

Licensing Sub-Committee

Tuesday, 8th May, 2018

PRESENT: Councillor G Wilkinson in the Chair

Councillors M Harland and A Khan

1 Election of the Chair

RESOLVED – That Councillor Wilkinson be appointed as Chair for the duration of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

4 Late Items

There were no late items.

5 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests.

6 Review of the Premises Licence for Best Kebab, 48 & 50 Westgate, Otley, LS21 3AS

The report of the Head of Elections, Licensing and Registration informed Members of an application to review a Premises Licence under Section 51 of the Licensing Act 2003, sought by Licensing Authority in respect of Best Kebab, 48 & 50 Westgate, Otley, LS21 3AS.

Members were informed the Premises Licence Holder was Mr Sajid Khan. Mr Khan was present at the meeting, along with his representative Mr Charalambides of Counsel.

Cllr Colin Campbell requested that the Chair accept some additional information in support of his representation, subject to the agreement of the Premises Licence Holder. The additional information was not accepted by Mr Khan and Mr Charalambides. .

Two officers from Liaison and Enforcement on behalf of the Licensing Authority were in attendance. The application for review of the premises licence was made on the grounds of the prevention of crime and disorder, and the prevention of public nuisance. Members heard the grounds for this review were primarily around the lack of compliance to operate within licensed hours, along with a failure to adhere to the requirement of CCTV on the premises. The main issues for the review were set out at point 6.0 to 6.1 of the submitted report.

Members noted that witness statements had been provided with the papers for the meeting.

The Liaison and Enforcement Officers set out to the Sub-Committee a time line of events from 1st February 2016, when the application for late night refreshments until 2am was first received, until the submission of the review application on 13th March 2018. Members were informed that during this time frame, a number of complaints had been received from residents, alleging that the premises had repeatedly exceeded their permitted hours by operating up to 2am on weekends. Mr Khan had also notified the Licensing Authority of two TENs (Temporary Event Notice) for the Christmas Period in December 2017. Officers confirmed that one was rejected and Mr Khan withdrew his notification of the second. However, Members were informed that Mr Khan continued to exceed licensed hours, despite withdrawing his notification. A number of Test Purchases were carried out successfully by Entertainment Licensing Officers, and subsequently a total of four warning letters were sent to Mr Khan, which received no response or change in behaviour. Officers expressed concerns around Anti-Social Behaviour (ASB), and informed Members of an ASB incident that occurred on 5th November 2017 in the establishment, which led to the arrest of two persons outside the premises. Members were also informed that upon visit to the premises on two occasions, Officers found that a functioning CCTV system had not been installed.

Cllr Colin Campbell was also in attendance as a Ward representative and informed Members of a number of complaints from residents in relation to parking and waste disposal on the premises, as well as concerns around the Mr Khan exceeding permitted hours of business and the noise and nuisance this creates for residents.

Mr Charalambides informed Members that Mr Khan had been operating for 20 years at another site, also in Otley, which was currently under refurbishment and as a result, had caused Mr Khan financial difficulties. Members were informed that it was due to these financial difficulties that Mr Khan had been operating beyond permitted hours at 48-50 Westgate. Mr Charalambides also informed Members that the CCTV system had now been installed on the premises, which was confirmed by Officers. Mr Waters acknowledged that the CCTV condition had now been complied with, but that it had taken 4 days short of two years to secure such compliance. Mr Charalambides informed Members that the Planning Authority had recently granted planning permission for the premises, to extend opening hours to 1am on weekends.

Mr Charalambides suggested that two conditions be added to the Premises Licence, which would be expected to be implemented within a week to ten days and inspected by the Licensing Authority:

- 1) that the premises operates using black out blinds at closing time;
- 2) and that the door is locked and kept locked at the end of licensable activities.

The Licensing Sub Committee considered the application, the law and the relevant provisions of the recently updated s182 Guidance. Members were not persuaded that the conditions offered would remedy the problem, and noted that a licence should not need to be conditioned for the door to be locked and remain locked. Members also thought that the Premises Licence Holder could continue to trade beyond permitted hours if blinds were installed, and this could potentially hide further non-compliances.

Members did consider whether any of the other options set out in the Guidance would be appropriate but given that the stepped approach had not worked, the Sub-Committee

RESOLVED – Revoke the Premises Licence.

**7 Application to vary a premises licence held by Best Kebab 48 & 50
Westgate, Otley, LS21 3AS**

Following the revocation of Mr Khan's Premises Licence in the previous item, Mr Charalambides requested for the application to vary the licence to be withdrawn.

RESOLVED – That the application to vary the licence, be withdrawn.