

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: Kebab House, Queens Street, Lymington

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Monday 28 November 2005 at 9.00am**

1. Members of the Licensing Sub-Committee

Councillor G C Beck
Councillor W H Dow
Councillor J A G Hutchins – Chairman

2. Parties and their Representatives attending the Hearing

Mr Sen – Applicant
Mr T Dikec – Agent for the applicant

Objectors:
Mr & Mrs Lee
Ms D Stenner
Sgt P Howlett
Mr M Robinson

3. Other Persons attending the Hearing

Councillor K Ault – Observer

4. Parties not attending the Hearing

Mrs C Webb
P J Dunford
Mrs J Geerlings
Mr J Ashby
Ms H Bowles
Mr B G Baker
Mr G Baker
Mr J Jones
Mr E Ashley
Mrs R Cornwall
Air Commdr J. L Mitchell
Grp Cpt G B Walford
Ms J Hill
Mr & Mrs F Rupp
Miss M Bunting

J O Woodman
Ms E Travis
M J Allerton
Mr I Large
Mr M Bowles
Ms V Morris
Mr M Wilkinson
Mr & Mrs Rothery
Mr W Andreae-Jones

5. Officers attending to assist the Sub-Committee

Miss J Mutlow – Legal Advisor
Mrs M Dunsmore - Clerk

6. Decision of the Sub-Committee

Licensable activities and times permitted:

L. Late night refreshment

Monday 23.00 to 23.45
Tuesday 23.00 to 23.45
Wednesday 23.00 to 23.45
Thursday 23.00 to 23.45
Friday 23.00 to 23.45
Saturday 23.00 to 23.45
Sunday 23.00 to 23.45

O. Hours premises permitted to be open to the public

Monday 11.00 to 23.45
Tuesday 11.00 to 23.45
Wednesday 11.00 to 23.45
Thursday 11.00 to 23.45
Friday 11.00 to 23.45
Saturday 11.00 to 23.45
Sunday 11.00 to 23.45

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. The applicant for the licence or his nominated representative will receive and respond to complaints.
2. The air conditioning system and the cooking extraction system will be switched off when not required.
3. The air conditioning system and the cooking extraction system, when switched on, shall not be audible at the boundary of any noise sensitive premises*.

4. The disposal of refuse into outdoor storage receptacles will not take place between 23.00 and 07.00 hours.
5. Arrangements will be put in place to ensure waste collection contractors do not collect refuse between 19.00 and 07.00 hours.
6. Arrangements will be put in place to ensure that deliveries of consumables will not take place between the hours of 19.00 and 07.00 hours.
7. Staff who are on duty beyond 23.00 hours will be given appropriate instructions and training to encourage customers to leave the premises quietly and not to loiter in the vicinity of the premises.
8. Prominent and clear notices shall be displayed requesting customers to leave the area quietly and respect local residents.
9. Prominent and clear notices shall be displayed confirming the opening hours of the premises.

* For the purposes of condition 3 above, noise sensitive premises shall include premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use), places of worship (during recognised times and days of worship) and any other premises used for any other purpose likely to be affected by the music noise.

7. Reasons for the Decision

The Sub-Committee carefully considered the evidence, both written and oral, supplied by the parties and has decided to grant the application in part, in so far as it considers it reasonable to do so in line with the licensing objectives.

The Sub-Committee accepted that at present there are numerous occasions where noise and a degree of anti-social behaviour occur as a result of the premises being open. They considered that permitting the sale of late night refreshment for an extended period could have the effect of exacerbating the current problems being experienced.

The Sub-Committee considered that even with the imposition of the conditions suggested by the Council's Environmental Protection Officer and agreed by the Applicant, these would be insufficient in themselves to counter the problems of noise, anti-social behaviour and crime and disorder. The Sub-Committee particularly noted the fact that due to the ongoing nature of the problems over an extended period, it had previously been necessary to impose a Closing Order on the premises in 2002. In light of the level and nature of objections, it was clear to the Sub-Committee that serious problems of crime and disorder and nuisance were still being experienced on a frequent basis during the hours that the premises were open.

The Sub-Committee acknowledged that these problems may not be wholly attributable to this premises. However, they were satisfied that there was sufficient evidence to show that patrons of the premises contributed to some extent to the problems of public order being experienced in the area. They particularly noted the evidence of Sergeant Howlett that should the opening hours be restricted back to 23.00 hours that he had no doubt that the problems of crime and disorder would be reduced.

However, against that, the Sub-Committee were mindful of the Applicant's need to operate a commercially viable business.

Nevertheless, at this time, bearing in mind the geographical location of the premises, its proximity to a large number of residential properties and strong objections raised by local residents, the Police and Environmental Health, the Sub-Committee considered it was not reasonable to extend the hours during which licensable activities took place, any more significantly than those permitted above.

Furthermore, it considered that it was reasonable for persons living in the vicinity to have a degree of certainty as to when the premises and any associated increase in nuisance and crime and disorder would cease.

It also took the view that the conditions imposed on the licence were necessary for the promotion of the licensing objectives.

Date: 28/11/05

Licensing Sub-Committee Chairman: Cllr J A G Hutchins

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Decision notified to interested parties on 29 November 2005