

**MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE  
Council Chamber - Town Hall  
19 April 2012 (10.30 - 11.40 am)**

**Present:**

**COUNCILLORS**

**Conservative Group**            Peter Gardner (Chairman) and Pam Light

**Residents' Group**

**Labour Group**                Denis Breading

**Independent Residents  
Group**

Present at the hearing were the applicant Mr A Sabur, his business partner Z Jawadsapeh, his representatives Mr G Hopkins and Ms L Poiter.

Objectors present were Inspector M Bates (Havering Police) and Mr M Gasson (Environmental Health Noise Team).

Also present were Councillor John Wood, Paul Jones (Havering Licensing Officer), the Legal Advisor to the Sub-Committee and the clerk to the Licensing sub-committee.

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

No interest was declared at this meeting.

**1        APPLICATION FOR A VARIATION TO A PREMISES LICENCE - TOP  
KEBABS**

**PREMISES**

Top Kebabs  
185B High Street  
Hornchurch  
RM11 3XS

**DETAILS OF APPLICATION**

Application for a variation to a premises licence under Section 34 of the Licensing Act 2003 ("the Act").

**APPLICANT**

Mr Abdul Sabur  
185B High Street  
Hornchurch  
RM11 3XS

**1. Details of requested licensable activities**

<b>Late night refreshment</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	23:00hrs	00:00hrs

<b>Hours premises open to the public</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	12:00hrs	00:00hrs

**Variations applied for:**

<b>Late night refreshment</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	23:00hrs	02:00hrs

<b>Hours premises open to the public</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	09:00hrs	02:00hrs

The licence holder also seeks to remove all existing conditions from the licence and replace these with those detailed in section P of the application.

**2. Promotion of the Licensing Objectives**

The applicant completed the operating schedule, which formed part of the application to promote the four licensing objectives.

The applicant complied with regulations 25 and 26 of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 relating to the advertising of the application. The required public notice was installed in the 7 March 2012 edition of the Yellow Advertiser.

### **3. Details of Representations**

There were three representations against this application from responsible authorities.

#### Responsible Authorities

##### **Chief Officer of Metropolitan Police (“the Police”):**

The Police representation was based upon the Licensing objectives concerning the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety.

The Metropolitan Police were of the opinion that the application had not covered the licensing objectives to a satisfactory standard. That the premise was within the saturation policy area and allowing the application would only add to further cumulative impact in the area which was already under stress. Inspector Mick Bates attended to confirm the written representations.

The representation detailed the following:

- that the premises was inside the saturation area set out in Havering’s licensing policy
- that the policy was introduced to control the night time crime in the area.
- that the Police viewed the applied hours will make the premises a magnet for drunk people, which would lead to crime and disorder, based on experience.
- That late night refreshment outlets were second only to pubs and clubs in causing disorder and the potential for night-time crime.
- that on Public Safety this premises was located on a one way stretch of the High Street and with such a premise drawing people late in to the night, there was cause for concern.

Inspector Bates stated that the impact on crime and disorder along with resources within the borough were intensive. The Police were of the opinion that the application had failed to provide reassurance to the Police concerns, and had not detailed how it intended to meet the licensing objectives.

Inspector Bates added that in his experience SIA door staff do not prevent violence, and while the premises may currently be well run, the Police experience is that the clientele after midnight is different and more difficult to control.

**Trading Standards Service:** None.

**London Fire & Emergency Planning Authority (“LFEPA”):** None.

**Health & Safety Enforcing Authority:** None.

**Planning Control & Enforcement:**

A written representation was submitted by Havering Planning Control Manager stating that his objection relates to the effect on residents in respect of noise and disturbance. The representation detailed a planning application (P1709.09) that was refused on the grounds of noise and disturbance and that the decision had been endorsed by the Planning Inspectorate.

There was no representative at the hearing on behalf to Planning Control & Enforcement.

**Environmental and Public Health:** The representation is based on the Public Nuisance licensing objective.

Havering Noise officer Marc Gasson attended the hearing to confirm the content of his written objection against the application stating that the premises was in close proximity of residential properties above the commercial properties opposite in High Street. He viewed that any extension would give rise to an increase in public nuisance experienced by nearby residents to a later time which is unacceptable.

The sub committee was also informed of a complaint from an unidentified resident in the vicinity of the premise that was investigated but this investigation was inconclusive as no details of the complainant were provided.

**Children & Families Service:** None

**The Magistrates Court:** None

#### **4. Applicant's Response**

Mr Hopkins, the applicant's representative addressed the sub-committee, and requested that the representation by Planning Control Services not be taken into consideration and excluded as evidence because planning applications, appeals, procedures and history are a matter for a planning committee, and to cover them under the head of Licensing would be a duplication of controls covered by other primary legislation onto the Licensing regime in contravention of the Section 182 Guidance.

The representative for the applicant made the following submissions with regards the application:

- 1) That the applicant took over the premise about a year ago

- 2) That the three instances of the applicant operating after the current late night refreshment licence ceased at the premises, as outlined by the Licensing Officer were as a result of ignorance on the first occasion, carelessness on the second, and overzealous staff on the third occasion who had thought that the filing of the application allowed the extra hours. The staff have now been warned
- 3) That the applicant has now taken steps to ensure the operating times are adhered to. Last orders will be taken no later than 15 minutes before late night refreshment time ceases.
- 4) The applicant offered to revise his application to Thursday, Friday and Saturday nights only till 02:00hrs, Sunday to Wednesday remaining as they currently are (00:00hrs).
- 5) That the premise will undertake to have an SIA door supervisor at the premise from Thursday to Saturday until 02:30 hours
- 6) The sub committee was informed that the premises does not play any music to cause any concern to residents in the vicinity
- 7) That no representation had been made by resident and businesses in the vicinity.
- 8) That ward councillors had not raised any objection to the application
- 9) That the objection raised by Planning Services be disregarded
- 10) That the premises will not operate cycle delivery from the back of the premises after mid-night.
- 11) That the applicant has also accepted to all the conditions proposed by the Police and arrange for the location of external cameras as advised.
- 12) The sub committee was informed that the premise was to undertake regular training of staff members.
- 13) That there was no drug issues at the premises
- 14) That the increase in noise level was not in any way caused by this premises, and there had been no noise complaints relating to the premises specifically.
- 15) That there was no Police evidence of problems caused by this premises and the Police objection appeared to be a general objection rather than specifically relating to the premises.
- 16) That the premises was generally a well run business.

## **5. Determination of Application**

**Consequent upon the hearing held on 19 April 2012, the Sub-Committee's decision regarding the application for a variation**

**to a premises licence for Top Kebabs was as set out below, for the reasons shown:**

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

**Agreed Facts**  
**Facts/Issues**

Whether the granting of the premises licence would undermine the four licensing objectives.

**Prevention of crime and disorder**

The Sub-Committee accepted the police contention that the area already experienced high rates of crime and disorder late at night, and was therefore the subject of the Council's saturation policy. They accepted that the nature of the clientele would change after midnight, the police having expertise and experience in the area.

**Public Safety**

The Sub Committee considered that because of the congregation of large numbers of people, some likely to be under the influence of alcohol, in this area of the High Street was also likely to have an impact on public safety.

**Public Nuisance**

The Sub Committee was satisfied that a link to public nuisance was established. It was likely that anti social behaviour and public nuisance would increase if this application were granted. It was accepted that an extension till two would lead to congregations of people, and the nature of the noise in the area would change and increase.

The sub committee considered all the issues raised by all parties concerned in relation to the application. The area had been made a

saturation zone by the Licensing Authority as it was deemed to be a troubled area on the basis of Police crime statistics. The policy creates a rebuttable presumption that an application will be refused unless it is proven that there will be no negative impact on any of the Licensing objectives.

The sub committee received representations from three responsible authorities as to the likely effect that this application would have on Public Nuisance and Crime and Disorder.

Taking these concerns into consideration the sub committee were of the opinion that the premises would need robust management should it seek to rebut the presumption that it ought not be granted and operate to the extended hours applied for. The Sub-Committee were concerned that the evidence of sales being made beyond licensed hours suggested that such management is currently not evident, and nor had sufficient evidence been provided that there would be no detrimental effect to any of the licensing objectives. Therefore the presumption in favour of refusal could not be rebutted, and as such the Sub-Committee was not willing to grant the application.

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**Chairman**