

## LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Tuesday, 4 April 2017 at 9.30am in the executive meeting room, third floor, the Guildhall, Portsmouth

### Present

Councillors Hannah Hockaday  
Dave Ashmore  
Steve Pitt

**36. Declarations of Members' Interests.**

No interests were declared.

**37. Appointment of Chair.**

Councillor Hannah Hockaday was appointed Chair of this hearing.

**38. Licensing Act 2003 - Application for grant of a premises licence Ken's Kebab House, 35 Guildhall Walk, Portsmouth PO1 2RY.**

Jon Wallsgrove, Solicitor for the applicant and Mr Usman Ahmed, the applicant were present.

Nickii Humphreys, Licensing Manager and PC Pete Rackham were also in attendance.

The hearing procedure of Licensing Act 2003 applications for 'Responsible Authorities' was followed.

### Decision

In the matter of the licensing Act 2003.

In the matter of an application for a grant of a premises licence - Ken's Kebab House 35 Guildhall Walk, Portsmouth PO1 2RY.

The committee heard the representations of the applicant, the relevant responsible authorities and the advocate acting on behalf of the applicant. In addition the committee considered all the papers put before it along with the annexes attached to each document.

The committee was aware that the premises is located within an area of Special Policy. This committee was engaged by reason of referral to the committee by the relevant responsible authorities - the police and licensing both of whom make objection to the grant of a licence.

The licensing objectives that are not promoted within the area of Special Policy are: prevention of crime and disorder, public safety and the prevention of public nuisance. The responsible authorities both indicate that the applicant has failed to sufficiently engage in negating any increase to the cumulative impact by reason of having appropriate conditions or measures in place to overcome the legal burden placed upon the applicant.

The committee looked to all the responsible authorities but mainly the police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the police, prevention of crime and disorder - the committee should but is not obliged to accept all reasonable and proportionate representations made by the police.

The committee took a similar view with respect to the representations made by the licensing department.

The above stated, the committee balanced within its consideration all representations made by the applicant through his advocate and by way of comments made by the applicant himself.

In considering the application for a grant of licence the committee was mindful of the following facts as having been established upon a balance of probability and further that they have been specifically taken to the relevant parts of the Statutory Guidance under section 182 of the Licensing Act 2003.

Having heard the representations from the applicant and his advocate the committee was satisfied that the burden that rests with the applicant to shift in showing that the new proposed operating schedule in the current application will not have a negative cumulative impact has been shifted.

In coming to this conclusion the committee was shown a new set of conditions and was of the view that the applicant had sufficiently assuaged the cumulative impact by reason of the full range of variations as offered by the applicant, with the following additional conditions imposed by this committee.

Condition A:

- A minimum of 1 SIA licensed door supervisor will be on duty 11pm until 3:30am Monday, Tuesday and Wednesday.
- Two SIA licensed door supervisors for Thursday, Friday and Saturday to include New Year's Eve from 11pm to close of business.
- On Sundays 1 SIA door supervisor save for any bank holiday when it shall be a minimum of two, such obligation to cover any extensions to the permitted hours. Such obligations to extend to any close of business upon such extension.
- . All the above obligations to apply over a 52-week period.

Condition B:

The committee accepted as a condition of the grant of the licence as offered that Mr Naseem Ahmed will not have any involvement with the running of the business known as Ken's Kebabs trading from Guildhall Walk and that the reason for this condition is based upon the following conclusions:

- The statement of Mr Naseem Ahmed dated 3 April 2017 and adduced into the hearing.
- The representations made through his advocate that in due course Mr Usman Ahmed will take over operational control of the business including the other premises outside Guildhall Walk.

- On the assumption that Mr Naseem Ahmed also divests himself of all legal interest in any operating company that currently has an interest in relation to Ken's Kebabs 35 Guildhall Walk, Portsmouth

The licensing committee was aware that any responsible authority, indeed anyone can ask the committee to review the licence currently held which would of course engage this committee in being able to consider the full range of evidence including matters are currently being considered.

The committee considered the following when balancing the factors and noted the above conditions were offered by the applicant and imposed by this committee in the promotion of the relevant licensing conditions.

- This committee considered that the current cumulative impact policy and is of the view that it is sufficiently evidence based to include a full range of premises within it, to specifically include premises that do not sell alcohol.
- Whilst not a condition, the committee observed that with respect to the lines of control between owners and managers that it needs to be made very clear by whom and upon what basis staff are employed, reviewed and disciplined this comment being particularly relevant to any management appointment (especially night time).
- The committee accepted the assurances that Mr Usman Ahmed will be in operational control of the business.
- The committee also recognised the fact that the current application hours are as currently being used at the premise and additionally that irrespective whether a grant of a new licence was dealt with the business could continue trade in any event.

The right to appeal this decision exists to any of the responsible authorities.

The meeting concluded at 12.20pm.

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Chair