

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: Kebab House, Station Road, New Milton

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Tuesday 29 November 2005 at 9.00 am.**

1. Members of the Licensing Sub-Committee

Councillor W H Dow – Chairman
Councillor A R Tinsley
Councillor G M Walmsley

2. Parties and their Representatives attending the Hearing

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

Mr & Mrs Mather – Objectors
PC Jennings – Witness for the objectors

3. Other Persons attending the Hearing

None.

4. Parties not attending the Hearing

Mr J A Salter

5. Officers attending to assist the Sub-Committee

Mrs N Heaselden – Legal Advisor
Mrs M Dunsmore - Clerk

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

- L. Late night refreshment: indoors
Monday 23.00 to 00:00
Tuesday 23.00 to 00:00
Wednesday 23.00 to 00:00
Thursday 23.00 to 00:00
Friday 23.00 to 00.00
Saturday 23.00 to 00:00
Sunday 23.00 to 00:00

Hours premises to be open to the public

- O. Monday 09.00 to 00.00
Tuesday 09.00 to 00.00
Wednesday 09.00 to 00.00
Thursday 09.00 to 00.00
Friday 09.00 to 00.00
Saturday 09.00 to 00.00
Sunday 09.00 to 00.00

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. The licensee or nominated representative will receive and respond to complaints within a reasonable period of time.
2. The air conditioning system and the cooking extraction system will be switched off when not required.
3. The air conditioning and cooking extraction system, when switched on, shall not be audible at the boundary of any noise sensitive premises. 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 noise.
4. The disposal of refuse into outdoor storage receptacles will not take place between 23:00 – 07:00 hours.
5. Arrangements will be put in place to ensure that waste collection contractors do not collect refuse between 19:00 – 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 – 07:00 hours.
7. So as to minimise disturbance to local residents late at night staff 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. At each exit point a prominent and clear notice will be displayed to the effect that customers should be considerate to local residents by leaving the premises and the area quietly.

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 anti-social behaviour occur as a result of the premises being open. They considered that the antisocial behaviour experienced by the neighbours and witnessed by PC Jennings would be extended too far into the early hours of the morning if the premises were allowed to open up to 2am.

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. It was clear to the Sub-Committee that nuisance and anti social behaviour were still being experienced on a frequent basis during the hours that the premises were open.

The Sub-Committee acknowledged that these problems are not attributable to the way the Kebab House is operated by the current owner but are occurring as a result of the premises being open. The Sub committee accepted that the Kebab House was an attraction to people leaving local pubs and large numbers of people would gather in one place outside the premises. The Sub-Committee felt it was unreasonable for local residents and businesses to be subjected to large gatherings of noisy drunken people into the early hours of the morning

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 residential properties and the strong objections raised by local residents and coherent evidence given by PC Jennings as their witness 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.

Date: 29 November 2005

Licensing Sub-Committee Chairman: Cllr W H Dow

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Decision notified to interested parties on 1 December 2005