 January 2010 for a variation to the existing Premises Licence for Kebabish under the Licensing Act 2003 from Mr Hamavon (Billy) Khan, the premises licence holder.

The application proposed a change to the existing plans and an extension of the licensing hours as follows:

Current hours

Licensable activities including the provision of late night refreshments: Mon to Sun 23.00 to 00.30

Opening hours: Mon to Sun 07.00 to 01.00

The Applicant sought to amend the hours to

Licensable activities including the provision of late night refreshments: Mon to Sun 23.00 to 03.30

Opening hours: Mon to Sun 07.00 to 04.00

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

One written representation had been received from Sussex Police, a Responsible Authority (set out in Appendix C to the report), which had been made on the basis that the application did not promote the licensing objectives of prevention of crime and disorder; public safety; and prevention of public nuisance. The representation also included conditions which the Police sought to agree with the Applicant.

The report set out matters which the Sub Committee should take into consideration when determining the application to vary the licence. The Sub Committee's attention was drawn to Section 8 of the report which stated that having regard to the relevant representation by Sussex Police, to the extent that it related to at least one or more of the four licensing objectives, Members must take such steps (specified in the report) as they considered necessary and proportionate for the promotion of the licensing objectives.

Mr Lyons informed the Sub Committee that the plan in Appendix A to the report reflected the building layout as it was currently as the building works had already been done before the application to vary the licence had been made and so the plan contained within Appendix B showed the original layout of the building. This was confirmed by the Applicant.

**The Applicant**

Mr James Naylor addressed the Sub Committee as the representative of the Applicant, and addressed the four numbered objections set out by Sussex Police in Appendix C to the report. Mr Naylor informed the Sub Committee that the Applicant was applying for extended opening hours for commercial reasons. Mr Naylor confirmed that the position of the entrance door had been moved and was currently the subject to a planning application. He said that for it to be moved back the whole grill section would need to be moved and that the door had only been moved 3 metres and safety could be managed by a system of an external barrier and signs. He said that therefore it did not create a safety hazard.

The Police had suggested that two Security Industry Authority (SIA) registered and approved door supervisors be employed on Tuesday, Friday and Saturday nights and any other night the premises were open beyond 01.00, at the venue from 23.00 until 15 minutes after the premises had closed or until the last customer had left the premises. Mr Naylor was of the opinion that two door supervisors was excessive and suggested that the Applicant was happy to have one SIA door supervisor present on Friday and Saturday nights from 23.00 until closing on nights where the premises would be open beyond 00.30.

In respect of the Police's view that the licence holder should be a member of the pub watch scheme, Mr Naylor went on to say that the original licence had been granted without the requirement for the premises licence holder to be an active member of Crawley and Gatwick Business Watch (CGBW). Mr Naylor also reminded the Sub Committee that although the licence had the provision to sell alcohol, the premises did not currently sell alcohol and operated as a restaurant and not a bar and therefore the licence holder could not see membership of CGBW as necessary. He also highlighted the fact that similar businesses in the area were not members of CGBW.

The Sub Committee asked the Applicant if he intended to sell alcohol in the future. The Applicant informed the Sub Committee that although the premises licence permitted the sale of alcohol until 00.30, he currently had no plans to sell alcohol at and was not seeking to change the licence in respect of the provision to sell alcohol.

### **Responsible Authority**

Mr Savill, as the representative of Sussex Police informed the Sub Committee that the Police wished to stress that the representation had not been made on the basis of problems with this premises or the Applicant. He confirmed that the Police were not aware of any problems connected with the premises. Mr Savill cited the 2008 High Court Case between *Luminar Leisure Limited v Wakefield Council*, and stated that the High Court had held crime and disorder in the area of a premises generally could be a relevant consideration in deciding a premises licence application even in the absence of problems directly linked to the particular premises. Mr Savill said that even in the absence of a cumulative impact policy, issues of crime and disorder away from the premises and beyond the licence holder's control could be taken into account when considering an application to vary a licence. Mr Savill added that the objection had been made as in the opinion of the Police a change in the premises licence could increase crime and disorder in the area. The Sub Committee's attention was drawn to Appendix C of the report which gave both crime and disorder and incident figures for the area for the hours in question. Due to the number of recorded incidents, the Police had suggested that Mr Khan become an active member of the CGBW. Mr Savill advised that the remit of CGBW had been extended to include businesses such as Kebabish, and now operated a banning system whereby members were notified of those banned through the scheme from being able to socialise in Crawley town centre, thereby reducing the likelihood of crime and disorder.

Mr Savill went on to say that the Applicant was proposing a significant increase in the hours for licensable activities and suggested that the proposed increase would attract more people into the area and operated against the Police's aim to disperse revellers which would increase the opportunity for antisocial behaviour. Mr Savill suggested that the Sub Committee consider an incremental approach, whereby a smaller increase in the licensable hours was granted than currently are applied for, and if no problems with antisocial behaviour are experienced, the Applicant could apply for extended hours at a later date.

Mr Savill agreed that the suggestion made by the Police regarding the location of the front door (contained within Appendix A to the report) was not a matter for consideration by the Sub Committee and withdrew that objection on behalf of the Police.

Mr Savill informed the Sub Committee that two door supervisors were more efficient at breaking up disturbances than one as that one could be placed outside, whilst the other could be situated inside. Mr Savill insisted that in the Police's view one door supervisor would not be sufficient and advised that the recommendation that two door supervisors be employed on Tuesday, Friday, Saturday nights and any other night the premises are open beyond 01.00, to work from 23.00 until 15 minutes after the

premises had closed or until the last customer had left the premises. Mr Savill said that premises having door supervisors was an integral part of the Police's enforcement strategy.

### **Members' Questions and Closing Comments**

In response to a question from the Sub Committee, the Licensing Officer informed Members that up-to-date plans relating to the layout of the premises would be issued with the new licence if the variation was granted. The Licensing Officer also confirmed that in the current circumstances the Applicant was not required to apply for an entirely new licence. The Legal Clerk advised the Sub Committee that the Members should not feel that the fact that the licence holder had carried out the building works without first varying the premises licence gave any additional weight in favour of granting the application..

Following a question from the Sub Committee, the Police confirmed that they had no concern with the premises directly, but that the top end of the High Street generally had been identified as a source of crime and disorder. The Police expressed concern that if the variation to the licence in question was granted, it would encourage more people to congregate in the area, which could lead to an increase in crime and disorder. The Sub Committee noted that 54 of the 57 High Street incidents recorded in a two year period had been recorded after 00.30, and that the local nightclub closed at 02.00. The Police advised the Sub Committee that premises offering late night refreshments did not alleviate the problems of crime and disorder and operated against the Police's aim to disperse people from the area.

The Sub Committee questioned why the Applicant was applying for all licensable activities to take place both indoors and outdoors, and asked for details of the exact licensable activities permitted under the current premises licence. The Licensing Officer confirmed that currently the licence (attached as Appendix B to the report) provided for late night refreshments to be consumed both indoors and outdoors, but informed the Sub Committee that he was only aware that sporting events and other licensable activities took place inside the premises.

Following a question, the Licensing Officer suggested that the rear yard identified on the plans in Appendix A could be used for outdoor licensable activities. The Applicant confirmed that the rear yard in question was currently used for deliveries and as a parking area, but that it was proposed to be a smoking area.

Following a question from the Sub Committee the Applicant confirmed that he did not require provision for all licensable activities to be held both indoors and outdoors. The Sub Committee noted that the Applicant wished to clarify aspects of his application and suggested that he may wish to request for an adjournment to allow him to make those amendments to his application. The Applicant then requested a brief adjournment.

Mr Savill agreed to this and said that in addition, in his capacity as a Barrister and not as a representative of the Police, that as a matter of house-keeping the Sub Committee might also want to consider removing condition 6 to Annex 2 of the current licence as in his opinion the condition was not enforceable.

The Sub Committee considered the request from the Applicant for an adjournment.

**RESOLVED**

That the request for an adjournment for 15 minutes be granted to allow the Applicant time to amend the application.

**53. Application to Vary the Premises Licence for Kebabish – 94 High Street, West Green**

The Chair declared that the meeting be re-opened. The Applicant's representative addressed the meeting and informed the Sub Committee that he would like to amend the application set out in Appendix A to the report as follows:

<b>Provision</b>	<b>Finish time (indoors)</b>	<b>Finish time (outdoors)</b>
A Plays	not requested	not requested
B Films	03.30	03.30
C Indoor Sporting Events (eg darts, pool)	03.30	N/A
D Boxing or Wrestling Entertainments	not requested	not requested
E Live Music	00.30	23.00
F Recorded Music	03.30	00.30
G Performances of Dance	00.30	23.00
H Anything of a Similar Description to that Falling Within (E), (F) or (G)	00.30	23.00
I Provision for Facilities for Making Music	03.30	00.30
J Provision of Facilities for Dancing	03.30	00.30
K Provision of Facilities for Entertainment of a Similar Description to that Falling Within (I) or (J)	03.30	00.30
L Late Night Refreshment	03.30	03.30
M Supply of Alcohol	No change to current licence	No change to current licence
N Adult Entertainment	not requested	not requested
O Hours Premises are Open to the Public	04.00	04.00

The Sub Committee confirmed that they had no further questions.

The Applicant then requested that the Sub Committee considers the removal of condition 6 to Annex 2 of the current licence, as suggested by Mr Savill earlier..

The Legal Clerk advised the meeting that the Sub Committee would consider the application as amended.

**RESOLVED**

That in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) regulation 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.

**54. Application to Vary the Premises Licence for Kebabish – 94 High Street, West Green**

The Sub Committee gave further consideration to the application, the representation made in writing and to the matters raised at the meeting. The Sub Committee determined the steps necessary for the promotion of the prevention of crime and disorder; and public safety licensing objectives.

The Sub Committee gave serious consideration to the Police's point of view as required by its licensing policy. The Sub Committee agreed that there were genuine concerns regarding the well-known anti-social behaviour problems in Crawley town centre, particularly in the High Street and agreed in principle with the Police's view about incremental increases to licensing hours which allowed both the Police to monitor how they progress and, as necessary apply for a review of the licence, and also allowed the licence holder to apply for a further variation in future. The Sub Committee was also mindful that they wanted to balance the premises holder's record which the Police acknowledged was good.

The Sub Committee were of the opinion that the premises licence holder should become a member of the Crawley and Gatwick Business Watch and remain an active member during the currency of the licence as the membership was necessary to promote the licensing objectives. The Sub Committee were also of the view that the organisation would be able to give the licence holder support in relation to the longer hours he would now be able to open the premises which occurred during the hours when anti social behaviour was of most concern to the Police.

**RESOLVED**

That the application submitted by the Applicant (Mr Hamavon Kahn) to vary the licence under the Licensing Act 2003 in respect of Kebabish, 94 High Street, West Green, Crawley, be granted subject to the following modifications (set out 1 to 4 below) which were necessary for the promotion of the following licensing objectives:

- Prevention of Crime and Disorder and
- Public Safety.:

1. That the hours of licensable activities shall be as follows:

<b>Provision</b>	<b>Finish time (indoors)</b>	<b>Finish time (outdoors)</b>
A Performance of plays	Not licensed	Not licensed
B Films	02.30	00.30
C Indoor Sporting Events (eg darts, pool)	02.30	00.30
D Boxing/wrestling	Not licensed	Not licensed
E Live Music	00.30	00.30

F	Recorded Music	02.30	00.30
G	Performances of Dance	00.30	00.30
H	Anything of a Similar Description to that Falling Within (E), (F) or (G)	00.30	00.30
I	Provision for Facilities for Making Music	02.30	00.30
J	Provision of Facilities for Dancing	02.30	00.30
K	Provision of Facilities for Entertainment of a Similar Description to that Falling Within (I) or (J)	02.30	00.30
L	Late Night Refreshment	02.30	00.30
M	Supply of Alcohol	00.30	00.30
N	Other entertainment	Not licensed	Not licensed
O	Hours Premises are Open to the Public	03.00	03.00

2. That an additional new condition be added to the licence - 'There shall be one member of door staff on duty between 23.00 and until 15 minutes after the premises closes on every Tuesday, Friday and Saturday.'
3. That an additional new condition be added to the licence - 'The licence holder is to become a member of Crawley and Gatwick Business Watch and remain an active member during the currency of the licence.'
4. That condition 6 to Annex 2 of the premises licence be removed from the premises licence.

## **55. Re-admission of the Public**

The Chair declared the meeting re-open for consideration of business in public session and announced the Sub Committee's decision with regard to the licence application to the Applicant and the Responsible Authority (as set out under above).

## **56. Closure of Meeting**

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 9.35pm.

B K Blake  
Chair