



**Notification to all Members of the council  
of decisions by the Licensing Sub Committee**

Issued by the Director of Customer & Communications

Wednesday, 11 October 2017

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	WARD	DECISION	OFFICER CONTACT
		<p><b>Licensing Sub-committee Decision Meeting - 11 October</b></p> <p>The committee has made the following decisions:-</p>	<p><b>Joanne Wildsmith, Democratic Services, Tel: 9283 4057 Democratic@Portsmouthcc.gov.uk</b></p>
1		<p><b>Licensing Act 2003 - Application to Vary a Premises Licence - Ken's Kebab House, 35 Guildhall Walk, Portsmouth PO1 2RY</b></p> <p>DECISIONS:</p> <p><u>Decision to grant the application</u> 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 them, along with the annexes attached to each document. The Committee was grateful to the presenting officer having within his report outlined the relevant up to date history of the various applications with respect to this premise. The Committee accepted that this was a finely balanced case and a difficult decision.</p> <p>The Committee was aware that the premise is located within an area of Special Policy. This Committee was engaged by reason of referral to the Committee by the relevant Responsible Authorities - Police and Licensing - both of whom made objection to the application for a variation to the current licence which was granted to the applicant on 5 April 2017.</p> <p>The licensing objectives that are allegedly not</p>	

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		<p>promoted within the area of Special Policy are: prevention of crime and disorder 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.</p> <p>The Committee look 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 are not obliged to accept all reasonable and proportionate representations made by the Police.</p> <p>The Committee took a similar view with respect to the representations made by the Licensing Department. The Committee was aware of the recently obtained information relating to the number of incidents occurring within the Cumulative Impact Zone (CIZ) having been informed that the information was obtained relevant to "Freshers Week".</p> <p>The above stated, the Committee balanced within their consideration all representations made by the applicant through his advocate and by way of comments made by the applicant himself.</p> <p>In considering the application for a variation 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.</p> <p>1. The Committee was aware of the history of this premise in that the licence was revoked as of 18 January 2017 thereafter to be granted an alternative applicant on 5th April 2017. The Committee confirmed that whilst they are aware of this fact that they look upon the application from the perspective of each application being dealt with upon its individual facts. The Committee approached this case upon the basis of considering whether within its operating schedule the applicant has sufficiently addressed the issue of cumulative impact, the</p>	

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		<p>burden being upon the applicant to show that the proposed variation will not add to the cumulative impact.</p> <p>2. The Committee have been shown the recent evidence showing a purported increase in the number of incidents occurring within the Cumulative Impact Zone. The Committee can see that there has within a short period of time been a number of incidents occurring within the suggested time zone that the applicant suggested should be allowed as a variation. They were not persuaded that the current application will add to the cumulative impact and are re-assured that they can review the current licence should it be necessary. They noted the usage of Temporary Event Notices (TENS) having no effect upon cumulative impact.</p> <p>3. The Committee noted that despite the fact that incidents occur as stated above, the current conditions are the same as proffered to obtain the current licence (albeit that the provision of SIA staff would increase to 0500 hours), the position being that despite the current operating schedule the Committee could see this assuages the risk of impact within the CIZ, it follows therefore that the proposed increase in licensing activity would be unlikely to have an impact that of itself could be negative. Essentially what was offered was appropriate.</p> <p>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 proposed operating schedule in the current application will not have a negative cumulative impact has been shifted. In coming to this conclusion the Committee have been shown a new slightly extended 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 previously in April and having at this hearing been extended to 0500 hours.</p> <p>The Licensing Committee is aware that any Responsible Authority (indeed anyone) can ask that the Committee review the licence currently held which would of course engage this Committee in being able to consider the full range of evidence including matters that are currently being considered.</p>	

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		The committee granted the application.  The right to appeal this decision exists to any of the Responsible Authorities.	