



# Haverling

LONDON BOROUGH

## LICENSING SUB-COMMITTEE TOP KEBABS

### AGENDA

<b>10.30 am</b>	<b>Thursday 4 July 2013</b>	<b>Council Chamber - Town Hall</b>
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Members 3: Quorum 2

**COUNCILLORS:**

Peter Gardner (Chairman)  
Denis Breading  
Frederick Thompson

**For information about the meeting please contact:**

**Grant Soderberg - 01708 433091  
grant.soderberg@haverling.gov.uk**

**AGENDA ITEMS**

**1 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

(if any) - receive

**2 DISCLOSURE OF PECUNIARY INTERESTS**

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any pecuniary interest in an item at any time prior to the consideration of the matter.*

**3 CHAIRMAN'S ANNOUNCEMENT**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**4 REPORT OF THE CLERK (Pages 1 - 6)**

**5 REPORT OF THE LICENSING OFFICER (Pages 7 - 52)**

Application for a variation of a premises licence for Top Kebabs, 185B High Street, Hornchurch RM11 3XS

**Ian Burns**  
**Interim Assistant Chief Executive**



## LICENSING SUB-COMMITTEE

4 July 2013

## REPORT

**Subject Heading:**

**Procedure for the Hearing: Licensing Act 2003**

**Report Author and contact details:**

**Grant Söderberg – 01708 433091**  
[grant.soderberg@havering.gov.uk](mailto:grant.soderberg@havering.gov.uk)

Members are advised that, when considering an application to vary a premises licence, the following options are available to them by virtue of the Licensing Act 2003, Part 3, section 35, paragraphs 3 and 4:

"Where relevant representations are made, the authority must

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such steps as it considers necessary for the promotion of the licensing objectives.

The steps are:

- a) modify the conditions of the licence
- b) reject the whole or part of the application

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added."

The Sub-Committee will also wish to note that, if none of these steps is required, the application must be granted.

Assuming that the Sub-Committee is satisfied that a hearing is required, then the following procedural steps are recommended. The Licensing Act 2003 (Hearings) Regulations 2005 will govern the arrangements for the hearing of the application now under consideration. This report accords with the requirements of that Act and the Regulations, and in particular Regulations 21-25 (procedure at the hearing).

## **1. Membership of the Sub-Committee:**

- 1.1 The Sub-Committee comprises three members of the Licensing Committee, with a quorum of two members. **Unless there are objections, in the absence of three members, the hearing shall proceed with the quorum of two.**
- 1.2 A members of the Licensing Committee will be excluded from hearing an application where he or she:
  - 1.2.1 has considered an application in respect of the premises in the previous 12 months as a Member of the Regulatory Services Committee; or
  - 1.2.2 is a Ward Councillor for the Ward in which the premises, subject to the application, are located; or
  - 1.2.3 is a Ward Councillor for a Ward which is likely to be affected by the application or;
  - 1.2.4 has a personal interest in the application.

## **2. Roles of other participants:**

- 2.1 The Legal Advisor is not a party to the hearing. The role of the Legal Advisor is to provide legal advice relating to the application and submissions.
- 2.2 The Clerk is not a party to the hearing. The role of the Clerk is to record the hearing and the decisions of the Sub-Committee, and ensure efficient administration

## **3. Representation validation meeting:**

- 3.1 Prior to this hearing, the Sub-Committee Chairman will have met the Legal Advisor and/or Clerk to determine whether further clarification is required of any issues contained in the application or any representation.
- 3.2 During this preliminary meeting no decision will have been made or discussion held regarding the substantive merits of the application or representations.

## **4. Location and facilities:**

- 4.1 All hearings will be heard at the Havering Town Hall unless otherwise directed.
- 4.2 Interpreters will be provided by the Council on request, provided notice is given at least five working days before the hearing.

## **5. Notification of attendance:**

- 5.1 The Chairman will enquire of the parties who is in attendance and the parties will indicate their names (and, where relevant, whom they represent). A register will be circulated before the commencement of

the hearing on which the applicant, his/her advisers and companions and all interested parties (and/or their representatives) will be asked to record their attendance.

## **6. Procedural matters:**

- 6.1 Prior to the commencement of the hearing, the Chairman of the Sub-Committee will orally inform the parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused. Note this relates to people other than those attending on behalf of a party in the capacity as a representative of the party.
- 6.2 Prior to the commencement of the hearing the Chairman of the Sub-Committee will outline the procedure to be followed at the hearing. This will normally be as follows:

### **Introduction of the application:**

The Licensing officer will outline:

- details of the application and relevant representations received from the parties;
- relevant legislation ;
- relevant Licensing Policy; and
- the time limit in which the Council must reach a determination.

### **Documentary evidence:**

- Documentary or other information in support of applications, representations or notices should be provided to the Clerk of the Sub-Committee at least 5 clear working days before the hearing. If this information is produced at the hearing it will only be taken into account by the Sub-Committee if the Sub-Committee and all the parties consent to its submission. Permission to have this information included in the hearing should be requested at the beginning of the hearing before any oral submissions have been made.
- Statements made by people in support of a party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

### **Representations:**

- The chairman will invite each of the parties at the hearing or their representative sequentially to address the Sub-Committee and call any person/s to whom permission has been granted to appear. Each party will be allowed a maximum period of 10 minutes in which to address the Sub-Committee and call persons on his/her behalf.

- This 10 minute period is where each party has the opportunity to orally address the Sub-Committee and clarify any points in which the Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Sub-Committee or Legal Advisor considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
- Members of the Sub-Committee may ask questions of any party, at any time during the proceedings. Time taken in dealing with a Member's question will not be taken into account in determining the length of time available to the party in question to make their representation.

The sequence in which each of the parties will be invited to address the Sub-Committee will normally be in the order of:

- the Chief Officer of Police;
- the Fire Authority;
- the Health and Safety at Work Enforcing Authority;
- the Local Planning Authority;
- the Local environmental Health Authority;
- the Local Weights and Measures Authority;
- the Authority Responsible for the Protection of Children from Harm;
- a navigation or other authority responsible for waterways; and
- any other party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Sub-Committee;
- the party that has submitted the application, certificate, notice or other matter appearing before the Sub-Committee.

At the discretion of the Sub-Committee the above order may be varied.

#### **Cross-Examination:**

Where witnesses have been permitted by the Sub-Committee to speak at the hearing on behalf of a party, permission must be sought from the Sub-Committee before another party can ask the witness questions. This process of questioning is normally referred to as cross-examination. The Sub-Committee will allow cross-examination only where it is necessary to assist it in considering the representations or application.

#### **Relevance:**

Information submitted at the hearing must be relevant to the applications, representations, or notice and the promotion of the licensing objectives. The Chairman of the Sub-Committee is entitled to exclude any information it considers to be irrelevant whether presented in written or oral form. The licensing objectives are:

**The prevention of crime and disorder;**  
**Public safety;**  
**The prevention of public nuisance; and**  
**The protection of children from harm.**

**7. Failure of parties to attend the hearing:**

7.1 If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing is held in the absence of a party, the Sub-Committee will still consider the application, representation or notice submitted by that party.

**8. Adjournments and extension of time:**

8.1 The Sub-Committee may adjourn a hearing to a specified date or extend a notice period except where it must make a determination within certain time limits in the following specific applications:

- Applications for conversion of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being rejected;
- Applications for conversion of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being rejected;
- Applications made by holders of justices' licences for personal licences must be determined within 3 months of the application first being received. In default of a decision not being made within this period the application will be treated as being granted;
- Review of premises licences following closure orders where the Sub-committee must make a determination within 28 days of receiving notice of the closure order.

## **9. Sub-Committee's determination of the hearing:**

- 9.1 At the conclusion of the hearing the Sub-Committee will deliberate in private accompanied by the Clerk and the Legal Advisor who will be available to assist the Sub-Committee with any legal problems but will not participate in any decision making of the Sub-Committee.
- 9.2 The Sub-Committee will normally make its determination and announce its decision at the end of the hearing.
- 9.3 Where all parties have notified the Sub-Committee that a hearing is not required the Sub-Committee must make its determination within 10 working days of being given notice that the hearing is not required.

## **10. Power to exclude people from hearing:**

- 10.1 The public are entitled to attend the hearing as spectators. However, the Sub-Committee may exclude any person from the hearing including any person assisting or representing a party where:
  - it considers that the public interest would be best served by excluding the public or the individual person from the hearing; or
  - that person is behaving in a disruptive manner. This may include a party who is seeking to be heard at the hearing. In the case where a party is to be excluded, the party may submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave the hearing.

## **11. Recording of proceedings:**

- 11.1 A written record of the hearing will be produced and kept for 6 years from the date of the determination of the hearing.

## **12. Power to vary procedure:**

- 12.1 The Sub-committee may depart from following any of the procedures set out in this document if it considers the departure to be necessary in order to consider an application, notice or representation.



# LICENSING SUB-COMMITTEE

# REPORT

04 JULY 2013

**Subject Heading:**

Application to vary the premises licence at  
Top Kebabs, 185B High Street,  
Hornchurch, RM11 3XS  
Arthur Hunt – Licensing Officer  
01708 432777  
[licensing@havering.gov.uk](mailto:licensing@havering.gov.uk)

**Report Author and contact details:**

**This application for a variation to a premises licence is made by Mr Abdul Sabur under section 34 of the Licensing Act 2003. The application was received by Havering’s Licensing Authority on 15<sup>th</sup> April 2013.**

**Geographical description of the area and description of the building**

The premises are a single unit mid terrace venue with a take away retail shop on the ground floor.

The premises are located on the north side of High Street Hornchurch at the junction with Station Lane, all the surrounding premises are shops or businesses on the ground floor and many have residential properties above. Most other premises within the area are residential.

There are good public transport links to this part of the borough; there is a mini cab office nearby and the premise is within walking distance of Hornchurch Underground station.

The premises are situated in St Andrews Ward and is therefore covered by the Havering Licensing Policy cumulative impact area.

A map of the area is attached to assist the committee together with a photograph of the premises itself.

**Details of the application**

<b>Late Night Refreshment</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday - Sunday	23:00hrs	00:00hrs

<b>Opening Hours</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday - Sunday	12:00hrs	00:00hrs

**Variation applied for:**

<b>Late Night Refreshment</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Sunday - Thursday	23:00hrs	00:00hrs
Friday - Saturday	23:00hrs	01:00hrs

<b>Opening Hours</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Sunday - Thursday	09:00hrs	00:00hrs
Friday - Saturday	09:00hrs	01:00hrs

**Seasonal variations**

None applied for.

**Non-standard timings**

None applied for.

**Comments and observations on the application**

The applicant acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the 15 May 2013 edition of the Yellow Advertiser.

**Summary**

There were no representations against this application from interested parties.

There were 3 representations against this application from responsible authorities.

**Details of representations**

Valid representations may only address the following licensing objectives:

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

**Responsible Authorities' representations**

*Planning Control & Enforcement*

This representation is based on the noise and disturbance to residents. A planning application was rejected in 2010 to extend hours to 1am Sunday to Friday and Bank Holidays and 2am on Saturdays.

*Public Health*

This Responsible Authority opposes the application based on the grounds of public nuisance due to the close proximity of residential properties and the application being contrary to Licensing Policy 012.

*Licensing Authority*

The Authority wishes to make representation against the application based upon its concerns in relation to the prevention of public nuisance licensing objective.

There were no representations from the following responsible authorities:

The Metropolitan Police  
The London Fire and Emergency Planning Authority  
The Health & Safety Enforcing Authority  
The Trading Standards Service  
Children & Families Service  
Practice Improvement Lead



**Havering**  
LONDON BOROUGH

Premises licence number

**10892**

**Part 1 – Premises details**

Postal address of premises

**Top Kebabs  
185b High Street Hornchurch RM11 3XS**

Where the licence is time limited the dates

**Not applicable**

Licensable activities authorised by the licence

**Late night refreshment**

The times the licence authorises the carrying out of licensable activities

**Monday to Sunday – 23:00 to 00:00**

The opening hours of the premises

**Monday to Sunday – 12:00 to 00:00**

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

**Not applicable**

**Part 2**

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

**Mr Abdul Sabur  
124 Frederick Road Rainham RM13 8NS  
07961 419077**

Registered number of holder

**Not applicable**

**1 of 2**

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**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

**Not applicable**

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**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

**Not applicable**

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**Mandatory conditions**

**Not applicable**

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**Annex 2 – Conditions consistent with the operating schedule**

- 1. A minimum of two employees shall be present and on duty at the premises after 22:00.**
- 2. All staff shall complete Foundation Certificates in Food Hygiene.**
- 3. Staff shall actively discourage customers from gathering unnecessarily outside the premises.**
- 4. All staff shall undergo training to prevent crime and disorder occurring at the premises.**
- 5. Important and useful telephone numbers, including the Police and local fire station, shall be clearly displayed behind the shop's counter.**

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**Annex 3 – Conditions attached after a hearing by the Licensing Authority**

**Not applicable**

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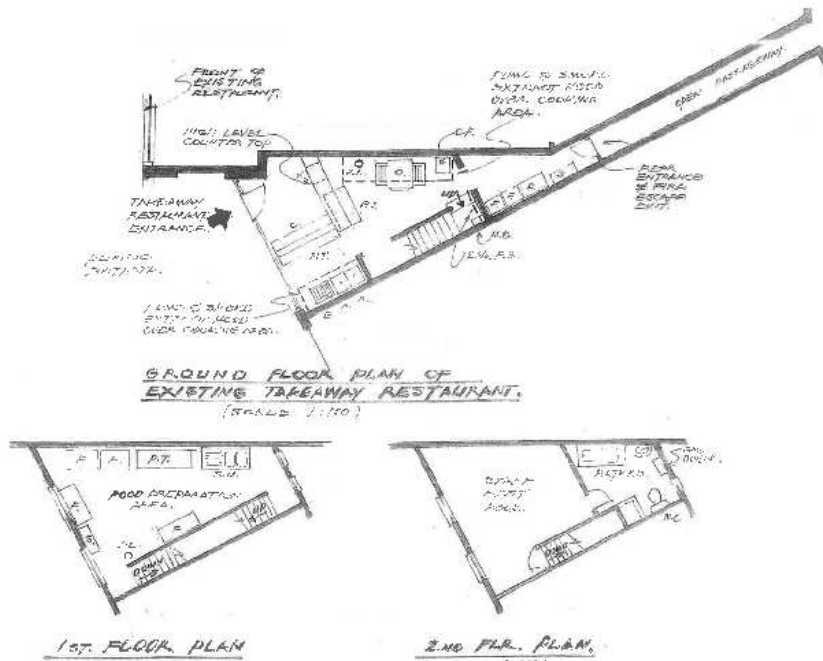
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**Annex 4 – Premises plans**

**Full premises plans are held by the Licensing Authority of the London Borough of Havering. The plans reproduced below are not to scale:**

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# Havering

LONDON BOROUGH

## Part B

### Premises licence summary

Premises licence number

**10892**

### Premises details

Postal address of premises

**Top Kebabs  
185b High Street Hornchurch RM11 3XS**

Where the licence is time limited the dates

**Not applicable**

Licensable activities authorised by the licence

**Late night refreshment**

The times the licence authorises the carrying out of licensable activities

**Monday to Sunday – 23:00 to 00:00**

The opening hours of the premises

**Monday to Sunday – 12:00 to 00:00**

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

**Not applicable**

Name, (registered) address of holder of premises licence

**Mr Abdul Sabur  
124 Frederick Road Rainham RM13 8NS**

Registered number of holder

**Not applicable**

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

**Not applicable**

**1 of 2**

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**State whether access to the premises by children is restricted or prohibited**

**Not applicable**

**2 of 2**

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GT Licensing Consultants,  
31A Mildmay Road,  
Romford,  
Essex.  
RM7 7DA  
Tel 07810 826778 / 01708 744748  
em: gtlicensingconsultants@googlemail.com  
6/5/13

The Licensing Service  
London Borough of Havering Council

Dear Sir / Madam,

**Premises Licence Variation / Top Kebabs**

Please find enclosed our clients application for a variation of the Premises Licence for Top Kebabs.

We enclose our client's cheque in payment of the £190.00 application fee to the Council.

We have calculated that the consultation period will start on 8<sup>th</sup> May 2013 and ends on 4<sup>th</sup> June 2013.

Please contact us if you have any queries.

Yours sincerely,

Graham Hopkins



**Application to vary a premises licence under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

**I/We MR ABDUL SABUR**

*(Insert name(s) of applicant)*

**being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below**

Premises licence number 10892
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**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description TOP KEBABS, 185B HIGH STREET, HORNCHURCH, ESSEX RM11 3XS			
Post town	HORNCHURCH	Postcode	RM11 3XS
Telephone number at premises (if any)			
Non-domestic rateable value of premises	£8000		

**Part 2 – Applicant details**

Daytime contact telephone number		07961 419077	
E-mail address (optional)			
Current postal address if different from premises address		124 FREDERICK ROAD, RAINHAM, ESSEX. RM13 8NS	
Post town	RAINHAM	Postcode	RM13 8NS

**Part 3 - Variation**

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?     Yes                       No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY
┆	┆	┆
┆	┆	┆
┆	┆	┆

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?  
(Please see guidance note 1)     Yes                       No

**Please describe briefly the nature of the proposed variation** (Please see guidance note 2)

1) TO EXTEND THE AUTHORISED HOURS UNTIL 01.00 THE FOLLOWING DAY FRIDAY & SATURDAY

2) REMOVE ALL EXISTING CONDITIONS AND REPLACE WITH THOSE AT PART M.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number

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**Part 4 Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

**Provision of regulated entertainment**

**Please tick all that apply**

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

X

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	X
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Please give further details here</b> (please read guidance note 4) PROVISION OF HOT FOOD AND DRINK FOR CONSUMPTION OFF THE PREMISES		
Mon	23.00	00.00			
Tue	23.00	00.00			
Wed	23.00	00.00			
Thur	23.00	00.00			
Fri	23.00	01.00			
Sat	23.00	01.00			
Sun	23.00	00.00			
			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5) NONE		
			<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 6) NONE		

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>			
				Off the premises	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)					
Mon								
Tue								
Wed								
Thur								
Fri								
Sat								
Sun								
						<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		

**K**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).  
NONE

**L**

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5) NONE
Day	Start	Finish	
Mon	09.00		
		00.00	
Tue	09.00		
		00.00	
Wed	09.00		
		00.00	
Thur	09.00		<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 6) NONE
		00.00	
Fri	09.00		
		01.00	
Sat	09.00		
		01.00	
Sun	09.00		
		00.00	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.  
**REMOVE ALL EXISTING CONDITIONS AND REPLACE WITH THOSE AT PART M.**

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.



## M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

WE WILL OPERATE OUR BUSINESS IN A RESPONSIBLE MANNER AT ALL TIMES AND ACTIVELY PROMOTE THE LICENSING OBJECTIVES

**b) The prevention of crime and disorder**

CCTV COVERING THE INTERIOR & EXTERIOR OF THE SHOP IS INSTALLED AND SHALL BE KEPT OPERATIONAL AT ALL TIMES THE PREMISE IS OPEN TO THE PUBLIC. IT SHALL BE CAPABLE OF TAKING A HEAD & SHOULDERS SHOT OF PERSONS ENTERING THE PREMISES, BE CAPABLE OF STORING IMAGES FOR A MINIMUM OF 31 DAYS AND A MEMBER OF STAFF CAPABLE OF DOWNLOADING IMAGES FOR THE POLICE OR AUTHORISED COUNCIL OFFICERS SHALL BE ON DUTY AT ALL TIMES THE PREMISE IS OPEN.

STAFF WILL RECEIVE TRAINING FOR THEIR ROLE ON INDUCTION & REFRESHER TRAINING EVERY 6 MONTHS. TRAINING LOGS WILL BE KEPT. TRAINING WILL INCLUDE ACKNOWLEDGING & SERVING CUSTOMERS IN TURN AND AVOIDING CONFLICT/ DISORDER.

NO ALCOHOL SHALL BE CONSUMED ON OR PERMITTED IN THE PREMISES AT ANY TIME & A NOTICE WILL BE DISPLAYED ADVISING CUSTOMERS.

NO FOOD MAY BE CONSUMED IN THE PREMISES AT ANY TIME DURING LICENSED HOURS.

AN INCIDENT BOOK SHALL BE KEPT & PRODUCED TO THE POLICE / AUTHORISED COUNCIL OFFICERS ON REQUEST. ALL REFUSALS OF SERVICE OF DRUNKEN OR ABUSIVE CUSTOMERS, INSTANCES WHERE POLICE ARE CALLED OR CUSTOMERS ARE DISORDERLY SHALL BE RECORDED IN THE INCIDENT BOOK.

MANAGEMENT & STAFF WILL ACTIVELY DISCOURAGE CUSTOMERS FROM LOITERING OUTSIDE THE PREMISE AFTER 21.00.

THERE WILL BE A MINIMUM OF 2 STAFF AFTER 21.00.

THE OUTSIDE TABLES WILL BE REMOVED AT 22.00.

AN SIA LICENSED DOOR SUPERVISOR SHALL BE ON DUTY FROM 23.00 HOURS TO FIFTEEN MINUTES AFTER CLOSE ON FRIDAY & SATURDAY NIGHTS. AT CLOSE THE DOOR SUPERVISOR WILL ENSURE CUSTOMERS DO NOT LOITER OUTSIDE THE PREMISE AND THAT THEY ARE ENCOURAGED TO LEAVE THE AREA IN A QUIET AND ORDERLY WAY.

**c) Public safety**

A FIRE RISK ASSESSMENT & EMERGENCY PLAN WILL BE PREPARED AND REGULARLY REVIEWED.

**d) The prevention of public nuisance**

NOTICES WILL BE DISPLAYED BY THE EXIT DOOR ASKING CUSTOMERS TO LEAVE QUIETLY, NOT TO LOITER AND TO DISPOSE OF RUBBISH PROPERLY. MANAGEMENT & STAFF WILL ACTIVELY DISCOURAGE CUSTOMERS FROM LOITERING OUTSIDE THE PREMISE.

A LITTER BIN WILL BE PROVIDED FOR CUSTOMERS USE.

THE OUTSIDE TABLES WILL BE REMOVED AT 22.00.

THE SHOP FRONT WILL BE KEPT TIDY AT ALL TIMES AND SWEPT AT CLOSE OF BUSINESS.

**e) The protection of children from harm**

NO UNACCOMPANIED CHILDREN WILL BE PERMITTED IN THE PREMISE AFTER 21.00.

**Checklist:**


**Please tick to indicate agreement**

- I have made or enclosed payment of the fee; or  
I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 5 – Signatures** (please read guidance note 11)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	1/5/2013
Capacity	AUTHORISED LICENSING COSULTANTS

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent** (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
-----------	--

Date	
Capacity	

<b>Contact name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 14) GT LICENSING CONSULTANTS, 31A MILDMAY ROAD, ROMFORD, ESSEX, RM7 7DA			
<b>Post town</b>	<b>ROMFORD</b>	<b>Post code</b>	<b>RM7 7DA</b>
<b>Telephone number (if any)</b>	<b>07810 826778</b>		
<b>If you would prefer us to correspond with you by e-mail, your e-mail address (optional)</b> <b>gtlicensingconsultants@googlemail.com</b>			

### Notes for Guidance

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.
2. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).

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Orders are accepted by the Publishers subject to the Standard Conditions agreed between the Newspaper Society and the Institute of Practitioners in Advertising. Save that:

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- Classified Advertisers offering goods or service of a business, commercial or trade nature will, at the discretion of the Publishers, be deemed 'Trade Advertisers', and as such, must include their names in advertisements. A telephone number is an optional addition to these requirements and not an alternative.
- To comply with the Business Advertisements (Disclosure) Order 1977, Trade Advertisers must make it clear that they are selling goods in the course of business either by content, format, size or place of the advertisement or by including words such as 'trade', 'dealer', 'agent', 'wholesaler', '(T)' etc. in the advertisement.
- Where a Publisher accepts no liability whatsoever for any loss or damage however caused arising out of:
  - Any error, inaccuracy or omission in the printing or publishing of an advertisement;
  - Any failure to publish an advertisement on the day / date or day / dates specified by the advertiser; or
  - Any delay in forwarding or omission to forward replies to box numbers to the advertiser.
- The Publishers will endeavour to publish advertisements on the day / date or day / dates specified by the Advertiser but insertion days / dates cannot be guaranteed.
- Where shrinkage of advertisement occurs for whatever reasons the advertisement will be charged to the nearest full centimetre. This will NOT apply to the full-page advertisements, which remain full pages even after shrinkage.
- The Publishers reserve the right to reject an advertisement or to vary it in any way they deem fit, at any time before publication, whether or not the advertisement has already been accepted for publication.
- Whilst every effort is made to minimise errors in advertisements, mistakes do sometimes occur. Advertisers or their agents should therefore check their advertisements and inform us of any errors immediately. Responsibility cannot be accepted for more than one incorrect insertion. Typographical or minor changes, which do not affect the value of the advertisement, do not qualify for republication or allowances.
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- All rates quoted are subject to VAT at the rate currently in force at the time the advertisement appears.
- Should the rate for advertisements be altered the price for remaining insertions shall be revised accordingly or the publishers shall have the right to cancel the unexpired portion of the order.
- The placing of an advertisement order will be deemed an acceptance of these conditions.
- Account facilities are granted at the discretion of the Company.
- All accounts must be settled within the terms agreed by the Company and the Customer.
  - Should an advertiser be in breach of the agreed terms, the publisher shall be entitled to levy a 10% surcharge on the value of the whole debt in respect of accounts with terms of less than 30 days, and any discounts or commissions that had been allowed will be reclaimed.
  - Regular monthly accounts that are in breach of the agreed terms will pay an interest rate of 6% above the current bank of England base rate for each month that the account is overdue and discounts or commissions that had been allowed will be reclaimed. Should Legal action be required the interest will be charged in accordance with the County Court Act 1984.
- Where an advertiser instructs / appoints an advertising agent to act on their behalf, the advertiser will remain jointly and severally liable for payment in respect for an advertisement(s) should the appointed agent fail to pay. For the avoidance of doubt, the agent acts for the advertiser and not for the publisher with the agent being responsible for notifying the advertiser of this liability.
- All queries must be notified, preferably in writing to the accounts department of the publisher within 7 days of the invoice date.
- All digital services are maintained in partnership with the publishers' hosting service providers. Every effort is made to ensure the continuity of these services, but some occasional technical downtime beyond the publishers' control may occur. The publisher and its associated companies shall be under no liability if the production and distribution of web services is delayed or prevented by any cause beyond the control of the publisher.
- The Publisher may provide voucher copies for published advertisements in electronic form only subject to certain criteria. Further information is available on request.
- The copyright of advertisements produced wholly or partially by the Publishers belong to the Publishers. Advertisers may not reproduce such advertisements without the Publishers' consent.
 

Box Numbers  
Boxes are open for the receipt of bona fide answers and are not available for distribution of trade canvassing matter. Original testimonials, goods, cash, cash stamps or payments of any kind must not be enclosed. A box Number and postal address are charged as part of the advertisement, i.e. Box No., centre address. There is no charge for forwarding replies.  
Box numbers alone are not available for use in 'Trade' advertisements, other than Employment and Business Opportunities.  
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All advertising must contain the name of the advertiser, phone number alone are not permitted.  
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The service you have requested may require us to carry out a credit search at a credit-referencing agency which will record the fact that a search has been made. We may need to share your information with other lenders and credit reference agencies. However, we will only use the information from these searches to make credit-granting decisions and, if necessary, for fraud prevention or tracing debtors.  
Data controller will use your information for administration and analysis. We may share your information with other Tindle Group Newspaper companies or carefully selected third parties. We, or they may send you details of other goods and services, which may be of interest to you. The information may be provided by letter, telephone or other reasonable means of communication. Calls may be recorded or monitored for training purposes.  
Special conditions apply with regard to the advertising of adult services, which are outlined to all persons submitting such advertisements.

### Public Notices

**NOTICE OF APPLICATION FOR A VARIATION OF THE PREMISES LICENCE UNDER SECTION 34 OF THE LICENSING ACT 2003**

NOTICE IS HEREBY GIVEN that Mr Abdul Sabur has applied to the London Borough of Havering for a Variation of the Premises Licence for Top Kebabs, 185b High Street, Hornchurch, Essex RM11 3XS as follows: 1) To extend the authorised hours for the provision of late night refreshment until 01.00 the following day Friday and Saturday only; 2) Remove all existing conditions and replace with those listed at Part M. The address of the licensing authority where the register is kept and the application may be inspected during normal business hours is Licensing Section, Housing & Public Protection, London Borough of Havering, Mercury House, Mercury Gardens, Romford, Essex RM1 3SL on the council's website: [www.havering.gov.uk](http://www.havering.gov.uk). Any representations by an interested party or responsible authority must be received in writing by the licensing authority by 4th June, 2013 stating the nature and grounds for making such representation. It is an offence under Section 158 of the Licensing Act 2003 to knowingly or recklessly make a false statement in connection with an application. The maximum fine on summary conviction for this offence is £5000.

G T LICENSING CONSULTANTS  
 Em: 07810 826 778  
 Em: [gtlicensingconsultants@googlemail.com](mailto:gtlicensingconsultants@googlemail.com)

Notice is hereby given that Mr Amit Auluck has applied to the Judge at Romford County Court for a Bailiffs Certificate. Any person who knows a reason why Mr Amit Auluck is not a fit and proper person to be granted a certificate should write to the Court Manager at Romford County Court, 2a Oaklands Avenue, Romford, Essex RM1 4DP before May 30th 2013.

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**WOOD TURNING LATHE** model Draper, as new, £60. Tel 01268 544232.

**KETTLER NITRO PEDAL GO-CART** high quality cart for 7-12yr olds, vgc, £75.00. RALEIGH STREET WOLF BOYS BIKE, 20in wheel, six gears, vgc, £25. Tel 01268 414042.

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**FILING CABINET** metal, upright, four drawers, with key, vgc, £35, possible delivery. MATTRESS, standard 4ft 6in double, sturdy, clean, vgc, £25, possible delivery. FREEZER chest, lift up lid style, 4ft long, white, clean, good, £65, possible delivery. Tel 01708 453490.

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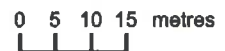
# HORNCHURCH



Top Kebabs



Scale: 1:1000  
Date: 29 May 2013  
Size: A4



London Borough of Havering  
Town Hall, Main Road  
Romford, RM1 3BD  
Tel: 01708 434343

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**Havering**  
LONDON BOROUGH

**Public Protection**

London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

The Appropriate Licensing Officer  
Licensing Authority  
London Borough of Havering  
Mercury House  
Mercury Gardens  
Romford  
RM1 3SL

Telephone: 01708 432692  
Fax: 01708 432554  
email: [paul.jones@havering.gov.uk](mailto:paul.jones@havering.gov.uk)  
Textphone ☎: 01708 433175

Date: 3<sup>rd</sup> June 2013

My Reference: PJJ/012694

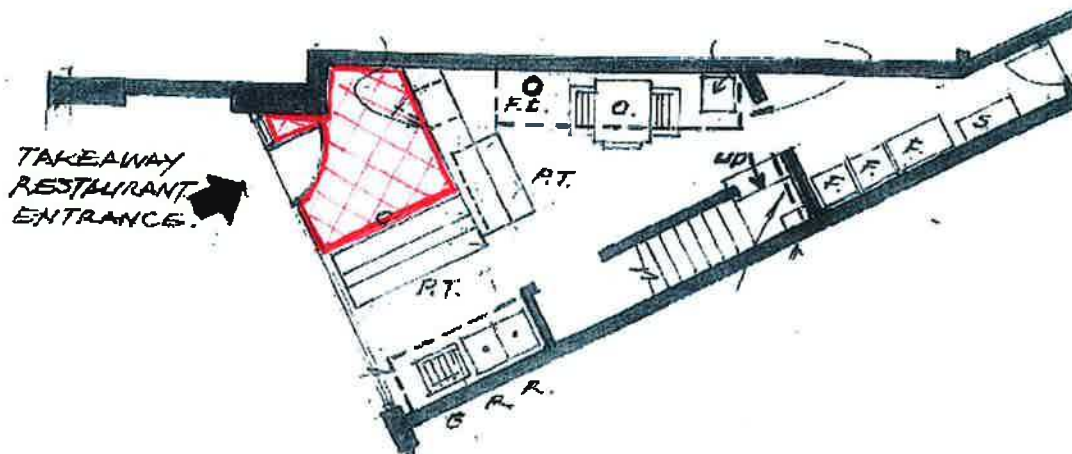
Dear Sir

**Licensing Act 2003**  
**Top Kebabs 185b High Street Hornchurch RM11 3XS**  
**Application to vary a premises licence**

Further to the above I can confirm that this Licensing Authority wishes to make representation *against* the application based upon our concerns in relation to the prevention of public nuisance licensing objective.

**Premises' suitability**

This application seeks to extend the hours during which late night refreshment may be provided on Fridays and Saturdays from midnight until 01:00. Our first concern with this relates to the premises itself. There is a very limited space permitting public access within this small premises, as indicated by the cross-hatched area on the premises plans:



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Such a small area might comfortably accommodate five or six customers. Should more than this number arrive at the premises the overflow will be required to wait for service outside on the public highway. A similar premises in Billet Lane, no more than 370 metres away from Top Kebabs, regularly has thirty or more customers waiting outside the premises in the early hours of the weekend. This premises also is unable to accommodate more than a handful of customers at any one time. Public nuisance issues have the potential to attend such a situation particularly when we consider the likelihood that customers arriving in the weekend's early hours will be under the influence of alcohol.

Clearly, a group of individuals under the influence of alcohol waiting for food on the street outside the premises after midnight at a location which includes residential properties is not ideal. Such a circumstance would appear not to promote the licensing objective relating to the prevention of public nuisance.

The applicant indicates that he intends to employ a door supervisor at the premises from 23:00 onwards. The fact that the applicant has identified that such a step is necessary here might indicate his belief regarding the potential level of anti-social behaviour which may result from providing hot food late at night at this premises. Should we commend the applicant for identifying the need to employ a door supervisor at this premises or should we be concerned at the fact that it is felt necessary to employ a door supervisor to control customer behaviour at a premises which does not sell alcohol?

A door supervisor is more usually required to control entry to, exit from and customer behaviour at premises on which alcohol is consumed. A door supervisor has a number of recognised duties; however, the main duty is to monitor the suitability of customers attempting to enter a given premises. This duty often extends to managing a queue outside a venue. One should recognise, however, that the authority of a door supervisor is limited to activities occurring within the premises rather than those occurring outside on the public highway. Effectively the only legal deterrent a door supervisor may wield is the refusal of entry to the premises. Door supervisors do not have the same powers as Police officers and thus have no legal authority over the behaviour of individuals on the street.

Additionally, door supervisors have a cost implication with regard to their salary. History has shown us that similar take-away food premises in this borough with an attendant premises licence condition requiring a door supervisor have often felt it necessary to dispense with the services of their door supervisor when economic needs have identified that business savings need to be made. This leaves the premises licence in breach, an identified security risk unattended and the licensing objectives not fully promoted.

### **Licensing policy 012 – hours**

Havering's licensing policy contains a policy specific to the hours during which it is felt appropriate to provide licensable activity in given areas of the borough. Policy 012 is as follows:

*The LLA is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Applications for hours set out below in this policy will generally be granted subject to not being contrary to other policies in the statement of licensing policy. Applications for hours outside the hours listed will be considered on their merits.*

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*Regulated activities will normally be permitted:*

- *until 11.30 pm in residential areas*
- *until 00.30 am in mixed use areas*
- *no limits in leisure areas*

This policy indicates that an application for hours which extend beyond these guideline hours will be considered on its merits. We would suggest that the application as submitted should not be considered an exception to the guidelines of licensing policy 012.

Premises which supply hot food to take away in the early hours of the morning at weekends are effectively providing hot food to individuals who have spent the preceding hours consuming alcohol. When such customers halt their journey home to obtain hot food the potential for anti-social behaviour inevitably increases. Indeed, the fact that the law sees fit to include late night refreshment establishments within the ambit of the Licensing Act 2003 (*the Act*) indicates the seriousness with which the late night supply of hot food is taken. Individuals under the influence of alcohol are now no longer dispersing from the general area. Instead they remain to wait for, and subsequently eat, their food, quite often immediately outside the premises at which the food was bought. Such a situation has been witnessed at the premises in Billet Lane mentioned previously.

If we accept that there is a finite number of late night hot food customers in a given vicinity then it might follow that competition for that customer base will intensify. While expanding a customer base is a legitimate business aim the knock-on effect is often one of '*hours-creep*'. If one premises has a premises licence to a certain hour it might seem inevitable that a competing business will seek to either match or exceed the competition's hours in order to maximise its appeal to these late night customers. We then run the risk of an entire area, over a period of time, incrementally increasing its average terminal hour. The potential result of hours-creep is that late night revellers disperse from the vicinity later and later into the morning. Anti-social behaviour issues therefore have the potential to occur later into the early hours.

### **Section 182 guidance to the Act – promoting the licensing objectives**

Section 4(3) of the Act requires that a Licensing Authority, when carrying out its functions, has regard to its licensing policy as well as the guidance issued under s.182 of the Act. Paragraph 2.21 of the guidance indicates that, in relation to public nuisance, *the approach of licensing authorities and responsible authorities should be one of prevention*. 'Prevention', of course, requires that we act *in advance* of any nuisance occurring as you cannot *prevent* nuisance which has already taken place. Therefore we should be assessing the potential impact this application has upon the prevention of public nuisance licensing objective and take steps to mitigate that potential.

The guidance also identifies certain expectations in relation to applicants. Paragraphs 8.34 to 8.42 of the guidance to the Act address the steps required to promote the licensing objectives. A brief examination of these steps will illustrate that the applicant has not fully addressed the promotion of the licensing objectives in line with the guidance, thus making it difficult for the Licensing Authority to support the application.

8.34 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

The applicant appears not to have provided any knowledge of the local area to support the entries made in section M of the application. There is no supporting text or documentation provided to indicate the applicant's local knowledge to support the steps he intends to take to promote the licensing objectives.

8.35 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

This application provides no evidence to support any of the expectations identified above, in particular any risk posed to the local area which may follow from this application.

8.36 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

The St Andrews ward is a special policy area addressed by Havering's licensing policy 017. While this policy might not explicitly apply to an application to vary Top Kebabs is clearly located in this special policy area. Policy 017 states:

*It is the LLA's policy to refuse applications in the St Andrews ward area for pubs and bars; late night refreshment premises offering hot food and drink to take away; off licences; and premises offering facilities for music and dancing other than applications to vary hours with regard to licensing policy 012.*

It appears that policy 017 refers the Licensing Authority to policy 012 when applications to vary hours, such as this one, are submitted for relevant premises. The applicant's apparent failure to identify how the area's special policy impacts on his application, any measures he will take to mitigate its impact and why he considers the application should be an exception to the policy causes this Licensing Authority some concern.

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8.40 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

The entries in section M of the application might appear to be 'a set of standard conditions' as alluded to in this guidance paragraph. Paragraph 8.40 might reasonably be seen to require that an applicant not only offers certain steps to aid the promotion of the licensing objectives but also provides reasons why *these particular steps* are appropriate for *this particular premises*. Such reasoning reassures a Licensing Authority that the applicant has a full understanding of the demands placed upon him when providing licensable activity.

### **Section 182 guidance to the Act – planning and building control**

The guidance to the Act makes direct reference to planning legislation. Paragraph 13.55 states in part that *licensing committees are not bound by decisions made by a planning committee, and vice versa*. Paragraph 13.56, however, states the following:

*13.56 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.*

Top Kebabs' planning permission P1294.08 allows the premises to remain open to the public until midnight throughout the week. While the Licensing Authority is empowered to grant licensing hours beyond those the Planning Authority deemed suitable such a situation might send a confusing message. If the Licensing Sub-Committee were to grant a terminal hour beyond that permitted by P1294.08 it might be interpreted that one department of the local authority is giving tacit permission to the applicant to ignore the legal requirements identified by another department.

As we are aware Havering has six values to which we, as a local authority, must aspire. The first of these values requires that we recognise that we are all part of *One Council*. This value goes on to state:

*We must always act as one Council. In the eyes of our customers we are a unified organisation and our reputation is shaped by every department, team and individual across Havering... We must always present one face to our customers.*

Given this requirement we suggest that due consideration is given to Top Kebabs' extant planning permission and, for consistency's sake, the premises' licensing hours are not extended beyond its planning hours.

## **Licensing policy 015 – premises' compliance history**

Based upon Havering's licensing policy 015 an application such as this should also be considered in the light of the applicant's compliance history in relation to the provisions of the current licence. Licensing policy 015 states:

*In considering applications for new licences or variations to existing licences and licence reviews following the receipt of relevant representations, the LLA will take the matters listed below into account. These criteria will apply in different ways to different types of premises and licensable activities in the following order:*

- *the location of the premises and character of the area*
- *the views of responsible authorities*
- *the views of interested parties*
- *past compliance history of current management*
- *the proposed hours of operation*

Since 2<sup>nd</sup> November 2011 this Licensing Authority has had to provide four written warnings to the applicant based upon his failure to comply with the terms of his premises licence, the most recent being given on 18<sup>th</sup> March 2013. Copies of these warnings are provided for reference. This most recent written warning was based upon an incident wherein late night refreshment was witnessed to be provided to customers at 01:45, i.e. an hour and 45 minutes after the current terminal hour and *45 minutes later than the terminal hour sought in this application.*

It may be reasoned that this application is the applicant's attempt to legitimise operating outside those hours currently permitted. It should also be recognised that the premises' staff appear quite prepared to ignore the terminal hours of this premises licence when it is felt appropriate. The question this must inevitably raise is that if terminal hour A is repeatedly ignored, why would terminal hour B not be similarly disregarded? Given that customers were seen to recently purchase hot food from the premises at 01:45 one might reasonably question the applicant's commitment to comply with a 01:00 terminal hour.

This model of repeat offending suggests that, if past history is an indication, the pattern has the potential to continue. The result of this is that the actual time at which late night customers disperse from Hornchurch town centre having attended this premises would likely be later than any terminal hour the Licensing Sub-Committee may see fit to impose.

We understand that the applicant has other outlets at which he operates and therefore is not able to be physically present at all of his premises all the time. We are prepared to accept the possibility that the previous occasions when the premises licence terminal hours were disregarded were on occasions when the applicant may not have been present at the premises. If this is the case, then given the number of warnings provided to the applicant during the short life of this licence, this Licensing Authority is not sufficiently reassured of the applicant's managerial control over his staff during the periods he is absent from the premises.

**Public Protection** Bringing together Environmental Health & Trading Standards

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Based upon our concerns detailed above this Licensing Authority is not in a position to be able to support this application. In normal circumstances we would not be opposed to an application which is in accordance with the provisions identified in Havering's licensing policy 012; however, this premises' current planning permission requires that it is closed to the public at midnight. In line with our obligations under Havering's 'values' system we would therefore be in a position to support an application until midnight only.

I hope this makes our position clear.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Jones', with a small horizontal line at the end.

Paul Jones  
Licensing Officer



**Havering**  
LONDON BOROUGH

**Public Protection**

Housing & Public Protection  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr Abdul Sabur  
Pizza Top  
185B High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email: paul.jones@haverling.gov.uk  
Textphone ☎: 01708 433175

Date: 2<sup>nd</sup> November 2011

My Reference: PJJ/028361

Dear Sir/Madam

**Licensing Act 2003**  
**Top Kebabs – Late night refreshment**

On 28<sup>th</sup> October 2011 I observed your premises was open after 23:00hrs. This is in line with my enforcement duties as Havering's Licensing Officer for the Hornchurch area. I would like to make you aware that the supply of hot food after 23:00hrs is a licensable activity under this Act and is known as 'late night refreshment'. Late night refreshment is the supply of hot food at any time between 23:00hrs and 05:00hrs the day following. A similar set of circumstances occurred at this premises at this time last year.

Should you wish to provide late night refreshment you will need a licence to do so. This licence is called a premises licence. I have enclosed the appropriate application form for you to apply for a premises licence.

If you do not wish to apply for a premises licence you should cease the supply of hot food at 23:00hrs and close your shop to customers at this time. **Until such times as a premises licence is in force at your premises you may not provide late night refreshment from there.**

If you supply late night refreshment without a premises licence being in force you will be committing a criminal offence contrary to s.136 of this Act and as such will render yourself liable to enforcement action. This action may ultimately take the form of a prosecution against you.

If you require further clarification regarding the above or the application form please do not hesitate to contact me.

Yours faithfully

**COPY**

Paul Jones  
Licensing Officer





**Haverling**  
LONDON BOROUGH

**Public Protection**  
Housing & Public Protection  
London Borough of Haverling  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr Abdul Sabur  
c/o Top Kebabs  
185b High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email:paul.jones@haverling.gov.uk  
Textphone ☎: 01708 433175

Date: 10<sup>th</sup> January 2012

My Reference: PJJ/028361

Dear Mr Sabur

**Licensing Act 2003**  
**Premises licence no. 10892**  
**Formal Warning**  
**Top Kebabs 185b High Street Hornchurch RM11 3XS**

On the evening of Friday 6<sup>th</sup> January 2012, leading into Saturday 7<sup>th</sup> January 2012, I observed your premises from 00:25 to 00:50. At 00:25 I noted that there were a number of male customers in your premises while their female counterparts waited outside. I observed the premises as your staff served these customers with kebabs. These customers remained outside your premises for a further twenty minutes or so while they ate the hot food that had been supplied to them at 00:30 from your premises.

Your premises licence, which was granted less than one month ago, permits late night refreshment to be supplied at your premises until midnight while the shop must close at the same time. This means that your shop must be empty of customers and hot food supplies must cease at midnight. If you provide late night refreshment after this time you will be committing a criminal offence contrary to s.136(1) of this Act and as such render yourself liable to prosecution.

Please be advised that enforcement officers from this borough are required to monitor licensed premises such as yours. As the licence holder you should familiarise yourself with the restrictions imposed by your licence and adhere to its provisions. Please ensure that you do not commit further offences at this premises.

If you require further clarification please do not hesitate to contact me.

Yours faithfully

**COPY**

Paul Jones  
Licensing Officer

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Ins Visits028361/PJJ04541



**Havering**  
LONDON BOROUGH

**Public Protection**  
Housing & Public Protection  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr Abdul Sabur  
c/o Top Kebabs  
185b High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email: paul.jones@havering.gov.uk  
Textphone 9: 01708 433175

Date: 12<sup>th</sup> April 2012

My Reference: PJJ/028361

Dear Mr Sabur

**Licensing Act 2003**  
**Premises licence no. 10892**  
**Final Formal Warning**  
**Top Kebabs 185b High Street Hornchurch RM11 3XS**

Further to my earlier warning letter of 10<sup>th</sup> January 2012 I note that the following incident occurred.

At 00:15hrs on 7<sup>th</sup> April 2012 I observed your premises and noted that three customers were in the shop at this time, even though the premises licence detailed above requires you to vacate customers by 00:00. At 00:17 one male customer left the premises in possession of a kebab. At 00:21 one male and one female customer left the premises in possession of a kebab. As you are aware late night refreshment must cease at the premises at 00:00. Providing late night refreshment after this time constitutes a criminal offence contrary to s.136(1).

This is my third warning to you with regard to similar matters since November 2011 and my second formal warning to you since your premises licence was granted in December 2011.

You should be aware that if the matters listed above are not addressed and the terms of your premises licence not adhered to I shall have no alternative other than to undertake further action against you. This will be likely to result in the London Borough of Havering seeking to prosecute you for offences contrary to s.136(1) of this Act. For your records I shall continue to monitor your premises to ensure compliance with your licence conditions.

If you require further clarification please do not hesitate to contact me.

Yours faithfully

Paul Jones  
Licensing Officer

lapr20.doc  
Ins Visits028361/PJJ04634



**Havering**  
LONDON BOROUGH

**Public Protection**

Homes, Housing & Public  
Protection  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

Mr A Sabur  
Top Kebabs  
185b High Street  
Hornchurch  
RM11 3XS

Telephone: 01708 432692  
Fax: 01708 432554  
email: paul.jones@havering.gov.uk  
Textphone ☎: 01708 433175

Date: 18<sup>th</sup> March 2013

My Reference: PJJ/029731

Dear Sir/Madam

**Licensing Act 2003**  
**Premises Licence No. 10892**  
**Formal Warning**  
**Top Kebabs 185b High Street Hornchurch RM11 3XS**

As the premises licence holder for the above premises I should like to bring to your attention a series of offences contrary to s.136 of this Act committed at your premises in the early hours of 17<sup>th</sup> March 2013.

A series of customers were admitted to the premises and provided with hot food after the terminal hour of 00:00 permitted for the provision of late night refreshment by your premises licence. I would like to remind you that the supply of hot food at Top Kebabs must cease at 00:00 each night of the week. Hot food supplied after this hour is done so illegally and renders you liable to prosecution for such offences.

Any repetition of the matters listed above is likely to result in further action being taken against you whose ultimate outcome may be for the London Borough of Havering to seek to prosecute you for these offences.

If you require further clarification please do not hesitate to contact me.

Yours faithfully

  
Paul Jones  
Licensing Officer

## memo

From: PLANNING CONTROL SERVICE

To: Licensing Officer  
Environmental Health

**Please call: Bernie Long**  
**Telephone: 01708 432684**  
Fax: 01708 43690  
Email: victor.long@havering.gov.uk

My Reference: BL/

Your Reference:

Date: 9 May 2013

---

**Representations re Application for Variation of a Premises Licence (Licensing Act 2003) at 185B High Street, Hornchurch, RM11 3XS**

The London Borough of Havering's Planning Service, being a responsible authority as set out in the Licensing Act 2003, wishes to make representations against the above premises in relation to a variation to the Premises Licence.

This objection refers to the effect on residents in respect of noise and disturbance.

### ***Relevant Planning History***

**P1294.08** Change of opening times to 12pm to 12 midnight Mondays to Sundays and Bank Holidays. Approved 1 September 2008 (Decision Notice attached).

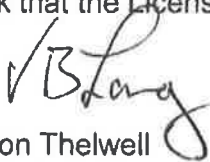
**P1709.09** Change of opening times to 1am on Mondays to Fridays, Sundays and Bank Holidays and until 2am on Saturday openings. Refused 16 February 2010 (Decision Notice attached).

**Appeal against P1709.09** Dismissed - appeal decision attached

The refusal of planning permission P1709.09 is based on noise and disturbance and that decision has been endorsed by the Planning Inspectorate. I draw your attention to that decision in particular paragraphs 7-11.

It should be noted that there are flats above the shops in this location as well as other residential properties close by.

I ask that the Licensing Committee consider this report as a valid representation.



PP Simon Thelwell  
Projects & Regulation Manager



**LONDON BOROUGH OF HAVERING**

**TOWN AND COUNTRY PLANNING ACT 1990**

**AGENT**

Mr M Brown  
167 Corbets Tey Road  
Upminster  
Essex  
RM14 2AX

**APPLICANT**

Mr A Sabur  
124 Frederick Road  
Rainham  
Essex  
RM13 8NS

**APPLICATION NO: P1294.08**

In pursuance of their powers as Local Planning Authority, the Council have considered your application and have decided to **GRANT PLANNING PERMISSION** for the following development :

**Proposal:** Change of opening times to 12pm-12 midnight Mondays-Sundays & Bank Holidays

**Location:** 185B High Street  
Hornchurch

subject to compliance with the following condition(s):

- 1** The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason:-

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2** The premises shall not be used for the purpose hereby permitted other than between the hours of 9am and midnight, and all customers shall be required to vacate the premises not later than midnight.

Reason-

To enable the Local Planning Authority to retain control and to avoid disturbance to nearby premises.

**INFORMATIVES:**

- 1. Reason for approval:**

The proposed development is considered to be in accordance with the aims, objectives and provisions of Policies DC61 and DC16 of the LDF Development Control Policies Development Plan Document.

2. The applicant is advised that this consent does not supersede that which was granted in respect of P1584.01 in any respect other than opening hours. As such all conditions attached to the previous consent should still be complied with in full as previously detailed in the decision for P1584.01.

**Dated: 1st September 2008**



Patrick Keyes  
Head of Development and Building Control  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL

**IMPORTANT - attention is drawn to the notes overleaf**

**NOTES IN CONNECTION WITH APPROVAL OF APPLICATIONS SUBJECT TO CONDITIONS  
OR REFUSAL OF APPLICATIONS FOR PLANNING PERMISSION**

- (1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or to grant permission or approval subject to conditions, an appeal may be made to the First Secretary of State at the Department for Communities and Local Government in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. However, if an enforcement notice is subsequently served relating to the same or substantially similar land and development and you want to appeal you must do so within 28 days of the service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

Appeals must be made on a form which is obtainable from the Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or from the Planning Inspectorate's web site, [www.planning.inspectorate.gov.uk](http://www.planning.inspectorate.gov.uk)

- (2) When submitting the completed appeal form to the Planning Inspectorate, a copy should be sent to Planning, London Borough of Havering, 7th Floor Mercury House, Mercury Gardens, Romford, RM1 3SL. The First Secretary of State has power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise these powers unless there are special circumstances which excuse the delay in giving notice of appeal. The First Secretary of State is not required to entertain an appeal if it appears that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements to the provisions of the development order, and to any directions given under the order. Where the decision of the local planning authority is based upon a direction from the First Secretary; it is not the practise to refuse to accept appeals solely because of this direction.
- (3) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the First Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, a purchase notice may be served on the London Borough of Havering requiring the council to purchase the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation where there has been an appeal or where an application has been referred to the First Secretary, and where planning permission is refused or granted subject to conditions. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.
- (5) The statutory requirements are those set out in section 79(6) of the Town and Country Planning Act 1990, namely Sections 70, 71 and 72(1) of the Act.

You are reminded that Building Regulations approval may also be required for these works. You must contact the Building Control Manager or Building Inspector to confirm if permission is required.

Note: Following a change in government legislation a fee is now required for the request for Submission of details pursuant to discharge of conditions in order to comply with the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations, which came into force from 06/04/2008. A fee of £85 per request (or £25 where the related permission was for extending or altering a dwellinghouse) will be required.





**Havering**  
LONDON BOROUGH

**LONDON BOROUGH OF HAVERING  
TOWN AND COUNTRY PLANNING ACT 1990**

**AGENT**

Mr M Brown  
167 Corbets Tey Road  
Upminster  
Essex  
RM14 2AX

**APPLICANT**

Mr A Sabur  
c/o Agent

**APPLICATION NO: P1709.09**

In pursuance of their powers as Local Planning Authority, the Council have considered your application and have decided to **REFUSE PLANNING PERMISSION** for the following development

**Proposal:** Change of opening times to 1am on Mondays - Fridays, Sundays and Bank Holidays and until 2am on Saturday openings

**Location:** 185B High Street  
Hornchurch

The above decision is based on the details in drawing(s):

Site Location

for the following reason(s):

- 1 The proposed extended opening hours would, due to their extension beyond midnight, result in additional noise and disturbance adversely affecting the amenities of adjoining residential occupiers contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document.

**Dated: 16th February 2010**



**Patrick Keyes  
Head of Development and Building Control  
London Borough of Havering  
Mercury House, Mercury Gardens  
Romford RM1 3SL**

**IMPORTANT - attention is drawn to the notes overleaf**

**NOTES IN CONNECTION WITH APPROVAL OF APPLICATIONS SUBJECT TO CONDITIONS  
OR REFUSAL OF APPLICATIONS FOR PLANNING PERMISSION**

- (1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or to grant permission or approval subject to conditions, an appeal may be made to the First Secretary of State at the Department for Communities and Local Government in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. However, if an enforcement notice is subsequently served relating to the same or substantially similar land and development and you want to appeal you must do so within 28 days of the service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

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- (5) The statutory requirements are those set out in section 79(6) of the Town and Country Planning Act 1990, namely Sections 70, 71 and 72(1) of the Act.

You are reminded that Building Regulations approval may also be required for these works. You must contact the Building Control Manager or Building Inspector to confirm if permission is required.



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## Appeal Decision

Site visit made on 2 September 2010

by **Sue Glover BA (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
22 September 2010

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**Appeal Ref: APP/B5480/A/10/2126977**  
**185B High Street, Hornchurch, Essex RM11 3XS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Abdul Sabur against the decision of the Council of the London Borough of Havering.
  - The application Ref P1709.09, dated 22 December 2009, was refused by notice dated 16 February 2010.
  - The application sought planning permission for the change of use to A3 (hot food take away) without complying with a new condition attached to a planning permission granted on appeal, Ref APP/B5480/A/06/2024497, dated 9 January 2007.
  - The new condition in dispute states that: The premises shall not be open to the public other than between the hours of 0900 to 2300.
  - The reason given for the condition is: In the interests of residential amenity.
- 

### Decision

1. I dismiss the appeal.

### Main Issue

2. The main issue is the effect of the proposal on the living conditions of nearby residents in respect of noise and disturbance.

### Introduction

3. The proposal seeks a variation of a condition restricting the hours open to the public imposed on a planning permission for the change of use to A3 (hot food take away). Permission for the hot food take away was granted in 2001 subject to conditions. A new permission was granted with a new condition imposed by an appeal Inspector in 2007. The new condition allows opening of the appeal premises to the public until 2300 hours.
  4. The proposal seeks to amend the new condition to allow opening until 0100 hours the following morning on Sundays to Fridays and Bank Holidays, and until 0200 hours the following morning on Saturdays. An amendment is also sought to change the opening hours at the beginning of the day from 0900 hours to 1200 hours.
  5. The Council has confirmed that a subsequent application to the Council, Ref P1294.08, was not a variation of a condition.
-

### Reasons

6. The appeal site occupies the ground floor of a 3-storey mid-terrace building within the Hornchurch Major District Centre. There is a mix of uses nearby with retail and commercial uses at ground-floor level with predominantly residential uses on the upper floors. From the information provided there are clearly a significant number of dwellings in close proximity to the appeal premises.
7. The Council indicates that this parade is not a place of extensive evening activity in comparison with other parts of the town centre. There are however 2 restaurants nearby where the operational hours are not controlled by a planning condition. There are some premises in the town centre licensed to open until 0100 hours, but on Fridays and Saturdays only.
8. Even with good management hot food take away uses and other evening activities can give rise to noise from animated customers before entering and after leaving the premises. Some noise is to be expected from evening activities within a town centre, and there are clearly economic benefits. However, the proposal seeks to extend opening hours throughout the week into the early hours of the morning at a time when general activity and ambient noise levels decrease. In the early hours of the morning residents will therefore be more susceptible to noise disturbance and might reasonably expect a quieter external environment. An objection from a nearby resident indicates that the proposal would add to late night noise and make it even more difficult to sleep at night.
9. I consider that the proposed extension of opening hours into the early morning as proposed would unacceptably harm nearby residents' living conditions in respect of noise and disturbance. The proposed variation is contrary in this respect to Policy DC61 of the *Core Strategy and Development Control Policies Development Plan Document*. The condition imposed by the previous appeal Inspector is therefore necessary.
10. I have been referred to another appeal decision in respect of a mini-cab office. The Inspector in that case considered that the mini-cab office may reduce noise and disturbance on the street. The circumstances of the hours imposed on that planning permission differ from this appeal proposal, so that they are not directly comparable.
11. Although the appellant indicates that an increase in late opening hours would improve the viability of his business and increase employment, this matter does not outweigh the significant harm that I have identified to nearby residents' living conditions. I find no harm from noise and disturbance for the opening of the appeal premises in the morning from 0900 hours.

*Sue Glover*

INSPECTOR



## Public Protection

Mercury House, Mercury Gardens  
Romford RM1 3SL

## memo

Marc Gasson-Noise Specialist

To: Paul Jones-Licensing Officer

**Please call: Marc Gasson**

**Telephone: 01708 432777**

**Fax: 01708 432554**

**email: environmental.health@haverling.gov.uk**

**Textphone ☎ : 01708 433175**

**My Reference : MDG/012755**

**Your Reference :**

**Date: 9<sup>th</sup> May 2013**

### **Licensing Act 2003-Application To Vary Premises Licence Top Kebabs 185b High Street, Hornchurch, Essex**

I refer to the above application and would object on the grounds of public nuisance to it being granted on the following grounds:-

1. Due to the close proximity of nearby residential properties residents are likely to experience unacceptable levels of noise from patrons entering and leaving the premises into the early hours of the morning, causing sleep disturbance.
2. The application is contrary to Licensing Policy 12 as detailed below and is likely to severely impact the amenity of nearby residents:-

#### Licensing Policy 012

*The LLA is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Applications for hours set out below in this policy will generally be granted subject to not being contrary to other policies in the statement of licensing policy. Applications for hours outside the hours listed will be considered on their merits.*

*Regulated Activities will normally be permitted:*

- *until 11.30 pm in residential areas*
- *until 00.30 am in mixed use areas*
- *No limits in leisure areas.*

I trust this clarifies my position

Marc Gasson  
Noise Specialist