

LICENSING PANEL SUB-COMMITTEES

MONDAY, 18 JANUARY 2016

PRESENT: Councillors Malcolm Alexander, Asghar Majeed and John Bowden.

Also in attendance: Councillor Shelim, Bilal Kutlbay (Istanbul Kebab House), Cemelettin Kutlubay (Istanbul Kebab House), PS Jemma Calver (Thames Valley Police), PC Paul Stott (Thames Valley Police), Ben Clarke (Thames Valley Police), David Dadds (to represent Istanbul Kebab House).

Officers: Tanya Leftwich, Roxana Khakinia (Shared Legal Solutions), Kieran Clough (Assistant Licensing Officer) and Steve Smith (Licensing Officer).

DECLARATIONS OF INTEREST

Councillor Bowden informed everyone present that he lived approximately 200 yards from the premises.

CONSIDERATION OF APPLICATION UNDER THE LICENSING ACT 2003 - APPLICATION FOR A PREMISES LICENCE (LP 02/15)

FIRE EVACUATION INSTRUCTIONS

The Clerk explained that in the event of the fire alarm sounding or other emergency, that everyone would need to leave the building quickly and calmly by the nearest exit and congregate on the cobbled area, outside Hamptons Estate Agents.

ELECTION OF CHAIRMAN

RESOLVED: That Councillor Majeed be elected as Chairman for the duration of the meeting.

It was announced that the meeting was being recorded.

APOLOGIES FOR ABSENCE

None.

CONSIDERATION OF APPLICATION UNDER THE LICENSING ACT 2003 – APPLICATION FOR A PREMISES LICENCE (LP 02/15)

The Chairman welcomed all the parties to the meeting, introduced the Sub-Committee Members and explained the procedure. Attendees were issued with a hard copy of the procedure running order.

The Council's Licensing Officer, Steve Smith, introduced the application for Members to consider. He explained that it was an application for a Premises Licence for the premises known as Istanbul Kebab House, 67 Victoria Street, Windsor SL4 1EH.

It as noted that the new premises licence application covered two licensable activities which were late night refreshment and the sale by retail of alcohol for home deliveries only. The Sub-Committee were informed that for the sale of alcohol the applicant had requested Monday - Sunday 11:00 – 01:00 and for late night refreshment Mondays, Tuesdays & Wednesday 23:00 – 01:40, Thursdays 23:00 – 03:40, Fridays & Saturdays 23:00 – 05:00 and

Sundays 23:00 – 03:40. It was noted that this application was requesting an additional hour until 05:00 on a Friday and Saturday night and on the Sunday before each Bank Holiday, Christmas Eve and New Years Eve.

The Council's Licensing Officer informed Members that the operating schedule which included 34 conditions could be found on pages 31 & 32 of the agenda. It was suggested that Members might wish to add these conditions to the licence if they were minded to grant it.

The Council's Licensing Officer went onto explain that the premises current operating licence could be found on page 53 of the agenda. It was noted that the current licence allowed the premises to trade (late night refreshments) on Mondays – Wednesdays 23:00 – 01:40, Thursdays 23:00 – 03:40, Fridays & Saturdays 23:00 – 04:00 and Sundays 23:00 – 03:40. The sale of alcohol hours on the current licence were 23:00 – 01:00 Mondays – Sundays. Members were informed that the premises opening hours were Mondays – Wednesdays 11:00 - 01:00, Thursdays 11:00 – 03:40, Fridays & Saturdays 11:00 – 04:00 and Sundays 11:00 – 03:40.

It was noted that in the new application condition 11 from the current licence had been removed which was 1 SIA door supervisor wearing a high vis jacket to be present on Thursday from midnight to closing.

The Council's Licensing Officer informed Members that the premises under the current management had been operating successfully since 2006 / 2007 and throughout this period the owner had been found to be extremely co-operative on the occasions that the Council had had to make contact. Members were referred to plans of the premises and local vicinity and the location of Councillor Bowden's residence was made known to Mr D Dads at his request.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and the objector. The Panel also heard oral evidence provided from the following:

- Mr S Smith (Licensing Officer at the Royal Borough of Windsor & Maidenhead)
- Mr D Dadds (Counsel for Istanbul Kebab House)
- Mr B Kutlubay (Istanbul Kebab House)
- Mr C Kutlubay (Istanbul Kebab House)
- Mr B Clarke (Police Licensing Officer - Thames Valley Police)
- PS J Calver (Thames Valley Police)

The Council's Licensing Officer explained that objections had been raised by the Thames Valley Police, who were concerned that the Crime and Disorder and Public Nuisance Licensing Objectives would be undermined if this licence was granted until 05:00 on a Friday and Saturday night and on the Sunday before each Bank Holiday, Christmas Eve and New Years Eve. It had been requested that one of the representations made by the Thames Valley Police for the 28.11.15 be discarded by the Sub-Committee which could be found on page 51 of the agenda. It was noted that Mr Dadds had requested additional information from the Thames Valley Police which had been emailed to all parties on the Friday before the hearing. The Council's Licensing Officer went onto explain that Ward Councillor Jack Rankin (page 62) had objected to the lateness of this licence as he was concerned that the Public Nuisance Licensing Objective would be undermined if the licence was granted. It was noted that an additional email had been received from Councillor Rankin at the weekend which padded out his original objection; the Legal representative explained that this additional email could not be accepted due to its lateness. Members noted that no objections had been received by the licensing department from local residents or other responsible authorities.

The Sub-Committee were reminded that they could, in this case, either grant the application for the licence, modify the application, or reject it in part or in its entirety. However the determination of the application had to be made with regards to the licensing objectives which were:

- The prevention of crime and disorder
- Public safety.
- The prevention of public nuisance.
- The protection children from harm.

The Council's Licensing Officer advised the Sub-Committee to have regard for national guidance and the Council's own Licensing Policy.

Questions to the Licensing Officer

In response to questions, the following points were made:

- The accuracy of the plan was queried as whilst it did show multiple licenced premises in the area it did not show a private club at No.5 on St Leonards Road.
- That this application would not be a unique premises licence as other premises in the area already offered home deliveries although were not open until 05:00.
- That the 'off-licence' element referred to alcohol sales for home deliveries only.
- That the catchment area for customers to the premise were premises in William Street that traded until 04:00.
- That licenced premises were only allowed to serve up until their licensed hours.

Applicant's case

Mr Dadds presented the applicant's case and started by thanking Members for reading the papers in front of them. He informed Members that his client wished to remove condition 11 listed in their current licence which he believed the Thames Valley Police were happy with and also extend their hours as detailed by the Council's Licensing Officer. It was noted that the premise in reality would probably only trade until 04:30 but that his client had stated 05:00 as it gave the owner some flexibility. Mr Dadds explained that his client would probably only trade until 05:00 if the nearby nightclub applied for a TENS.

Mr Dadds highlighted that his clients request in 2008 to extend his hours until 04:00 had been objected to in a similar way by Thames Valley Police who had mentioned six incidents that had occurred in 2005 which had been disputed at the time. It was noted that the Thames Valley Police had felt that the premise had undermined the licensing objectives – Mr Dadds requested that the Sub-Committee looked at the premises history over the last year. It was noted that in 2015 three incidents had been listed, one of which had since been removed. Mr Dadds explained that 2014s history also showed that the premise could operate effectively.

Mr Dadds explained that the business was a family run business which comprised of three brothers and a member of staff and that between the three brothers they had a total of ten children which they supported / financed. It was noted that the premise was very supportive of the Licensing Team and hoped the Thames Valley Police would have positive comments to say about the premise and its management.

Mr Dadds informed the Sub-Committee that the crime that had occurred on the 15 February 2015 (page 49 of the agenda) was down to a dispute between a possibly intoxicated customer from the local nightclub and a taxi driver and had nothing to do with Istanbul Kebab House. It was noted that whilst Mr Dadds felt taxi marshalling to be a good idea someone had taken the view that the location near Istanbul Kebab to be the best collection point.

Mr Dadds went onto explain that the crime that had occurred on the 11 April 2015 (page 50 of the agenda) was not linked to Istanbul Kebab House.

Mr Dadds informed the Sub-Committee that the crime on page 51 of the agenda had since been withdrawn by the Thames Valley Police.

It was stated that notices were displayed in the premise asking customers to dispose of litter responsibly and it was noted that Environmental Protection had not objected with any anti-social behaviour concerns.

Objector's case

Mr Clarke (Thames Valley Police) informed the Sub-Committee that the Police had always found the owners very helpful when they had had dealings but did feel this request would equate to a risk to the wider community. Mr Clarke went on to explain that in central Windsor there had been a 70% increase in violence against a person of which 42-54% offences happened between midnight and 04.00 hours on a Friday and Saturday night. It was noted that the incidents included in the agenda were incidents officers had felt relevant / linked to the premises in question. It was noted that the Thames Valley Police did their best to convince people to leave central Windsor quietly before things progressed.

Mr Dadds objected to Mr Clarke referring to new information, in particular the crime statistics mentioned, and for him bringing witnesses on the day without having given five days notice of their names. Mr Clarke responded by informing the Sub-Committee that the crime statistics he had provided related to the general area and was available online in the public domain.

10.43am - The Sub-Committee adjourned the meeting.

10.55am – The Sub-Committee returned and the legal officer requested that Mr Clarke only covered information already submitted by the Thames Valley Police in the agenda and that the crime statistics be disregarded by the Sub-Committee. PC Stott (Thames Valley Police) left the meeting.

Mr Clarke continued by explaining that whilst crime was at a relatively low level in the area concerned there had been an increase in crime which was resulting in officers having to deal with issues on a daily basis.

(Councillor Shelim arrived)

Mr Clarke informed the Sub-Committee that there were a large number of intoxicated people who made poorer rational decisions and that the longer premises were open the longer people were in the area. It was noted that the Thames Valley Police needed people to disperse quickly especially with the premises in question being a short walk away from the largest nightclub in Windsor that could hold a capacity of 1300 people. Mr Clarke stated that he believed the premise in question to be the main food establishment for this nightclub's customers. It was noted that the premise in question could not currently trade past 04:00 which meant that nightclub clientele had to leave the club earlier if they wanted to get something to eat before they went home and that the additional hour requested would therefore be problematic as it would cause additional crime and disorder issues.

It was noted that the removal of door staff on Thursday and Sunday evenings had not been objected to by the Thames Valley Police, who had just objected to the extension of the hours.

Questions to the Objectors

In response to questions, the following points were made:

- The Thames Valley Police felt the flash point to be Istanbul Kebab House rather than the local nightclub.
- That the local nightclub had been open approximately ten years in its current format and that before that it had been a cabaret outfit. It was noted that the nightclub had been closed recently for a refurbishment.

- That if this licence was granted it would result in an increase in customers to the Istanbul Kebab House.
- That a change in CCTV system at the Istanbul Kebab House had occurred in December 2015.
- That the Thames Valley Police did not object to the removal of condition 11 included in the current licence not being included in the new application.
- That fights in the nearby vicinity would be difficult to miss.
- That the allegation of non-co-operation by the premise had been investigated by D.Pearmain.
- That the capacity figures on a Friday and Saturday night at the local nightclub varied week to week but that it should be assumed that the club was up to capacity.

Questions to the Applicant

In response to questions, the following points were made:

- That appropriate checks were made when making home deliveries.
- That approximately ten bottles of alcohol were sold per week via the home delivery service as part of a package.
- That staff at the premise did go beyond their remit and assisted matters outside the premise and at the taxi rank and did use the radio link.
- That this premise was the owner's livelihood.
- That Condition 28 was being managed now and would be if the extension to hours was granted. It was noted that no complaints had been received to date.
- That the premise could hold approximately 20-30 people but usually had 10 people in at a time maximum.
- That people eating after drinking was generally seen as a positive thing as it helped people sober up.

Objector's Summary

Mr Clarke summarised by stating that any increase in hours would give people an excuse to loiter in the area for longer. It was noted that the Thames Valley Police had noticed that no additional measures for the additional risk had been made in the new application.

PS Calver added that the dispersal issues were the Thames Valley Police's main concern and that by extending the hours would keep people in the Town Centre for longer, increasing dispersal issues.

Applicant's Summary

Mr Dadds summarised by stating that he believed the Thames Valley Polices position was a policy one to object to an application and requested that the Sub-Committee treated this application on its own merits. Mr Dadds went onto explain that the Thames Valley Police had mentioned anecdotal evidence and non-recorded crime which could not be considered. The Sub-Committee were asked to look at the evidence only and give it appropriate weighting. It was stated that the premise was a lawful business which operated efficiently to achieve the standard expected. Mr Dadds explained that the owner co-operated with the Thames Valley Police and refuted the 'not fit for purpose' comment. It was noted that the current licence had been granted to his client in 2008 and no review had since taken place. Mr Dadds stated that he hoped the Sub-Committee would look at the evidence and grant the licence requested.

Licensing Officer's Summary

The Licensing Officer summarised by explaining that the Sub-Committee had heard today that the applicant would be happy to accept 04:30 if 05:00 was not considered an option and that

the Thames Valley Police had not objected to condition 11 not being included in the new licence, if granted. The Sub-Committee were asked to add the conditions on pages 31 & 32 of the agenda to the licence if they were minded to grant it.

The Sub-Committee retired to make their deliberations at 12.05pm.

Decision

The Sub-Committee after very careful consideration decided that the application for a premises licence be granted with the following hours of licensable activities and with the following conditions applied, subject to the surrender of the existing licence:

- Late night refreshment (indoors)

Monday to Wednesday	23:00 – 01:40
Thursday	23:00 – 03:40
Friday and Saturday (and on the Sunday before each Bank Holiday, Christmas Eve and New Years Eve)	23:00 – 04.30
Sunday	23:00 – 03:40

- The opening hours to the public:

Monday to Wednesday	11:00 – 01:40
Thursday	11:00 – 03:40
Friday and Saturday (and on the Sunday before each Bank Holiday, Christmas Eve and New Years Eve)	11:00 – 04.30
Sunday	11:00 – 03:40

- The sale by retail of alcohol for consumption off the premises only:

Monday – Sunday	11:00 – 01:00 (for home delivery only).
-----------------	---

Conditions:

Prevention of Crime and Disorder

1. The licence holder or his representative to be a member of the local Pub watch scheme.
2. Installation and operation of a CCTV system, in line with guidance provided by Thames Valley Police.
3. Two cameras inside the premises.
4. Two outside facing cameras in opposite directions along Victoria Street.
5. All tapes to be kept for a minimum of 30 days and provided to the police if required.
6. Clear and legible notices to be displayed informing customers that CCTV is in operation.
7. Installation and maintenance of a panic alarm system connected directly to the Police.
8. The licensee will report all incidences of a criminal nature that may occur on the premises to the police.
9. At least two members of staff to be present on the premises whenever authorised licensable activity takes place.
10. All seasonal variations on the premises licence to have a minimum of Two (2) SIA door staff to be on the premises from Midnight until Close on each specific date.
11. Two (2) Security Industry Authority (SIA) licensed door supervisors wearing high visibility jackets to be present on or in the immediate vicinity of the premises on Friday and Saturday from midnight until closing.
12. Retail Radio to be used by staff members.
13. The premises licence holder (hereinafter The Licensee) shall ensure that at all times when the premises are open for any licensable activity, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.

14. Except for the delivery service, no alcoholic drinks shall be sold or supplied for consumption off the premises.
15. The licensee shall ensure that all material staff will undertake training in their responsibilities in relation to the sale of alcohol, particularly with regard to drunkenness and underage persons. New delivery staff will be trained before commencing their duties. All established and material staff would be subject to periodic refresher training (not normally less than six monthly intervals). Records will be kept of all training, which will include the English required for the delivery service.
16. Orders for delivery service are only to be taken over the telephone.
17. Alcohol can only be delivered with a food order.
18. The sale and supply of alcohol shall be ancillary to food.
19. The sale and supply of alcohol shall be made to a person occupying a dwelling house.
20. A sign is to be displayed on the premises that no alcohol is sold on the premises.
21. No alcohol is to be displayed on the premises.
22. Only beer and lager up to 6.5% and only non-fortified wines to be sold.

Public Safety

23. Appropriate fire safety procedures are in place and shall be maintained including fire extinguishers (foam, H2O and CO2), fire blanket, internally illuminated fire exit signs, numerous smoke detectors and emergency lighting.
24. All appliances are inspected annually.
25. All emergency exits shall be kept free from obstruction at all times.

Prevention of Public Nuisance

26. All customers are asked to leave quietly.
27. Clear legible notices will be displayed to remind customers to respect neighbours and leave quietly.
28. No queuing to be allowed on the public highway.
29. The applicant to provide a litter bin and to ensure all waste and litter is collected from the area outside the premises on Victoria Street.
30. Ventilation and extract systems are designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties.
31. Trade waste agreement to be maintained at all times and all refuse generated by the premises will be dealt with appropriately and efficiently.

Protection Children from Harm

32. A suitably worded public notice of sufficient size and clarity must be written on all menus of the business where alcohol is to be offered for sale, advising customers that they may be asked to produce evidence of their age and card details.
33. A refusal book will be kept at the premises.
34. The delivery driver will check details of the person ordering and receiving to ensure that they are both over 18 and the owner of the credit card.

In making their decision, the Sub-Committee also had regard to national guidance and the Council's own Licensing Policy.

RESOLVED: That the application for a premises licence be granted with the following hours of licensable activities and with the following conditions applied, subject to the surrender of the existing licence:

- **Late night refreshment (indoors) Monday to Wednesday 23:00 – 01:40
Thursday 23:00 – 03:40
Friday and Saturday (and on the Sunday before each Bank Holiday, Christmas Eve and**

New Years Eve)
04.30
Sunday

23:00 –

23:00 – 03:40

- The opening hours to the public:
Monday to Wednesday 11:00 – 01:40
Thursday 11:00 – 03:40
Friday and Saturday (and on the Sunday before each Bank Holiday, Christmas Eve and New Years Eve) 11:00 – 04.30
Sunday 11:00 – 03:40
- The sale by retail of alcohol for consumption off the premises only:
Monday – Sunday 11:00 – 01:00 (for home delivery only).

Conditions:

Prevention of Crime and Disorder

1. The licence holder or his representative to be a member of the local Pub watch scheme.
2. Installation and operation of a CCTV system, in line with guidance provided by Thames Valley Police.
3. Two cameras inside the premises.
4. Two outside facing cameras in opposite directions along Victoria Street.
5. All tapes to be kept for a minimum of 30 days and provided to the police if required.
6. Clear and legible notices to be displayed informing customers that CCTV is in operation.
7. Installation and maintenance of a panic alarm system connected directly to the Police.
8. The licensee will report all incidences of a criminal nature that may occur on the premises to the police.
9. At least two members of staff to be present on the premises whenever authorised licensable activity takes place.
10. All seasonal variations on the premises licence to have a minimum of Two (2) SIA door staff to be on the premises from Midnight until Close on each specific date.
11. Two (2) Security Industry Authority (SIA) licensed door supervisors wearing high visibility jackets to be present on or in the immediate vicinity of the premises on Friday and Saturday from midnight until closing.
12. Retail Radio to be used by staff members.
13. The premises licence holder (hereinafter The Licensee) shall ensure that at all times when the premises are open for any licensable activity, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.
14. Except for the delivery service, no alcoholic drinks shall be sold or supplied for consumption off the premises.
15. The licensee shall ensure that all material staff will undertake training in their responsibilities in relation to the sale of alcohol, particularly with regard to drunkenness and underage persons. New delivery staff will be trained before commencing their duties. All established and material staff would be subject to periodic refresher training (not normally less than six monthly intervals). Records will be kept of all training, which will include the English required for the delivery service.
16. Orders for delivery service are only to be taken over the telephone.
17. Alcohol can only be delivered with a food order.
18. The sale and supply of alcohol shall be ancillary to food.

19. The sale and supply of alcohol shall be made to a person occupying a dwelling house.
20. A sign is to be displayed on the premises that no alcohol is sold on the premises.
21. No alcohol is to be displayed on the premises.
22. Only beer and lager up to 6.5% and only non-fortified wines to be sold.

Public Safety

23. Appropriate fire safety procedures are in place and shall be maintained including fire extinguishers (foam, H2O and CO2), fire blanket, internally illuminated fire exit signs, numerous smoke detectors and emergency lighting.
24. All appliances are inspected annually.
25. All emergency exits shall be kept free from obstruction at all times.

Prevention of Public Nuisance

26. All customers are asked to leave quietly.
27. Clear legible notices will be displayed to remind customers to respect neighbours and leave quietly.
28. No queuing to be allowed on the public highway.
29. The applicant to provide a litter bin and to ensure all waste and litter is collected from the area outside the premises on Victoria Street.
30. Ventilation and extract systems are designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties.
31. Trade waste agreement to be maintained at all times and all refuse generated by the premises will be dealt with appropriately and efficiently.

Protection Children from Harm

32. A suitably worded public notice of sufficient size and clarity must be written on all menus of the business where alcohol is to be offered for sale, advising customers that they may be asked to produce evidence of their age and card details.
33. A refusal book will be kept at the premises.
34. The delivery driver will check details of the person ordering and receiving to ensure that they are both over 18 and the owner of the credit card.

MEETING

The meeting which began at 10.00am, ended at 12.05pm (deliberations ended at 12.45pm).

ADDITIONAL INFORMATION

The meeting, which began at 10.00 am, finished at 12.05 pm

CHAIRMAN.....

DATE.....