

# Minutes

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## Licensing/Appeals Sub-Committee Monday, 26th January, 2015

### Attendance

Cllr Barrett  
Cllr Newberry

Cllr Reed

### Also Present

Cllr Ms Sanders

### Officers Present

Dean Baker	Senior Planning Enforcement Officer
Steve Blake	Environmental Health Officer
Dave Leonard	Licensing Officer
Jean Sharp	Governance and Member Support Officer
Chris Pickering	Principal Solicitor

### 407. Appointment of Chair

Cllr Barrett was appointed Chair of the Sub-committee.

### 408. Quasi-Judicial Function

Members were respectfully reminded that, in determining the matter listed under Minute 409, they were exercising a quasi-judicial function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

### 409. Licensing Application for Kebab Van - Chequers Pub, Rayleigh Road, Hutton.

The report before Members provided information of an application for a new premises licence in respect of Hutton Best Kebabs, o/s Chequers Public House, Rayleigh Road, Hutton, Brentwood CM13 1PJ.

Members were requested to determine the application having regard to the

operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

Each application must be considered on its individual merits and, therefore, no recommendations may be made. However, the available options were:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To reject the application in whole or in part

The Licensing Act 2003 established a single integrated scheme for licensing premises used for the supply of alcohol, regulated entertainment or provision of late night refreshment.

The purpose of the licensing system was the promotion of four licensing objectives:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

The Sub-Committee took those objectives into account in determining the matters before it, together with the following:

- Guidance Notes on the Conduct of Hearings before the Licensing/ Appeals Committee
- Brentwood Borough Council's Statement of Licensing Policy
- The statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003

This application was received on 14 November 2014 in respect of Hutton Best Kebabs, o/s Chequers Public House, Rayleigh Road, Hutton, Brentwood CM13 1PJ. A copy of the application was before Members.

The premises related to an area on the private car park of The Chequers public house, Rayleigh Road, identified by the applicant as a location to park up a burger/ kebab van and provide late night refreshment. A site map of the location was before Members.

The applicant sought a new premises license for the provision of late night refreshment for the following hours;

23:00hrs-00:00hrs on Sunday-Thursday &  
23:00hrs-01:00hrs the following morning on Friday & Saturday

The application had been advertised in accordance with the Licensing Act 2003 regulations.

Two representations were received from the Responsible Authorities, Planning and Environmental Health, and nine representations were received from local residents, all of which were before Members.

The concerns relating to the licensing objectives were predominantly based on litter nuisance complaints and public safety issues arising from anti-social behavior relating to the extended hours of late night refreshment that attracted people to the residential location. These complaints extended to the smell of food emanating from the van.

The sub-committee considered in detail the reports presented to it and the representations for and against the application. The sub-committee had not taken into account planning, precedent setting or other issues that were raised but which were not related to the licensing objectives and the application for late night refreshments. The sub-committee noted that the objections mainly came down to issues of public nuisance.

The sub-committee was concerned about the location of the kebab van and its clear connection with the public house in whose carpark it was parked. That pub advertised this connection and its patrons clearly used the kebab van. The sub-committee considered that the location of the kebab van prevented the swift dispersal of pub patrons which would lead to unacceptable nuisance to local residents. Retaining pub patrons at the premises to purchase food after they had left the pub would, in the opinion of the sub-committee, lead to unacceptable nuisance. The sub-committee was not satisfied that the proposed conditions put forward by the Council's Environmental Health Officer were sufficient to reduce that nuisance to an acceptable level.

For these reasons, the sub-committee **RESOLVED UNANIMOUSLY** to reject the application for a license to serve late night refreshments and the applicant was advised of their right to appeal against this decision to a Magistrates Court.