

Licensing Sub-Committee  
Portsmouth City Council  
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**Licensing Service**

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Our Ref: 17/03704/LAPREM

Date: 26 September 2017

Dear Members of the Licensing Sub-Committee

**Re: Licensing Act 2003 - Application for the Variation of a Premises Licence - Ken's Kebab House 35 Guildhall Walk Portsmouth PO1 2RY**

I refer to the recent application for the variation of a premises licence in respect of the premises known as Ken's Kebab House and situated at 35 Guildhall Walk, Portsmouth, PO1 2RY.

On behalf of the Licensing Authority, I would wish to make formal representations in relation to the application on the following grounds:

- Prevention of crime and disorder; and
- Prevention of public nuisance.

The premises licence is held in the name of Mr Usman Naseem Ahmed. This was first issued to Mr Ahmed in April 2017 by the Licensing Sub-Committee following the revocation of the previous licence because of serious incidents of violence and disorder which led to the review of the licence by the Chief Officer of Police.

The applicant is seeking to extend the permitted hours for the provision of late night refreshment until 05:00 hours every day. The current hours are from 23:00 until 03:00 hours every day.

This representation is made on the basis that the Licensing Authority is of the opinion that the variation of this licence to extend the hours for the provision of late night refreshment is likely to add to the existing cumulative impact.

In addition, the applicant has not sufficiently demonstrated in the operating schedule that there will be no negative cumulative impact on one more of the licensing objectives should this application be granted.

## **Cumulative Impact**

Cumulative impact is not mentioned specifically in the 2003 Act but having regard to the Statutory Guidance issued in accordance with section 182 of the Act means:

**"The potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area"**

The guidance also identifies that in some areas, where the number, type or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. The guidance recognises the cumulative impact of such problems which generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

Further queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

The Council, as the Licensing Authority has adopted an approach to cumulative impact in its statement of licensing policy which was adopted in July 2017. Members of the Council voted unanimously in support of the policy and its adoption with no amendments.

In adopting a special policy relating to cumulative impact, the Licensing Authority undertook, as a matter of fact, the following steps:

- Identified concern about crime and disorder and public nuisance;
- Considered that there was good evidence that crime and disorder or nuisance is occurring;
- Identified that these problems are being caused by the customers of licensed premises and that the risk of cumulative impact is evident and ongoing;
- Identified the boundaries of the area where problems are occurring;
- Consulted with those specified in section 5(3) of the Act and as a result included and published details of the special policy in its statement of licensing policy.

The evidential basis for the adoption of this special policy is set out in Appendix B of the Council's statement of licensing policy, a copy of which is attached to this representation.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that **applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations**, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

### **Effect of the grant of later hours in the cumulative impact area**

To assist members to gauge the impact and extent of crime and disorder and public nuisance in the identified cumulative impact area, particularly having regard to a number of premises being granted later hours by the Licensing Sub-Committee throughout 2017, a brief analysis was undertaken of offences recorded during Freshers week in September this year compared to last year.

Worryingly, the figures have significantly increased from last year and it is clear that there has been a rise in crime and disorder in the cumulative impact area where incidents are not associated with specific premises.

Equally, the analysis also shows that more incidents are occurring at a later time in the evening compared to last year which may be as a direct result of later opening hours being granted in the cumulative impact area.

**Table 1 Total number of offences in CI area during Freshers Week:**

<b>Type of Offence:</b>	<b>Total for 2017:</b>	<b>Total for 2016</b>
ABH	9	4
Common Assault	3	0
Attempted GBH	1	0
Sexual Offence	2	0
Public Order	1	1
Attempted Robbery	2	0
Drink Spiking	1	0
<b>Grand Total:</b>	<b>19</b>	<b>5</b>

**Table 2 Total number of incidents occurring at or within premises:**

<b>Type of Offence:</b>	<b>Total for 2017:</b>	<b>Total for 2016</b>
ABH	7	3
Common Assault	1	0
Attempted GBH	0	0
Sexual Offence	0	0
Public Order	0	0
Attempted Robbery	0	0
Drink Spiking	1	0
<b>Grand Total:</b>	<b>9</b>	<b>3</b>

**Table 3 Total number of incidents occurring in the street/vicinity (Cumulative impact area):**

<b>Type of Offence:</b>	<b>Total for 2017:</b>	<b>Total for 2016</b>
ABH	2	1
Common Assault	2	0
Attempted GBH	1	0
Sexual Offence	2	0
Public Order	1	1
Attempted Robbery	2	0
Drink Spiking	0	0
<b>Grand Total:</b>	<b>10</b>	<b>2</b>

**Table 4 Timings of incidents occurring at or within premises:**

<b>Time:</b>	<b>Total for 2017:</b>	<b>Total for 2016</b>
22:00 - 23:00	0	0
23:00 - 23:59	0	0
00:01 - 01:00	3	0
01:00 - 02:00	2	1
02:00 - 03:00	1	0
03:00 - 04:00	0	2
04:00 - 05:00	1	0

**Table 5 Timings of incidents occurring in the street/vicinity (Cumulative Impact Area):**

<b>Time:</b>	<b>Total for 2017:</b>	<b>Total for 2016</b>
22:00 - 23:00	0	0
23:00 - 23:59	0	0
00:01 - 01:00	2	0
01:00 - 02:00	2	0
02:00 - 03:00	3	1
03:00 - 04:00	4	1
04:00 - 05:00	1	0

## **Conclusion**

It is clear that in considering this application, members must, by default, consider the likely cumulative effect of the proposals put forward by the applicant and whether the Committee are satisfied that the measures are sufficient to negate any increase in the existing cumulative impact.

It is the view of the Licensing Authority and the Chief Officer of Police that if this application were to be granted then there would undoubtedly be a negative cumulative impact on the promotion of the licensing objectives.

Whilst the applicant has identified minimal measures proposed within the operating schedule, incidents of crime and disorder and public nuisance are still prevalent within the cumulative impact area and are disproportionately higher than any other part of the city, particularly in the early hours of the morning. This is evidenced within the Council's statement of licensing policy and the analysis of the impact of Freshers week in the cumulative area could suggest a worrying trend that crime and disorder is now on the increase, specifically in the street and not attributable to any premises in particular.

**By increasing the opening hours and availability of late night refreshment until 05:00 hours every day, I am of the view that there will be an undoubtable increase in existing problems thereby introducing additional incidents of crime, disorder and public nuisance than currently exists within the cumulative impact area.**

Having regard to my comments above, the Statutory Guidance issued in accordance with section 182 of the Licensing Act 2003 and the Authority's statement of licensing policy, I would urge the Licensing Sub-Committee to refuse the application to vary the premises licence.

Yours sincerely



**Nickii Humphreys**  
**Licensing Manager**

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