

LICENSING SUB-COMMITTEE
4 JUNE 2019

APPLICATION BY NORTH KENT POLICE FOR REVIEW OF THE
PREMISES LICENCE FOR KIA KEBAB 29 HYTHE STREET
DARTFORD KENT DA1 1BE

Town Ward.

1. Summary

1.1 To determine an application for review of a premises licence.

2. Background and Discussion

2.1 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various licensing functions so as to promote the following four licensing objectives:

- (1) the prevention of crime and disorder;
- (2) public safety;
- (3) the prevention of public nuisance;
- (4) the protection of children from harm*.

**North Kent Social Services being the responsible authority.*

2.2 The 2003 Act further requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council published its current Statement of Licensing Policy on 06 January 2019. Should the need arise; the Policy will be available at the meeting, for reference purposes.

2.3 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. Should the need arise, the Guidance will be available at the meeting, for reference purposes.

LICENSING SUB-COMMITTEE

4 JUNE 2019

2.4 Applications will be considered on their individual merits and conditions will be formulated from the content of Annexes D – H of the Secretary of State's Guidance and any other conditions the Sub-Committee considers relevant to a particular premises.

3.1 THE REVIEW APPLICATION

3.1 Application

The application is for a Review of a Premises Licence under Section 51 of the Licensing Act 2003 by Kent Police relating to the Licensing Objectives the prevention of crime and disorder and public safety – **Appendix A**

3.2 Grounds for the Review Application:

Kia Kebab is a Late Night Refreshment House which operates in Dartford Town Centre, attracting customers from Premises within the Night Time Economy. The review is following a violent disturbance at the venue that occurred on 24th February 2019 at 03:39 involving both staff and the public. As a result of the incident two individuals have been arrested, one of which is a member of staff.

Kent police will evidence a breach of the premises license conditions and also provide evidence of a clear failure of the premises to promote the licensing objectives of Prevention of Crime and Disorder and Public Safety. – **Closed Appendix B**

4. CURRENT PREMISES LICENCE

The premises have operated as Late Light Refreshment House for several years and were in possession of a Late Night Refreshment House Licence which was converted during the transitional period in 2005 into a Premises Licence. The Premises Licence was varied in August 2012.

(a) **The Premises Licence permits the following licensable activities and trading hours with any existing conditions as shown at (f) below:**

(b) Relevant licensable activities:

The sale and supply of Hot Food and Hot Drink for consumption on and off the Premises during the permitted hours.

(c) Hours of licensable activities permitted:

On Sunday to Wednesday: 23:00 until 01:00

On Thursday to Saturday: 23:00 until 03:30

On Sundays prior to a Bank Holiday: 23:00 until 03:30.

(d) Other times premises proposed to be open: Not Specified

LICENSING SUB-COMMITTEE

4 JUNE 2019

(e) Premises Licence Holder: Mr Bayram Kagantekin

(f) **Current conditions on the Premises Licence: APPENDIX C**

5 RELEVANT REPRESENTATIONS

5.1 Responsible Authorities

- **Police** – The Police have made this application.
- **Environmental Health Officer** – has made no representation.
- **Planning Officer** – has made no representation.
- **Fire Safety Officer** – has made no representation.
- **Child Protection Agency** – has made no representation.
- **Trading Standards** - has made no representation

5.2 Interested Parties .

No representations received.

5.3 Local Policy Considerations

It is considered that the following Policies have a bearing upon the application and these are summarised at **APPENDIX D**.

5.4 Secretary of State Guidance Considerations

It is considered that the following matters set out in the Secretary of State's Guidance have a bearing upon the application and these are summarised at **APPENDIX E**.

5.5 Human Rights

The Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.

LICENSING SUB-COMMITTEE

4 JUNE 2019

6. Determining the Application

- (a) The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- (b) In making its decision, the Sub-Committee is also obliged to have regard to the Secretary of State's Guidance and the Council's adopted Licensing Policy.
- (c) The Sub-Committee must also have regard to all of the representations made and the evidence it hears and must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- (i) modify the conditions of the licence;
 - (ii) exclude a licensable activity from the scope of the licence;
 - (iii) remove the designated premises supervisor;
 - (iv) suspend the licence for a period not exceeding 3 months;
 - (v) revoke the licence.
- (d) The Sub-Committee is asked to note that it may not modify the conditions merely because the Sub-Committee considers it desirable to do so. Modification must be appropriate in order to promote the licensing objectives.
- (e) The Sub-Committee is not obliged to take any of the above actions even where there is sufficient evidence to do so. It may for instance, decide to take no action or to issue an informal warning to the licence holder and/or to recommend that certain improvements take place within a specified timescale. Similarly it may revoke a licence at the very first review hearing if the circumstances warrant such action in order to promote the licensing objectives.

7. Conclusion

This is a matter for the Sub-Committee to determine in the light of the evidence provided and any other matters it considers material.

8. Relationship to the Corporate Plan

LICENSING SUB-COMMITTEE

4 JUNE 2019

Not Applicable.

9. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	None
Legal Implications	
Staffing Implications	None
Administrative Implications	None
Risk Assessment	As included in Secretary of State's Guidance.

9. Appendices

Appendix A: Application for Review from Kent Police

Closed Appendix B: Supplementary information from Kent Police

Appendix C: Copy of existing premises licence including Conditions.

Appendix D: Local Policy Considerations

Appendix E: Secretary of State Guidance Considerations.

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date</u>	<u>File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
Application Form	04 April 2019		Joanne Philpott 01322 343024	Licensing Strategic	N/A
All other documents mentioned	07 May 2019		Joanne Philpott 01322 343024	Licensing Strategic	N/A