

10 December 2018

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an
Application to Review a Premises Licence – Licensing Act 2003**

**THE SKEW BAR & GRILL, RAYLEIGH ROAD, HUTTON, CM13
1SG**

Report of: Maria Moses – Licensing Officer

Wards Affected: Hutton

This report is: Public

1. Executive Summary

- 1.1 An application has been received for a review of the premises licence in respect of **The Skew Bar & Grill, Rayleigh Road, Hutton CM13 1SG**. Seven relevant representations have been received during the consultation period. The review relates to two Licensing objectives: **Prevention of Crime and Disorder and Prevention of Public Nuisance.**

2. Recommendation(s)

- 2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application for the review of the premises licence.

3. Introduction and Background

- 3.1 An authorisation is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

- 3.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.
- 3.3 Licence holders are required, when offering any licensable activity, to ensure that they promote the licensing objectives at all times. The operating schedule of the application contains details of the activities applied for and the control measures that the applicant will have in place in order to promote these objectives. Such measures will, where appropriate, be converted into enforceable conditions on any licence issued.
- 3.3 The four licensing objectives are;
- Prevention of crime and disorder
 - Prevention of public nuisance
 - Public safety
 - Protection of children from harm
- 3.5 Any representation must be able to demonstrate that on the balance of Probability the application in its current form will fail to adequately promote one or more of the licensing objectives. No other matters may be considered.

4. The Application

- 4.1 On the 13th September 2018 an application for a Review was received from Martyn White of 576 Rayleigh Road, Brentwood, Essex.

A copy of the Review application is attached as **Appendix 1** relating to noise and anti-social behaviour.

- 4.2 This Premise is currently a Turkish restaurant occupying the ground floor of a substantial building, with a large carpark to one side with residential housing surrounding the building. A copy of the premises licence together with OS street maps and images to better identify the location are attached at **Appendix 2**
- 4.3 Representations have been received from Responsible Authorities - Environmental Health and The Licencing Authority of Brentwood Council. These representations are attached at **Appendix 3**.
Environmental Health refer to noise from customers in the carpark noise from bottle disposal. They also raise concerns of overflowing bins sitting on an unstable surface which causes noise when the bins are moved. They also have concerns from the noise emanating from the kitchen when the kitchen doors are open.

The Licensing Officer has set out an overview of complaints received and detailed them in **Appendix 3**.

- 4.4 Representations have also been received from residents of Rayleigh Road which consist mainly of noise disturbance and anti-social behaviour and the increase of entertainment at weekends these are attached at **Appendix 4**.

Ms Nixon lives next door to the restaurant on the side of the kitchen, bin area and staff rest area, she is disturbed by the noise and violent behaviour from the car park and garden mostly late at night and noise from the refuse and glass disposal area as they are so close to her home. She also experiences noise from the kitchen.

Mr Hussey has put a representation in complains of music noise from the venue and vehicles in the carpark.

Mrs Hailes has also put representation in regarding noise from the air conditioning unit, music, shouting and the slamming of car doors.

Also attached at **Appendix 4** are representations from Councillor Hossack and Councillor Sanders.

Councillor Hossack represents his ward and writes of concerns of the Delivery times of lorries. Noise from the area where the bins are located along with the noise from where the staff congregate, the cooking fumes and the insufficient parking at the venue.

Councillor Sanders makes representation also to the noise from the music and bottle collection and parking. (It should be noted that disabled parking does not fall within the licensing objectives)

5. Reasons for Recommendation

These are the options available to the Sub-Committee

- 5.1 The Committee, after considering the review application and all of the relevant representations, will need to consider what action, if any, to take in order to ensure that the Licensing Objectives are complied with.

- 5.2 The following options are available to the Licensing Sub-Committee:
- Do nothing with the licence;
 - To modify the conditions of the premises licence. This can include adding new conditions or alterations to existing conditions e.g. reducing the hours of operation;
 - To exclude a licensable activity from the scope of the licence e.g. to exclude regulated entertainment after a certain hour,
 - To remove the Designated Premises Supervisor e.g. because it is considered that the problems are being caused by poor management;
 - To suspend the licence for a period not exceeding three months;

5.3 The decision made by the committee will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

5.4 In determining this application for review of the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.

5.5 The Sub-Committee are advised that the hearing is a statutory exercise of power delegated by local residents to consider what the public interest requires. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.

5.6 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.

5.7 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

6. Consultation

6.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003.

7. Statement of Licensing Policy

7.1 Please see Section 22 of Brentwood's policy with reference to 22.2.

Applicants need to be clear the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant reorientations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.

8. Relevant Section of the Secretary of State's Guidance

- 8.1 The licensing objectives relating to public nuisance matters arising from this application are covered in Section 2, paragraphs 22.15 to 2.21 (pages 9 & 10) of the Licensing Act 2003, Section 182 Guidance (April 2018).

9. Legal Considerations

9.1 Brentwood Council as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature. Notice must be given of the Licensing Authority's decision on this matter. The decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant or the person who made the representation..

10. Appendices to the report:

- Appendix 1 - Application Form
- Appendix 2 - Premises Licence, OS street maps & images
- Appendix 3 - Representation from Environmental Health
Representation from Licensing Authority
- Appendix 4 - Representation from residents & Councillors

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