

Minutes of a meeting held in the Conference Room, Riverside, Lowestoft  
on **Monday, 22 August 2016 at 3.30 pm**

Members present:

Councillors P Ashdown, N Brooks and A Green  
Councillor Y Cherry (Substitute and as an observer)

Officers present:

C Evans (Licensing Services Manager), I dePrez (Senior Solicitor) and N Wotton (Democratic Services Manager)

Also Present:

Mr J Corkett, Licensing Officer – Suffolk Constabulary  
PCSO Santano – Suffolk Constabulary  
Mr K Baha-Aldin – Owner of the Marina Kebab

Member in attendance:

Councillor M Rudd, Cabinet Member for Community Health & Safety

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**1 APPOINTMENT OF CHAIRMAN**

Consideration was given to the appointment of Chairman for the Sub-Committee Hearing, and it was

**RESOLVED**

That Councillor N Brooks be appointed as Chairman for this Sub-Committee Hearing.

**2 APOLOGIES / SUBSTITUTES**

No apology for absence was received.

**3 DECLARATIONS OF INTEREST**

No declarations of interest were made.

**4 DECLARATIONS OF LOBBYING**

No declarations of lobbying were made.

**5 PREMISES LICENCE VARIATION APPLICATION - MARINA KEBAB, LOWESTOFT**

Purpose of the Hearing

The Sub-Committee considered a report, the purpose of which was to consider an application for a premises licence variation, to extend the hours for Late Night Refreshment.

The Licensing Services Manager advised that the Sub-Committee had the following options:

1. Grant the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003.
2. Grant the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee

considers necessary for the promotion of the licensing objectives, and any condition which must be included in the licence in accordance with the Licensing Act 2003.

3. Refuse the application.

Members were advised of a minor typographical error within the report in section 1.1. The current licenced hours were Monday to Wednesday and Sunday 23.00 to 01.00, not Monday to Wednesday and Saturday, as stated in the report.

Depending on the decision of the Sub-Committee, the Applicant and the objectors had rights of appeal to the Magistrates' Court. When announcing its decision, the Sub-Committee was asked to state its reasons.

A Member took the opportunity to clarify the current opening times which were being requested, as one section of the form stated that the premises would open at 2.00 pm and in another section it stated 3.00 pm. The Licensing Services Manager reported that the premises could choose its opening times during the day. The Late Night Licensable activities commenced from 23.00 hours only and permission was therefore only required when opening later than 23.00 hours.

The Senior Solicitor took the opportunity to confirm that all those present had received copies of the additional witness statements, which were circulated separately to the papers for this meeting. The meeting was then adjourned to ensure that all those present had sufficient time to read through the Police witness statements.

THE MEETING WAS ADJOURNED AT 3.40PM AND RECONVENED AT 3.55PM.

Representations by the Applicant

The Applicant stated that business was currently poor and he needed an extra hour to trade, otherwise he would not be able to survive. He reported that he was happy to have security for the last hour that the premises were open and he would install CCTV as well. As the Applicant had nothing else to add to what was contained within the report, those present were invited to ask questions of the Applicant.

Q The Police have witnessed your staff supplying food after 3.00am which is not allowed. Why did this happen?

A We stop customers coming in to the premises at 2.50am, so that we can serve them before 3.00am. However many of our customers are drunk and they argue, they come into our premises and will not leave. I need that extra hour so that I can deal with all of these customers and get them served and out of our premises. Even an extra half an hour would help. It is hard to manage the situation. We need to get security.

Q Your licence allows you to supply and sell hot food no later than 3.00am, so you should not be providing or selling food after 3.00am. The Police have seen you doing this on several occasions.

A Our oven can only hold 4 pizzas at a time and sometimes it is faulty. If someone has paid for a pizza and the oven is not working properly, I cannot cook it as quickly as I need to and the customers will get angry if they do not receive the food they have paid for. I can manage at 2.00am but more customers come out of the night clubs around 3.00am and I need to be able to stay open later to serve these people. At the moment I only let customers into the premises until 2.45am so that they will be served and gone by 3.00am but sometimes the crowds are so large that I cannot get everyone served in time.

Q Why do you not stop taking orders at 2.50am, then the pizzas should be cooked by 3.00am and there would be no problem?

A Sometimes there are very large crowds and we cannot cook enough food to serve them all that quickly.

Q Did the Applicant speak to the Police about wanting to open for an extra hour, prior to submitting this application?

A No.

Q Would it be possible for last orders to be at 2.30am then you would definitely have enough time to cook all of the ordered food by 3.00am?

A Business is very bad at the moment, we are losing trade and we could not afford to do that, the business would close.

Q Having an SIA qualified door man for only an hour would be costly and there might be problems in recruiting to such a role.

A I know someone who is willing to do it and I think it will be a big help.

Q What will be the impact on crime and disorder if this application to extend the opening hours is granted?

A The Police will be expecting an increase in crime and disorder. When the nightclubs currently empty at 3.00 am, the revellers disperse as there is nowhere else for them to go. If there is a reason for them to linger in the area, ie somewhere to get food, that will lead to rowdy behaviour, more noise and possible conflict. It will extend the time period for possible problems and it would cause difficulties as it is mainly a residential area. There are also few taxis around that late at night, so revellers would be left in the area, hanging around.

The Applicant reported that he had been a taxi driver for 7 years and the taxi trade was a 24 hour business, there were always taxis available outside his premises, waiting for business.

Q The Applicant has mentioned that he wants to use the additional hours opening on Friday and Saturday nights but he has also asked for additional time on other days as well. Why is this?

A All takeaways do that. We need to have the opportunity to be open for as long as possible to maximise trade and ensure that we can carry on with our business.

#### Representations from Mr Corkett, Suffolk Constabulary

Mr Corkett reported that the timely dispersal of people leaving the nightclubs was vital. It was really important that people didn't hang around in the area, as that would lead to problems and disturbance. Notleys and Faith nightclubs were both opposite the Marina Kebab and both closed at 3.00am. This meant that 400 to 500 people were leaving those premises at the same time. If the extension to opening hours was permitted, this would be the latest opening takeaway in the area and a large amount of these people would be drawn to the Marina Kebab for hot food. This would lead to additional noise, disturbances and possible anti social behaviour, in what was predominantly a residential area, which would lead to a lot of complaints.

Mr Corkett advised that this Applicant only took over these premises two months ago and the Police have already encountered problems with his management of the premises, particularly his lax attitude. We did not have these issues with the previous owner. In the past there were issues in the area with bad behaviour but the previous owner worked with the police to review processes and procedures and there was a significant reduction in anti social behaviour. We are concerned that we will experience an increase in problems again if the additional hour is allowed. No other takeaway is open this late.

It is a shame that the Applicant did not think to speak to the Police first about wanting to increase his opening hours. We are concerned that it will be difficult to employ security for the door for only an hour, so late at night, and there are concerns about the resulting increase in litter and anti social behaviour. Dealing with additional anti social behaviour is not a good use of Police time because the Police are then not available to deal with other issues which may be occurring, it is not in the public interest.

There are already issues with this premises and an extension of the opening hours will only make the situation worse.

### Closing Submissions

The Senior Solicitor directed those present to Page 12 of the meeting papers, Section D where the Applicant had stated that 'I will employ SIA registered doormen Thursdays, Fridays and Saturdays from 02.00 – 04.00', rather than for one hour, as stated by the Applicant. The Licensing Services Manager reported that if the Sub-Committee agreed to increase the hours of opening, these hours would become a condition that the Applicant would need to honour.

The Senior Solicitor referred to Marina Kebab's varied menu and the fact that the premises could open earlier in the day if it wanted. In response to a question, the Applicant confirmed that there were very few customers during the day. He accepted that the aim of the application under consideration was to stay open later in order to gain custom from the revellers leaving the nightclubs at 3.00 am.

A Member queried how many people could comfortably wait in the Marina Kebab. The Applicant reported that it could contain 20 people.

The Senior Solicitor advised that the Police had raised concerns about customers hanging around the Marina Kebab and the vicinity, which would disturb the local residents and it was anticipated that there would be a significant increase in anti social behaviour. The Applicant had agreed to install CCTV cameras and to employ a door supervisor for the last hour of opening.

The Applicant reported that the additional hour would make a significant difference and would allow him to serve his customers and clear the area more quickly. Any additional opening time would help as his business was really suffering. If the hours were extended to 3.30 am, he would ensure that there was no-one in the premises at that time.

Mr Corkett reported that the people leaving the nightclubs were not causing problems at the moment. They were dispersing quickly and things were generally orderly. If there was a nearby venue to go to, they would congregate there instead of going home and this would lead to anti social behaviour and problems. There had been a number of licence breaches with this Applicant in charge of the premises and these were being investigated. There had been no problems with this premises when the previous owner was in charge.

### Legal Advice

The Senior Solicitor advised that the breaches were not for consideration at this meeting and that the Sub-Committee should focus upon the four Licensing Objectives and how these would be affected by this application.

THE MEETING WAS ADJOURNED AT 4.15PM AND RECONVENED AT 5.25PM.

The Chairman explained that the Sub-Committee had considered the application for a premises licence variation, to extend the hours for Late Night Refreshment.

Having heard from the Licensing Services Manager and considered the representations from the Applicant and Suffolk Constabulary, it was concluded by the Sub-Committee that the application to extend the licence should be refused.

### Reasons for Decision

This is an application by Mr Karzan Baha-Aldin for a variation of the existing premises licence of Marina Kebab, 4 Pier Terrace Lowestoft.

The existing licence allows only late night refreshment as a licensable activity until 0100 hours from Sunday to Wednesday and until 0300 Thursday to Saturday. This application requests an extension until 0130 hours Sunday to Wednesday and 0355 hours Thursday to Saturday and to 0400 hours on Christmas Eve, Boxing Day, New Years Eve and on Sundays prior to Bank Holidays.

This hearing is taking place because the Police, as the Responsible Authority, made a representation expressing concern under the licensing objectives of Preventing Crime and Disorder and Preventing Public Nuisance.

At the hearing today, the Police were represented by Mr John Corkett, accompanied by PCSO Santano.

The nub of the Police case is that Marina Kebab is directly opposite 2 of the largest night venues in the Town, Faith and Notleys, which operate until 0300 hours at weekends. The Police are concerned that if this application is granted, large numbers of people leaving those premises would linger in the area because the Marina Kebab remained open with resulting risk of crime and disorder (fights and other anti-social action) and public nuisance, particularly from noise. We read witness statements from Inspector Richard Hill, Sergeant Winston Freeman and Mr Corkett, which explained this issue. Sergeant Freeman also says that he has had to warn staff at the premises several times in recent months about the unlawful service of food after the 0300 deadline. We were advised by our Solicitor today that although unlawful licensable activity is a matter of concern, we must focus our attention on the relevant licensing objectives and not seek to punish the applicant by our decision, because that is for the Court.

At the hearing today, Mr Baha-Aldin presented his own case. He said that business had not been very good and he acknowledged that he was hoping to catch the post nightclub trade by having this extension of hours. He denied acting unlawfully and said that this extension would enable him to deal with customers in an orderly way.

It will be apparent to all who attended this hearing that we have taken quite a long time over our decision and found it a difficult one to make. We strongly sympathise with Mr Baha- Aldin's desire to earn a living.

The Licensing Act 2003 requires us to make our decision with regard to what is appropriate in order to promote the four statutory licensing objectives, the most relevant of which here is the Prevention of Crime and Disorder. With considerable reluctance, because of our sympathy for Mr Baha-Aldin, we have concluded that the Police case is persuasive. We think that if we granted this application, for an extra 55 minutes, at the weekend, or even for an extra 30 minutes as was indicated as a possibility, large numbers of night club patrons would linger in this area and be much harder to disperse, creating an unacceptable public nuisance and crime and disorder. Mr Baha-Aldin offered to employ registered door supervisors from 0200 to 0400 on the relevant days. We do not think that this is likely to alleviate the problem sufficiently.

We therefore refuse this application.

Any person aggrieved by this decision may appeal to the Ipswich Magistrate's Court within 21 days of receiving this decision.

### **RESOLVED**

That, having taken account of all the information and evidence presented, the application to extend the hours for Late Night Refreshment be refused.

The Senior Solicitor advised that the Sub Committee had been concerned that people had been removed from the premises for eating hot food after 3.00am. It was clarified that this was not a breach of the licence. Only the sale and supply of hot food after 3.00am was prohibited.

The meeting concluded at 5.30pm.

Chairman