

LICENSING SUB – COMMITTEE26 September 2005Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application for a New Premises Licence for:

**Winchester Kebab House
6-8 Stockbridge Road
Winchester****Part A. Report** *Buff*

- 1 Application**
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Part A.**1. Application****Applicant:** Mr. Hanifi Edebali**Premises:** Winchester Kebab House**Application for a New Licence.**

The application is for a New Premises Licence **during the Transitional Period** under Schedule 8 paragraph 7(b) of the Licensing Act 2003, to permit the hours when the premises are open to the public and late night refreshment.

Notice of the application was displayed outside of the premises for a period of 28 days until 29 August 2005, and advertised in the Hampshire Chronicle on 22 July 2005.

The Operating Schedule, copied at Appendix 1, proposes the Relevant Licensable Activities as:

1 Late Night Refreshment (L)

<i>Sunday to Wednesday</i>	<i>2300 to 0000</i>
<i>Thursday</i>	<i>2300 to 0100</i>
<i>Friday and Saturday</i>	<i>2300 to 0200</i>

On recognised Public Holidays the hours will be 2300 to 2400

2. Hours Premises Open To The Public (O)

<i>Sunday to Wednesday</i>	<i>1100 to 0000</i>
<i>Thursday</i>	<i>1100 to 0100</i>
<i>Friday and Saturday</i>	<i>1100 to 0200</i>

On recognised Public Holidays the hours will be 1100 to 2400

The above hours are in line with the Planning Permission granted under the Town and Country Planning Act 1990 on 7 January 2005 until 31 January 2007

(The above letters in brackets refer to the relevant sections of the application form)

Steps to promote the Licensing Objectives

Please see Section Q Appendix 1

Notice of Hearing

Notices of the hearing were sent to all Parties on 12 September 2005.

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application and make the following representations:

Director of Communities

No representations received

Hampshire Constabulary

Hampshire Constabulary have made a representation with regard to the Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance licensing objectives, in respect of which the closing times should be reduced by one hour Sunday to Wednesday to 2300, and from Thursday to Saturday the closing time should be 0100.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Director of Development

No representations received.

Head of Safety Standards

No representations received.

3. Interested Parties

1. Mr. Bruce Hartley-Raven

4. Observations

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

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

In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the representations.

The Sub-Committee must take such of the following steps it considers necessary to promote the Licensing Objectives:

1. Grant the application as per the application, or
2. Modify the conditions of the licence by alteration or addition, or
3. Reject the whole or part of the application.

Decisions made under 2 or 3 above must actually be necessary to promote the Licensing Objectives.

Terminal hours.

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers necessary to promote the Licensing Objectives.

(Licensing Policy A8)

Licensing Objectives.

Crime and Disorder

The Sub-Committee should consider any necessary conditions to prevent crime and public disorder relating to the premises having regard to the observations of the Police, the interested parties, the operating schedule and the Council's Licensing Policy

(Licensing Policy 1.6, 2.11, 2.17)

Public Safety

The Sub-Committee should consider any necessary conditions relating to public safety having regard to the observations of the Police, the interested parties, the operating schedule and the Council's Licensing Policy.

(Licensing Policy B3, B4)

Public Nuisance

The Sub-Committee should consider any necessary conditions to prevent public nuisance caused by noise pollution from the premises having regard to the observations of the Police, the operating schedule, the Interested Parties and the Council's licensing policy.

(Licensing Policy Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children having regard to the Operating Schedule and the Council's licensing policy.
(Licensing Policy D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, necessary in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

5. Conditions

Mandatory Conditions

None

Possible Conditions

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule:

Operating Hours

1. The hours the premises may open for other than Licensable Activities shall be:

- (i) ***Sunday to Wednesday 1100 to 2400***
- (ii) ***Thursday 1100 to 0100***
- (iii) ***Friday and Saturday 1100 to 0200***

On recognised Public Holidays the opening hours to be 1100 to 2400 daily

2. The hours the premises may be used the provision of late night refreshment shall be:

- (i) ***Sunday to Wednesday 2300 to 2400***
- (ii) ***Thursday 2300 to 0100***
- (iii) ***Friday and Saturday 2300 to 0200***

On recognised Public Holidays the hours during which premises may be used for late night refreshment shall be 1100 to 2400 daily

The above hours are in line with the Planning Permission granted to the premises under the Town and Country Planning 1990 which expires on 31 January 2007.

[Note: The Sub Committee may wish to consider the representations from the Police to reduce the terminal hours by one hour each day.]

All Licensing Objectives

[Dealt with in relevant sections below].

Crime and Disorder

1. A CCTV system shall be maintained and in operation at all times that the premises are used for licensable activities. The tapes shall be retained for 30 days and be made available to the Police or Authorised Officers on request.

Public Safety

1. None

Public Nuisance

1. Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents, to leave the premises and the area quietly and to dispose of litter responsibly.
2. Staff shall be given appropriate instructions and training to encourage customers to leave the premises quietly and not to loiter in the vicinity of the premises so as to minimize disturbance to local residents.
3. Litter bins should be provided for the use of the customers of the premises.

Protection of Children

None.

Informatives

The following measures are recommended to the Licensee, but are not being suggested as conditions, and would not be enforceable under the Licensing Act. In many cases, however, they may be requirements under other legislation.

1. All doors on escape routes should be free from fastenings, or if fitted should only be simple fastenings that can be readily operated from the side approached by people making an escape. The operation of these fastenings should be without the use of a key and without having to manipulate more than one mechanism.
2. Periodic inspection certificates should be kept on the premises for the emergency lighting, fire fighting equipment, and fire alarm and detection system.
3. Copies of fire test results on any fabrics should be held on the premises for inspection if required.
4. If the premises are not fitted with a fire alarm and detection system then a written procedure for raising the alarm should be kept on the premises.

6. Other Considerations**Corporate Strategy (Relevance To:)**

This report covers issues which affect the Community safety, Economic Prosperity, and Cultural and Leisure Opportunities of the Corporate Strategy.

Resource Implications

None

Appendices

1. Application by Mr. Hanifi Edebal
2. Representations by Responsible Authorities
3. Representations by Interested Parties
4. Map of premises location.