

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
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TO: Licensing Sub-Committee

30/04/2012

WARDS: Market

Consideration Of An Application For A Premises Licence Variation To Be Granted: City Kebab, 73 Regent Street, Cambridge, Cb2 1ab

1 INTRODUCTION

1.1 An application under section 34 of the Licensing Act 2003 for a Premises Licence Variation to be granted in respect of City Kebab, 73 Regent Street, Cambridge, CB2 1AB has been received from Freshness Limited. The application, which is attached to the report as Appendix A, and a plan of the premises, which is attached to the report as Appendix B, were served on Cambridge City Council (the Licensing Authority) on 7th March 2012. A copy of the application was also served on each responsible authority.

1.2 The applicant is seeking a variation to the premises licence to permit the following:

Supply of Alcohol (for consumption on the premises)

Mon – Sun 11:00 to 04:00

1.3 The applicant has indicated in part P of the application (Appendix A) that the following steps will be taken to promote the four licensing objectives:

The prevention of crime and disorder

1. The opening and closing times of the premises shall clearly be indicated outside the premises.

2. Alcohol shall only be supplied to customers as an ancillary to a meal and staff shall be trained on the requirement to do this.
3. The DPS or relevant person will actively operate "Challenge 25 Policy" This will include an agreement to only accept identity cards with the "Pass" accreditation; passports; photo ID driving licences; any National identity card as ruled by any British Court as a bona-fide recognised form of identification; or any future identification card as approved by central government; as bona-fide recognised forms of identification. Posters shall be on display to ensure customers are aware of this and all staff will be suitably trained to take relevant action in regard of asking for proof of age.

Public safety

4. A log book or recording system shall be kept on the premises to record any incident at the premises. This log book shall be kept available and produced for inspection by an Authorised Officer on request.
5. The first aid kits shall be kept on site and regularly checked and maintained and shall be available at all times in case of accidents.
6. All parts of the premises shall be adequately illuminated and those routes to which any persons have access to and from the premises shall be kept clear.
7. Heating and ventilation systems shall be maintained in satisfactory conditions at all times.
8. Free tap water shall be provided to customers on request.

The prevention of public nuisance

9. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. Noise from the premises shall not be audible within any noise sensitive premises with windows open for normal ventilation especially after 23:00.
10. The delivery of goods, food or drinks or any other materials for the operation of the business shall be carried out at such time or in such a manner as to prevent nuisance or disturbance to nearby residents.
11. Staff shall ensure customers conduct themselves in such a manner as to prevent nuisance and disturbance to nearby residents on the arrival and departure of the premises.
12. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
13. Waste from the premises shall be kept securely in a designated area and the movement of bins and rubbish outside the premises shall be kept to a minimum especially after 23:00.

14. Cooking, noxious or persistent smells shall not cause a nuisance to nearby properties and must be properly vented.
15. Prominent, clear and legible notices at the exit shall be displayed requesting patrons departing to respect the needs of local residents and to leave the premises and the area quietly.
16. Waste receptacles shall be placed at the rear of the premises and shall be emptied three days a week after 07:00.

The protection of children from harm

17. Where in regard of the 'Challenge 25' policy, if no proof of age is provided, sale of alcohol shall not be made.
- 1.4 If the application is granted, in whole or in part, such that the Licence authorises the supply of alcohol for consumption on the premises, the following mandatory conditions will be attached to Annex 1 of the Licence:
1. No supply of alcohol may be made under the premises Licence -
 - (a) at a time when there is no designated premises supervisor in respect of the premises, or
 - (b) at a time when the designated premises supervisor does not hold a personal Licence or his personal Licence is suspended.
 2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
 3. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

6.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

7. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

- 1.5 In accordance with the regulations of the Act, the application was advertised on the premises and in the Cambridge Evening News to invite representations from responsible authorities and interested parties. The last date for submitting representations was 4th April 2012.
- 1.6 One representation from a Responsible Authority has been received, from Cambridgeshire Constabulary and is attached to the report as Appendix C. The representation from Cambridgeshire Constabulary refers to the premises being located in one of the City's cumulative impact areas. The Police oppose this variation application.
- 1.7 No representations were received from the remaining Responsible Authorities. The Planning Department has advised that although they are not making representation, the hours of use for the premises are restricted to 03:30 daily.
- 1.8 No representations were received from Interested Parties.
- 1.9 The application is yet to be determined.

2. RECOMMENDATIONS

- 2.1 That Members' determine the application on its individual merits having reference to the statutory licensing objectives and Cambridge City Council's Statement of Licensing Policy.

3. BACKGROUND

- 3.1 A premises licence authorising the provision of late night refreshment for City Kebab, 73 Regent Street, Cambridge was granted on 24th October 2005. The licence was transferred to Freshness Limited on 7th January 2009 and is attached to the report as Appendix D.
- 3.2 An application to vary the Designated Premises Supervisor (DPS) has been received, specifying Mr Mustafa Silfikur as the proposed DPS.
- 3.3 The premises is situated within a cumulative impact area. It is therefore subject to a special policy on cumulative impact. The special policy creates a rebuttable presumption that applications

within cumulative impact areas for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced. Cumulative impact has been referred to in the representation received from Cambridgeshire Constabulary but it has not been addressed by the applicant.

- 3.4 The Council's Statement of Licensing Policy contains information on the cumulative impact.
- 3.5 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy and additionally the statutory guidance issued under Section 182 of the Licensing Act 2003. The relevant sections from the Council's Statement of Licensing Policy are:
- Objectives, section 2
 - Fundamental principles, section 4
 - Cumulative impact, section 5
 - Licensing Hours, section 6
 - Licence Conditions, section 8

4. CONSULTATIONS

- 4.1 The Licensing Act 2003 requires applications made under section 17 of the Act to be served on the responsible authorities and also advertised on the premises and in a local newspaper circulating within the vicinity of the premises. During the consultation period, responsible authorities and interested parties (those living or working within the vicinity of the premises or Elected Members of the Licensing Authority), may make a representation in respect of the application.
- 4.2 Statutory consultation has therefore taken place with responsible authorities and interested parties in accordance with the procedures set out in the Licensing Act 2003 and associated regulations made under the Act.

5. OPTIONS

- 5.1 Whilst having reference to the information provided by the applicant, the Responsible Authority and Cambridge City Council's Statement of Licensing Policy, the Sub-Committee's decision must be made

with a view to promoting one or more of the four licensing objectives, namely:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

5.2 Members should take such steps that they consider are necessary for the promotion of the licensing objectives. The Sub-Committee may resolve:

- (a) to grant the licence subject to the mandatory conditions and those conditions offered by the applicant which may be modified to such extent as the authority considers necessary for the promotion of the licensing objectives,
- (b) to exclude from the scope of the Licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.

6. CONCLUSIONS

6.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, and the Statutory Guidance under the Licensing Act 2003 and it is bound by the Human Rights Act 1998. The Council must also fulfil its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Cambridge.

7. IMPLICATIONS

a) Financial Implications

Cambridge City Council (the Licensing Authority) has a statutory duty to determine applications made under the Licensing Act 2003. The application fees associated with such applications are set by Central Government and are intended to cover the cost of administering the licensing regime.

There are no specific financial implications associated with this report.

(b) **Staffing Implications**

There are no staffing implications associated with this report.

(c) **Equal Opportunities Implications**

No equality impact assessment has been conducted, as the only consideration in reaching a decision is whether the granting of the application will undermine the statutory licensing objectives.

(d) **Environmental Implications**

Any environmental implications that need to be considered must specifically relate to the promotion of the statutory licensing objectives and will be contained in the representations made by the responsible authorities or interested parties.

(e) **Community Safety**

Cambridge Constabulary, Cambridgeshire Fire & Rescue Service, Cambridge City Council's Food & Occupational Safety Team, Cambridge City Council's Environmental Services, Cambridge City Council's Environment & Planning Department, Cambridgeshire County Council's Child Protection & Review Unit and Cambridgeshire County Council's Trading Standards Department were consulted as part of the application process and could have made representation if it was considered that the granting of the application would undermine one or more of the statutory licensing objectives.

Those making representations would have raised any relevant community safety implications.

8. BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

[Licensing Act 2003](#)

[The Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#)

[Guidance issued under section 182 of the Licensing Act 2003](#)

[The Council's Statement of Licensing Policy](#)

To inspect these documents either view the above hyperlinks or contact Debbie Stoker on extension 7879

The author and contact officer for queries on the report is Debbie Stoker on extension 7879.

Report file:

Date originated: 19th April 2012

Date of last revision: 19th April 2012