

LONDON BOROUGH OF HARROW

Meeting:	LICENSING PANEL
Date:	25 JUNE 2003
Subject:	APPLICATION FOR RENEWAL OF A NIGHT CAFE LICENCE KEBABLAND, COLLEGE ROAD, HARROW, MIDDX.
Responsible Chief Officer:	CHIEF ENVIRONMENTAL HEALTH OFFICER
Relevant Portfolio Holder:	COUNCILLOR PHIL O'DELL
Status:	PART 1 (PUBLIC)
Ward:	GREENHILL
Enclosures:	APPLICATION, EXISTING LICENCE, OBJECTION AND CORRESPONDANCE WITH APPLICANT

1. Summary

1.1 This report gives details of applications for the renewal of a Night cafe licence and gives guidance to assist the Licensing Panel in reaching a decision. The application is referred to the Panel, as there is an unresolved objection from a Councillor.

1.2 NIGHT CAFE LEGISLATION

1.3 The requirements under the London Local Authorities Act 1990 for night cafe licensing can be complex. As this premises has seating area and a takeaway service both are relevant to the application for a licence. Thus the applicant requires a night cafe licence on two counts, firstly, he wishes to serve food in the restaurant after 11 pm and, secondly, he wishes to serve takeaway food after midnight. The 11 pm time limit applies only to those restaurants that are not licensed for the sale of alcohol, thus as most restaurant premises in the Borough possess liquor licences, they are not also required to be licensed as night cafes.

1.4 The procedure for new applications mirrors the entertainments licensing system. For renewal applications the applicant has to publicise the application with a poster displayed on the premises and copies of the application must also be sent to the Metropolitan Police and the London Fire and Emergency Planning Authority. On receipt of the application by the Council, notice of an application is distributed on the list of Planning Applications and the relevant statutory authorities are informed.

1.5 In normal circumstances night cafe licences are granted by the Chief Environmental Health Officer under delegated powers. However, if there are outstanding objections to a licence, or the initial application for a licence requests opening times later than the standard hours, then these applications are referred to the Panel for determination. The standard hours for night cafe licences are 1am on Friday and Saturday nights and

midnight for the rest of the week. This application is referred to the Panel because there is an outstanding objection to the renewal application.

2. Recommendations (for decision by the Panel.)

- 2.1 Members are asked to determine the application in accordance with the guidance in section 8, below.**

3. Relevant Previous Decisions

The Night Café licence was initially granted on 15th May 2001 with the additional condition 6 relating to rubbish in the vicinity of the premises.

4. Relevance to Corporate Priorities

- 4.1 While this report is in response to a request for a licence, the public safety and environmental control aspects of licensing address corporate issues. In particular the quality of the environment, promotion of leisure pursuits, the reduction of crime and disorder and a prosperous local economy.

5. Background Information

- 5.1 Application has been made for the renewal of the existing Night Cafe Licence for Kebabland, 36 College Road Harrow by Mr E Dagdelen. The premises have been licensed since May 2001 for late night trading by this Council.
- 5.2 The premises are licensed to open until 1am on the evenings of Sundays to Thursdays and until 2:30am on Fridays and Saturdays. A copy of the application and the current licence are attached to this report (Appendix A).
- 5.3 The Chief Planning Officer advises that there are no planning restrictions on the use of the premises.
- 5.4 There have been no objections to the application from the London Fire and Emergency Planning Authority.

6. Objections to the Application

- 6.1 A copy of the letter of objection to the renewal is attached, together with relevant correspondence by the applicant (see Appendix B).
- 6.2 Once the date for the hearing was established the applicant and the objector were invited to provide written statements of the evidence they wished to present at the hearing (see Appendix C).

7. The Premises

- 7.1 Location

Kebabland is in a terrace of commercial premises in College Road, facing Harrow on the Hill underground station. The premises are in an area, which is principally commercial in nature.

7.2 Construction

The premises are of solid construction and meet the requirements of the Council's Technical Regulations regarding construction.

7.3 Complaint History

Environmental Health has not received any complaints about the premises in the last year.

8. Determination of the Application

8.1 The Panel has to consider the application and the opening hours. The legislation gives the Panel a discretion to determine the application in any of the ways mentioned in 8.2 below. The legislation lists the grounds on which the Panel can refuse an application to grant a licence (see Appendix D). The legislation does allow the imposition of conditions and restrictions on a licence and provides certain guidance as to the type of condition that may be imposed (see Appendix E). It is clear that any additional conditions would have to comply with the requirements of the Act, be practical, enforceable and meet the rules of natural justice.

8.2 In respect of the application the Panel has the following options open to it:-

- a. To grant the application as it stands. Any licence granted would be subject to the Council's standard conditions for night cafes.
- b. To grant the licence but to vary the hours of opening from those on the application, or place additional conditions upon the licence. Licence conditions may relate to the management of the premises or technical provisions at the premises as detailed in Appendix E.
- c. To refuse the application.

8.3 It should be noted with options (b) and (c) above that:-

- i. The applicant must be given the right to appear before the Panel if the application is to be refused or amended. The applicant has been invited to attend the meeting.
- ii. Clear reasons for either the refusal to renew the licence, or to grant the hours applied for, or of the imposition of additional conditions, would have to be given to the applicant.
- iii. The applicant would have to right of appeal to a Magistrates Court.

9. Consultation

9.1 The applications were advertised in accordance with the Council's rules governing applications and details of the applications were attached to the Planning Application lists. There is one objection to the application.

10. Finance Observations

10.1 There are no financial implications for the Council relating to the consideration of this application by the Panel.

11. Legal Observations

11.1 In addition to determining the application in accordance with the legislation, Members must also have regard to the provisions of the Human Rights Act 1998.

12. Background Papers

12.1 File for Kebabland, 36 College Road, Harrow.

13. Author

13.1 Shankar Sivashankar, 020 8420 9605

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