

**Licensing Sub-Committee****17 March 2021****LICENSING SUB-COMMITTEE****17 March 2021 at 10.00 am****MEMBERS:** Councillors Steve Cook, Marlene Heron and James McDermott-Hill**42. WELCOME AND INTRODUCTIONS**

Attendees and those watching on the live stream were welcomed.

**43. ELECTION OF CHAIR**

Councillor Steve Cook proposed Councillor Marlene Heron be the Chair for the duration of the meeting, this was seconded by Councillor James McDermott-Hill.

**Resolved** that:

1. Councillor Marlene Heron be elected Chair of the Sub-Committee for the duration of the meeting.

**44. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**45. LICENSING SUB-COMMITTEE - HEARINGS PROCEDURE**

The Chair drew attention to the Council's procedure to be followed at the meeting.

**46. LICENCE APPLICATION**

Licensing Act 2003 - Notice of Determination

Date of issue: 22 March 2021

Decision taken by the Licensing Sub-Committee on: 17 March 2021

Application by: Mr Ertugrul Bal

Application for a variation of premises licence held in respect of the premises known as BEST KEBAB 45 NORTH STREET, CARSHALTON, SM5 2HG

17 March 2021

Present

Sub Committee:

Councillor Marlene Heron  
Councillor James McDermott-Hill  
Councillor Steve Cook

Applicant:

Ms Emine Fezal Yurdakul

Those making relevant representations:

Tracey Hall-Green

Officers:

Saima Khan Legal Advisor  
Hannah Smith, Licensing Officer  
Cathy Hayward, Committee Services Officer

The Hearing

The Licensing Officer introduced the matter for determination and informed the Sub-Committee that Mr Ertugrul Bal had applied for the variation of the existing premises licence in respect of the premises known as Best Kebab, 45 North Street, Carshalton, SM5 2HG

The application sought the grant of the following:

- a variation to the existing premises licence to add the sale by retail of alcohol (for consumption off the premises).

The Licensing Officer informed the Sub-Committee that the proposed hours of licensable activities and the hours of operation are laid out in Appendix 1 and 2.

The Licensing Officer explained that the applicant has advertised the application, as required, by way of a poster at the premises and by advertisement in a local newspaper and that the application had also been advertised on the Council's website.

It was confirmed that all Responsible Authorities received a copy of the application.

Trading Standards as the Responsible Authority for the protection of children from harm licensing objective initially raised concerns regarding the application. Following further consultation the applicant has addressed the concerns by making amendments to their operating schedule. These amendments are reflected in the conditions shown in Appendix

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3. In light of these amendments the representation made by the Trading Standards Officer has been satisfied.

Two valid representations were received from Other Persons. The representations referred to matters that related to the prevention of crime and disorder, and the prevention of public nuisance licensing objectives.

The Licensing Officer confirmed that copies of all representations have been forwarded to the applicant and have been made available to the Sub-Committee.

In response to questions from the panel the Licensing officer confirmed the hours of the licences held by the Railway Tavern, as Monday to Friday 10am - 0.30, Friday - Saturday 10.00am - 01.30am and Sunday 11.00am - 11.30pm and the Carshalton Social club 11.00am - midnight everyday.

The Sub-Committee then heard a submission from the applicant the main points raised included:

- The premises licence authorising the provision of late night refreshment and the playing of recorded music had been place since 2006 without any issues arising impacting on the licence.
- There was no request to alter the opening hours.
- The applicant had worked with the Trading Standards team.
- A risk assessment had been completed.
- The applicant was committed to the Licensing Objectives
- There were signs in the shops asking that customers should leave the premises quietly.
- The staff were trained.
- No drunk customers would be served.
- There is closed circuit television (CCTV) at the premises and signs to inform customers of the CCTV.
- The premises has a zero tolerance to drugs policy.

The Sub-Committee clarified with the applicant:

- The alcohol that would be sold would be beer and wine, the beer would not be strong beer, and spirits would not be sold.
- Alcohol would only be sold with food.
- There would be no vertical drinking outside the shop, although it was noted that the applicant would not be able to deal with areas which could not be seen from the premises.
- The phone number of the local police station would be displayed within the shop.

The Chair drew attention to the written representations from other persons included within the agenda.

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The Sub-Committee then heard a submission from Tracey Hall-Green, Other Person, the main points raised included:

- The premises was not able to stop customers who have moved from areas adjacent to the premises from moving to nearby roads or sitting on walls of residential properties.
- Families lived in the surrounding residential roads, therefore noise was a concern.
- It would be preferable that customers were not dispersed from adjacent to the premises into the surrounding more residential roads.
- The opening hours of the Railway Tavern were not the same as that in its licence, but were until 23.00 Monday to Saturday and 22.00 on Sundays.
- Litter was found in the gardens of properties near to the premises, and on pavements in surrounding roads.
- There had been additional objections from residents but it was understood these were not included as they were not submitted within the statutory timescale.

The Sub-Committee clarified with the other person:

- She had observed anti social behaviour, which appeared to be related to alcohol in the vicinity of the premises.
- When the Railway Tavern closes patrons do not always disperse immediately.
- It could be suggested that if the applicants premises also sold alcohol anti social behaviour seen in the area could become worse.
- The bins in the surrounding area, and the vicinity of the premises were not large enough.

The panel clarified with the agent:

- The premises was a small shop, with two members of staff at the front, there may be another member of staff working at the back.
- The applicant would consider reduced hours than that in the application for the sale of alcohol, with the last order for in person sales being 23.00 hours.
- The agent suggested that online sales for delivery be allowed until 12midnight as this would not affect neighbours.

The meeting adjourned at 10.33am and reconvened at 10.42am

In summary the agent confirmed

- They would be happy to amend the times offered in the application to permit the sale of alcohol for in person sales from 12 noon until 23:00 hours Monday to Saturday and 12 noon to 22:30 hours on Sundays.

### Reasoning and decision

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In making their decision, the Sub-Committee considered the merits of the application and had regard to the Council's Statement of Licensing Policy and guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The Sub-Committee considered the steps which were appropriate and proportionate to promote the licensing objectives, and after taking account of all relevant issues that had been raised in the application and by the written and verbal representations, decided to GRANT the application for a variation of premises licence subject to conditions as set out below.

The Sub-Committee had regard to the relevant written and verbal representations from Other Persons which raised concerns relating to prevention of crime and disorder, and the prevention of public nuisance licensing objectives. The Sub-Committee considered the measures in place to promote the licensing objectives.

The Sub-Committee drew attention that the premises had held a licence for over 10 years. Although there were issues relating to litter which affected local residents, the majority of the issues related to alcohol, which the premises did not provide at present. The premises would only sell beer (not strong beer) and wine, and that all alcohol sales would be with food.

The Sub-Committee noted that a risk assessment had been completed by the applicant, which included that customers would be supervised leaving the premises, there would be no vertical drinking, no sales to drunk customers. It was also noted there would be signs showing phone numbers for local police stations, and that CCTV was in operation and that no drinking on the premises was permitted.

The Sub-Committee noted that litter was an issue in the area and suggested the premises should provide bins.

The Sub-Committee discussed that each application must be considered on its own merits. They drew attention that this type of premises are an important part of the local economy, however, that consideration to local residents was important.

The Sub-Committee noted that there had been a representation from the Responsible Authority, Trading Standards that had been addressed by the applicant agreeing to the conditions proposed by Trading Standards so that the Trading Standards Officer was satisfied. There had been no representations from the police.

The applicant had agreed to reduced hours for in person sales and to additional conditions suggested by the Licensing Sub-Committee, to support alleviating problems of people leaving local pubs at closing time and purchasing additional alcohol at the premises and to promote the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

The Sub-Committee noted its powers on a review. Should any problems arise following grant of the licence; a review application can be submitted by any person.

**Decision**

**The Sub-Committee decided to GRANT the application for a variation of the PREMISES LICENCE , subject to conditions, as follows:**

To permit off sales of alcohol:

For sales in person to people attending the premises:

- Monday to Saturday: 12.00 hours - 23.00 hours
- Sunday 12.00 hours to 22.30 hours

For sales by delivery of on-line or telephone orders:

- Monday to Sunday 12.00 hours - midnight

with no change to the opening hours of the premises. The current licensable activities attached to the premises licence remain unchanged.

**Mandatory Conditions.**

The licence would be subject to the mandatory conditions laid down in the Licensing Act 2003 (this information will be available to the Sub-Committee meeting)

**Conditions arising from applicant's Operating Schedule****The Prevention of crime and disorder****1. Staffing, training****Staffing, training**

- a) All staff shall be trained before they are allowed to sell any alcohol to the public.
- b) Records of staff training along with any training material used must be kept by the Designated Premises Supervisor or Premises Licence Holder.
- c) All training records shall be signed by the trainer and trainee in respect of training received.
- d) The premises licence holder shall implement a training manual and all members of staff shall be suitably trained in underage sales prevention before making any sales of alcohol.
- e) Refresher training shall be carried out every six months for all staff and documented within the training records.
- f) The training records shall be available for inspection by the police or authorised local authority officers.

**2. Closed-circuit television**

- a) The premises shall operate a closed-circuit television system (CCTV).

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- b) The CCTV shall be maintained in effective working order, and shall be in operation at all times the premises is open to the public.
- c) The CCTV shall record clear images permitting the identification of individuals.
- d) All recordings made by the CCTV system shall be retained and stored in a suitable and secure manner for a minimum of 28 days.
- e) Viewable copies of the recordings shall be made available on request to police or authorised local authority officers as soon as reasonably practicable in accordance with the Data Protection Act 1998 (or any replacement legislation).
- f) Suitable signage shall be displayed at the premises in a prominent position as customers enter the premises stating that CCTV is in operation.

**The prevention of public nuisance****3. Conduct of premises**

Clear legible notices are to be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.

**The protection of children from harm****4. Age verification – challenge 25**

- a) Evidence of age in the form of photographic identification (ID) shall be requested from any person appearing to those selling or supplying alcohol to be under the age of 25 and who is attempting to buy alcohol.
- b) Acceptable identification for the purpose of this condition is that issued by a government agency bearing a holographic mark with a photograph and date of birth, or the Proof of Age Standards Scheme (PASS) approved age cards.
- d) Notices shall be strategically and prominently placed at points of sale advising customers that they may be asked to provide evidence of age.
- e) A refusals book to record every instance that sales of alcohol are refused shall be maintained.
- f) The refusals book shall document the date and time a refusal of sale is made and the member of staff refusing the sale.
- g) The refusal book shall be available for inspection by the police or authorised local authority officers.

**5. Alcohol delivery**

- a) All sales of alcohol for delivery must be paid at the time of ordering using a debit or credit card.
- b) All delivery persons must be aged 18 years or more.
- c) The alcohol must be packaged separately from goods that aren't subject to age related sales, so that it can easily be retrieved to prevent an illegal sale.
- d) Details of the order (including the type, amount of alcohol, name and address of the customer) shall be kept at the licensed premises and must be shown on the printout dispatched with the order.

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- e) All delivery drivers and riders must allow any police or authorised local authority officers to inspect any alcohol or order details on request.
- f) The delivery of alcohol shall be made only to a residential or business address and the customer to be clearly resident inside the building. The delivery of alcohol will not be made or completed to a person in a public place (for example a street corner, park or bus stop).
- g) The person taking the order and /or making the delivery must ensure that the recipient is 18 years of age. A check shall be made to ensure the person accepting the delivery has the debit/credit card used for the purchase. If they appear under 25 years of age, photographic ID will be required before the alcohol is handed over. Examples of appropriate ID include a passport, photographic driving licence, military ID and the Proof of Age Standards Scheme (PASS) approved age cards.
- h) Where a third party courier is used to supply alcohol, they will be instructed to provide an age verification service or adopt a policy of checking age and ID at the time of delivery. The courier must adopt a policy of not allowing minors to sign for and accept deliveries. A record of all couriers used and the system that they use to verify age will be kept and produced upon request from the police or authorised local authority officers.

**Additional conditions offered by the applicant during the meetings and imposed by the Sub Committee:**

**Alcohol, restrictions**

- Alcohol shall not be supplied or sold at or from the premises otherwise than to persons ordering food.
- No beer, lager, cider, ale or spirit mixers with an Alcohol by Volume (ABV) content of above 5% will be sold or offered for sale.
- No spirits will be sold or offered for sale.
- No sales or collection of alcohol will be permitted by customers in person after 23:00 hours Monday to Saturday and after 22:30 hours on Sundays. After 23:00 hours Monday to Saturday and 22:30 on Sundays the sale of alcohol shall be restricted to deliveries of on-line and telephone orders only.

**External Area**

- The premises licence holder will take all reasonable steps to ensure that there is no vertical drinking by customers on the frontage of the premises.
- The premises licence holder shall ensure that a member of staff supervises customers leaving the premises after 22:00 hours every day and take all reasonable steps to ensure that any customers leave the immediate area quickly and quietly and do not congregate.

**Litter**

- Sufficient litter bins will be provided at or near the exits, to enable the disposal of waste.

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- At the end of each trading day, the frontage of pavement immediately outside the premises must be swept, and any litter and sweepings thereon must be collected and disposed of appropriately.

**Notices**

- Notices setting out the last admittance for sales of alcohol in person will be displayed at the premises.
- Signage will be displayed at the premises stating that consumption of alcohol is not permitted on the premises.
- The premises licence holder shall operate a policy of no sale of alcohol to persons who appear intoxicated.
- The premises licence holder shall operate a zero tolerance policy to drugs inside the premises.
- The nearest Police Station’s phone number will be displayed in the premises.

**47. ANY URGENT BUSINESS**

There was no urgent business.

The meeting ended at 10.50 am

Chair: .....

Date: .....

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