

Licensing Panel

Tuesday 22 April 2014

A Licensing Panel will be held in the Town Hall, Royal Leamington Spa, on Tuesday 22 April 2014 at 2.00 pm.

Membership: Councillors Guest, Illingworth, and Wilkinson.

Agenda

1. **Emergency Procedure**

At the commencement of the meeting the emergency procedure for the Town Hall will be announced.

2. **Appointment of Chairman**

To appoint a Chairman for the meeting.

3. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

4. **Application for the grant of a premises licence under the Licensing Act 2003 for Castle Kebabs**

To consider a report from Health & Community Protection. **(Item 4/Page 1)**

Agenda published Wednesday 9 April 2014

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 353362

Facsimile: 01926 456121

E-Mail: committee@warwickdc.gov.uk

For enquires regarding the specific reports, please contact the named officer for the individual report.

Details of all the Council's committees, councillors and agenda papers are available via our website www.warwickdc.gov.uk/committees

Please note that the majority of the meetings are held on the first floor at the Town Hall. If you feel that this may restrict you attending this meeting, please call (01926) 353362 prior to this meeting, so that we can assist you and make any necessary arrangements to help you attend the meeting.

**The agenda is also available in large print, on request, prior to the meeting by calling
01926 353362**

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|---|--|--|--------------------------|
|  | | Licensing Panel 22 April 2014 | Agenda Item No. 4 |
| Title | | Application for the grant of a premises licence under the Licensing Act 2003 for Castle Kebabs | |
| For further information about this report please contact | | Emma Dudgeon, Licensing Enforcement Officer, Health and Community Protection. Tel: 01926 456113 Emma.dudgeon@warwickdc.gov.uk | |
| Wards of the District directly affected | | None | |
| Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006? | | No | |
| Date and meeting when issue was last considered and relevant minute number | | N/A | |
| Background Papers | | None | |

| | |
|--|----|
| Contrary to the policy framework: | No |
| Contrary to the budgetary framework: | No |
| Key Decision? | No |
| Included within the Forward Plan? (If yes include reference number) | No |
| Equality and Sustainability Impact Assessment Undertaken | No |
| | |

| | | |
|--|-------------|----------------|
| Officer/Councillor Approval | | |
| Officer Approval | Date | Name |
| Chief Executive/Deputy Chief Executive | | |
| Head of Service | 4.4.2014 | Marianne Rolfe |
| CMT | | |
| Section 151 Officer | | |
| Monitoring Officer | | |
| Finance | | |
| Portfolio Holder(s) | 4.4.2014 | Michael Coker |
| Consultation & Community Engagement | | |
| N/A | | |
| Final Decision? | | Yes |
| Suggested next steps - None | | |

1. **SUMMARY**

- 1.1 Warwick District Council Licensing Authority has received a valid application for a new premises licence from Mr Halil Guner.
- 1.2 Representations have been received in relation to this application for the consideration of the panel in the determination of the application.

2. **RECOMMENDATION**

- 2.1 Members are asked to consider the information contained in this report and decide whether the application for the grant of a premises licence for Castle Kebabs, 46b Saltisford, Warwick, should be approved and, if so, whether the Licence should be subject to any conditions.

3. **THE APPLICATION**

- 3.1 Mr Guner applied for a premises licence on 18 February 2014. The table below shows what has been applied for.

| Late night refreshment off the premises | Opening Hours of the premises |
|---|---------------------------------------|
| Friday and Saturday 23:00 to 02:00 | Friday and Saturday 12:00 to 02:00 |
| | Sunday to Thursday 12:00 to 23:00 |

- 3.2 The premises do not currently operate with any licensable activities and therefore would not need a premises licence. Due to there not being a licence at the premises information relating to complaints or incidents cannot be gathered. Street Marshalls do not operate in Warwick and therefore information can also not be presented in relation to their involvement at the premises.
- 3.3 An operating schedule which has been submitted by the applicant and will form part of any licence issued has been supplied as follows:

General

Extension of hours only on Friday and Saturday.
No alcohol served on or off premises.

The prevention of crime and disorder
CCTV in operation.

Public safety

Mr H Guner hot food only, no alcohol.
Nothing beyond existing Health and Safety/Fire Safety etc requirement.

Prevention of public nuisance

Mr H Guner will attend to this. Hot food only, no alcohol.

Protection of children from harm

N/A

- 3.4 An objection was received from Warwickshire Police. Following an agreement with the applicant, attached as appendix 1, the objection was withdrawn and the following conditions will be added to any licence issued.
1. No music to be played in the premises whilst open.
 2. No child under 16 years to be allowed in to the shop after 11pm, except in the company of an adult.
 3. Groups congregating outside to be dispersed.
 4. CCTV must be installed to the current British Standard, record at all times when licensable activities take place, and must include:
Cameras must cover entrance and service till.
Head and facial recognition.
Capable of recording and storing 31 days continuously.
Someone must be on duty when licensable activities take place who is capable of downloading images upon request by an authorised officer.
The image quality must be of a minimum of 12 frames per second.
The system must be signed off by Warwickshire Police Architectural Liaison Officer.
- 3.5 A relevant representation has been received from Environmental Health, attached as appendix 2.
- 3.6 There have been no representations received from:
- Fire Authority
 - Enforcement Agency for Health and Safety.
 - Trading Standards
 - The Licensing Authority
 - Authority Responsible for Planning
 - Authority Responsible for the Protection of Children from Harm
 - National Health Service/Public Health
- 3.7 A plan of the premises submitted by the applicant is attached as appendix 3 and a map of the area of the premises is attached as appendix 4.

4. **POLICY FRAMEWORK**

- 4.1 When considering the application the panel must give appropriate weight to:-
- a) The representations received.
 - b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
 - c) The Council's Licensing Policy Statement (attached as appendix 5)
 - d) The Licensing Objectives, which are:-
 - i) The Prevention of Crime and Disorder.
 - ii) Public Safety.
 - iii) The Prevention of Public Nuisance.

iv) The Protection of Children from Harm.

However, it should only consider those licensing objectives which have been referred to in the representations received.

- 4.3 The Council's Licensing Policy Statement provides that the authority will take an objective view on all applications and will seek to attach appropriate and proportionate conditions to licences where necessary in order to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.
- 4.4 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant and those making representations. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

5. **BUDGETARY FRAMEWORK**

- 5.1 There would be costs associated with any appeal against the decision as set out in 6.1 below.

6. **RISKS**

- 6.1 Any decision made by the Panel may be appealed against at a Magistrates Court within 28 days of the decision. There would be costs associated with responding to an appeal and the Council could be ordered to pay the Appellants costs if it is deemed to have behaved unreasonably.

Warwick District Council

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REPORT PREPARED ON 10/ 4/14 AT 14:55

Request reference number: 172908

DETAILS OF SERVICE REQUEST

COMPLAINT CATEGORY: ENG - Noise - commercial industrial - other
COUNTRY OF TRADE: GB - UNITED KINGDOM
UNIT: EEP - Environmental Protection
INVESTIGATING OFFICER: MSJ - Michael Jenkins
RECEIVING OFFICER: LCP - Lucy Parker

DATES

DATE RECEIVED: 15/03/2013 TIME: 0.07
DATE OF FIRST RESPONSE: 15/03/2013 TIME: 23.00
DATE CLOSED: 09/05/2013
TARGET RESPONSE DATE: 21/03/2013

NAME OF PERSON COMPLAINED AGAINST

Castle Fast Food
PREMISES REF: C12*WR46BS/1
NAME: Castle Kebab
TELNO: 01926 491010
UPRN/USRN: 100071510104
EASTING: 427943
NORTHING: 265213

ADDRESS COMPLAINED AGAINST

46b Saltisford
North Rock
Warwick, Warwicks

AREA: Warwick

CV34 4TD WARD:
TELNO: 01926 491010
UPRN/USRN:100071510104
EASTING: 427943
NORTHING: 265213

FULL DETAILS OF CLIENT

CLIENT UPRN/USRN: 100071363412
 CLIENT EASTING: 427943
 CLIENT NORTHING: 265213
 CLIENT LPIKEY: 3725L000084624
 HOW RECEIVED: E - Email
 DATE SERVICE REQUEST RECEIVED : 15/03/2013

TEXT

15/ 3/2013 9:02 LCP

Further information: The fast food outlet has recently opened and the noise has become intolerable past 11PM until 1AM. The owners have been very inconsiderate to people who live in close proximity. They regularly shout very loud to one another, slam doors so hard it shakes the unit, revving engines into the early hours of the morning. The only way we can sleep is when they leave the shop at 12-1AM. The noise is causing a great nuisance and the volume is way beyond reasonable giving the time. We are looking for a solution to get them to cease being so loud.

COST AND TIME CHARGED

PAYMENT RECEIVED: No

RESULT AND FURTHER ACTION

ACTION TYPE: EAB - Nuisance from noise
 Action record initiated under record number 155814

- | | | |
|---|---|----------------|
| 1 | E09 Noise - night noise service letter | 19/03/2013 LCP |
| 2 | AAA Telephone Call to. [REDACTED] They do close at 11pm but for the next hr / hr and a half they shout, bang around, move things onto the street etc which causes nuisance. Advised we visited friday and that he should call n/n out to witness. Gave him mobile number over the phone. He was very impressed that we had this service | 19/03/2013 LCP |
| 3 | AAA Telephone Call to... [REDACTED] no answer and no machine | 18/03/2013 LCP |

- 4 AAL Visit - advice given toowners/staff of shop just before 15/03/2013 MSJ
11pm. They have just set up the
business but close at 11pm so they
will have all left soon after this.
Complainant not contacted on the night
due to time. KSW and MSJ on duty
- 5 full e-mail 15/03/2013 LCP
- 6 COM Completion Target 14/05/2013 09/05/2013 MSJ

Emma Dudgeon

From: halil guner <[REDACTED]>
Sent: 24 March 2014 14:32
To: Emma Dudgeon
Subject: RE: Castle Kebabs

Dear Ms Dudgeon,

Yes, I accept all conditions.

Kind regards,
Mr Halil Guner

From: Emma.Dudgeon@warwickdc.gov.uk
To: [REDACTED]
Subject: Castle Kebabs
Date: Mon, 24 Mar 2014 14:05:20 +0000

Dear Mr Guner,

Please can you confirm that you accept all conditions asked for by Warwickshire Police. These are as follows:

1. No music to be played in the premises whilst open
2. No child under 16 years to be allowed in to the shop after 11pm, except in the company of an adult
3. Groups congregating outside to be dispersed.
4. CCTV must be installed to the current British Standard, record at all times when licensable activities take place, and must include:
Cameras must cover entrance and service till
Head and facial recognition
Capable of recording and storing 31 days continuously.
Someone must be on duty when licensable activities take place who is capable of downloading images upon request by an authorised officer.
The image quality must be of a minimum of 12 frames per second
The system must be signed off by a Warwickshire Police Architectural Liaison Officer.

Kind regards

Emma Dudgeon
Licensing Enforcement Officer

Health & Community Protection | Warwick District Council | Riverside House | Milverton Hill | Royal Leamington Spa | CV32 5HZ | 01926 456113 | 07702518003

emma.dudgeon@warwickdc.gov.uk | www.warwickdc.gov.uk



WARWICK DISTRICT COUNCIL
Licensing Act 2003

**REPRESENTATION FORM FROM
RESPONSIBLE AUTHORITIES**

Responsible Authority – Environmental Health, Riverside House, Milverton Hill, L/Spa, CV32 5HZ.

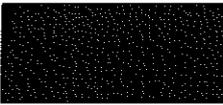
| | |
|--------------------------|---|
| Your Name | Matthew Shirley |
| Job Title | Technical Officer |
| Postal and email address | Environmental Sustainability, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ |
| Contact telephone number | 01926 456730 |

| | |
|---|---|
| Name of the premises you are making a representation about | Castle Kebabs |
| Address of the premises you are making a representation about | 46b Saltisford, Warwick, Warwickshire, CV34 4TD |

| <i>Which of the four licensing Objectives does your representation relate to?</i> | <i>Yes Or No</i> | <i>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</i> |
|---|------------------|--|
| To prevent crime and disorder | No | |
| Public safety | No | |
| To prevent public nuisance | Yes | See notes on separate page |
| To protect children from harm | No | |

| | |
|--|---------------------------|
| Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist. | No recommended conditions |
|--|---------------------------|

| | |
|--------------------------------------|---|
| Comments / Objections / Observations | Environmental Health object to this application |
|--------------------------------------|---|

Signed: 

Date: Monday 10th March 2014

Proximity to surrounding residential properties

The premises are located within a mixed commercial and residential area. There are a large number of residential properties at the rear of the premises on Victoria Mews as well as several properties directly opposite on Parkes Street. The premises are also adjoined by a six bedroom house in multiple occupation which adjoins at the side and from above.

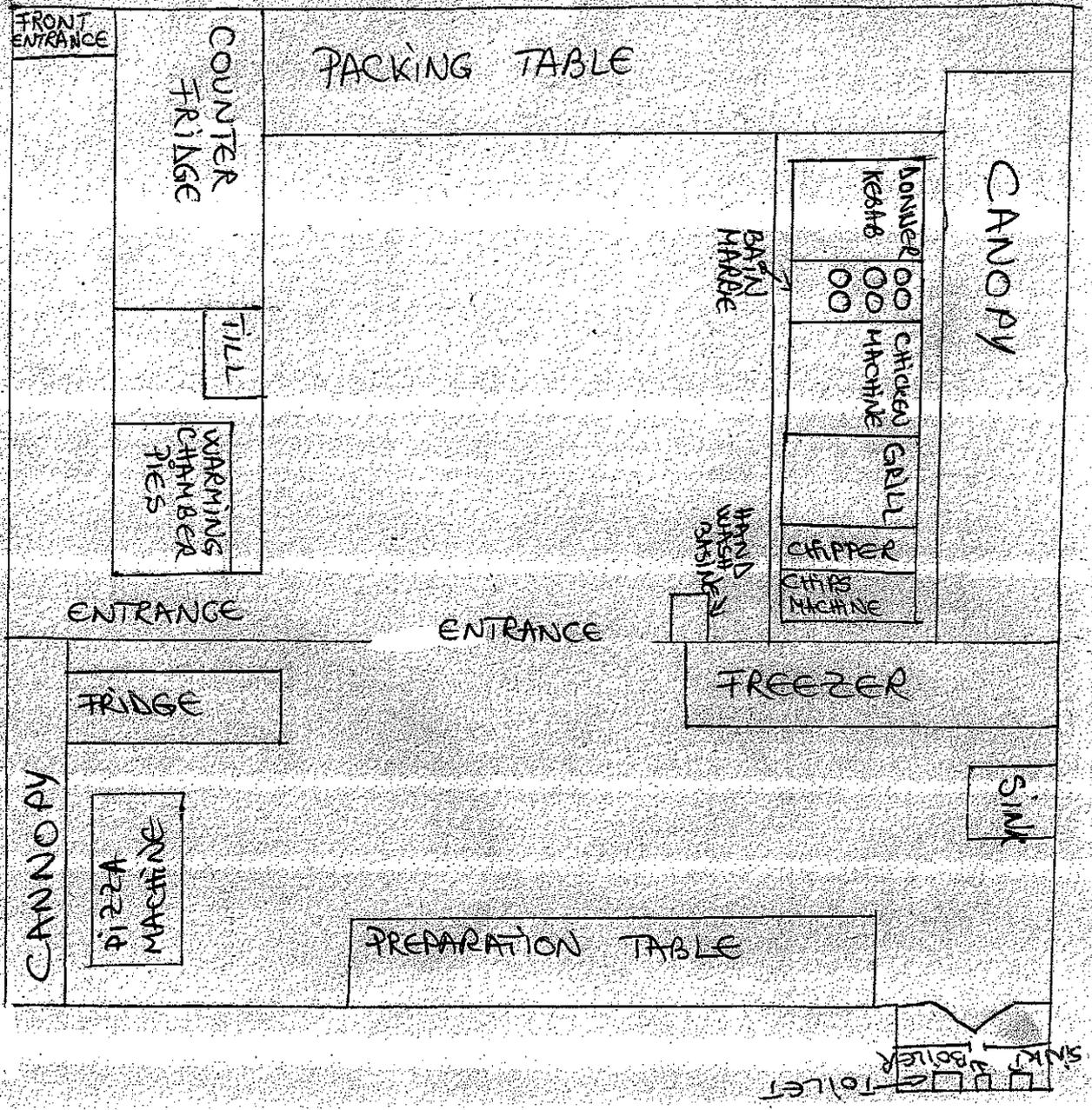
Previous complaints

Environmental Health has previously received complaints of noise arising from the premises. These complaints involved disturbances from shouting, slamming doors, revving car engines and moving bins onto the street. These disturbances were occurring late in the evening after closing hours, and as such, we believe that an extension of closing times will reintroduce these disturbances and prolong surrounding residents' exposure to such noise.

The proposals to extend closing hours to 02:00 on Friday and Saturday nights is likely to result in staff remaining at the premises after these hours in order to clean and lock up. In addition to this, the proposals will also result in the kitchen extraction unit being operated into the early hours of the morning, increasing the disturbance to nearby residents.

Patrons in the street

The application to extend operating hours until 02:00 will also lead to an increased number of patrons on the street visiting the premises at more unsociable hours. The extension of hours is likely to attract customers out from the town centre and surrounding areas and will cause them to remain in the immediate vicinity of the premises. This will inevitably give rise to public nuisance and further disturbance to local residents as a result of increased noise on the street.



SHOP PLAN

