

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – 21st January 2009

Title of report	APPLICATION FOR A PREMISES LICENCE
Contacts	<p>Portfolio Holder 01530 412059 John.bridges@nwleicestershire.gov.uk</p> <p>Commercial Services Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Enforcement Officer 01530 4545956 andy.cooper@nwleicestershire.gov.uk</p>
Purpose of report	<p>To determine an application for a premises licence in respect of premises, Ashby Kebab located outside 28–32 Market Street, Ashby De La Zouch, Leicestershire. This report outlines the application and summarises the representations received. It also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority’s Licensing Policy.</p>
Strategic aims	Strong and Safer Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p>	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p> <p>Safer CAT.</p> <p>The usual risks of cost involved if the applicant appeals against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p> <p>Equality impact assessment to be undertaken during 2008/2009.</p> <p>Article 1 of Protocol 1 of the European Convention of Human Rights provides that everyone is entitled to the peaceful enjoyment of his possessions, except in the public interest and subject to the conditions provided for by law.</p>

Transformational Government	Not applicable.
Consultees	Leicestershire Constabulary, Leicestershire Fire and Rescue Service, Trading Standards, Health and Safety, Environmental Protection, Planning and members of the public/local businesses by way of notice on the premises.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at www.culture.gov.uk and Statement of Licensing Policy -available for reference at www.nwleics.gov.uk/licensing
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises are a mobile vehicle which is to be located outside of 28-32 Market Street, Ashby De La Zouch.
- 1.2 A map showing the location of the premises is attached as **appendix 1**.
- 1.3 An application for a new premises licence was received on the 27th November 2008 from Mr Aydin Yayci. A copy of the application is attached as **appendix 2**.
- 1.4 The licensable activity applied for is **the provision of late night refreshment** during the following hours:
- Sunday to Wednesday – 23:00 to 01:00.
 - Thursday to Saturday – 23:00 to 03:00.
- 1.5 The applicant has specified the following steps that he will take in order to promote the four licensing objectives:

The prevention of crime and disorder

- CCTV Cameras shall be installed in the vehicle and maintained every six months.

Public Safety

- All litter and glass shall be cleared.
- The pavement areas shall be kept free of any grease removing any such with disinfectant.
- A sign shall be prominently displayed in the front window requiring customers not to wait or park in front of the parade but to use the car park on the side in the interest of neighbouring residents.

The prevention of public nuisance:

- Collection and disposal of any litter observed in the vicinity of the premises and the provision of a refuse bin inside the premises.
- The Ventilation unit shall be maintained.
- All surfaces and walls to be kept clean and disinfected at all times.
- The premises licence holder shall warn customers to keep noise to a minimum.

2.0 Representations

- 2.1 In respect of a new application, the applicant is responsible for advertising the application by way of a notice in specified form at the premises for not less than 28 consecutive days and in a local newspaper. The applicant placed a notice in the Ashby Times on 5th December 2008 and officers are satisfied that the correct notices have been displayed at the premises.
- 2.2 The applicant is also required to serve a copy of the application on each of the responsible authorities, namely, the Police, Fire Authority, Trading Standards Department and the District Council's Health and Safety, Environmental Protection and Planning Sections. Officers are satisfied that the applicant has served all parties as required.
- 2.3 There has been one representation from the Police authority on the grounds of prevention of crime and disorder, public safety and the prevention of public nuisance. A copy of the representation is attached as **appendix 3**.
- 2.4 There has been one representation from the District Council's Environmental Protection Officer on the grounds of prevention of public nuisance. A copy of the representation is attached as **appendix 4**.
- 2.5 Interested parties in the vicinity of the premises are able to make representations within 28 days of display of the notice of application to the Licensing Authority. Four representations have been received from interested parties based on crime and disorder, public safety, protection of children from harm and the prevention of public nuisance. Copies of these representations are attached as **appendices 5 to 8**.

3.0 Cumulative Impact

- 3.1 The premises are situated in Market Street, Ashby De La Zouch which is within the area of the special policy on cumulative impact referred to in the Council's Statement of Licensing Policy.
- 3.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 3.3 The Licensing Authority recognises that this policy cannot be absolute and will consider each application properly on its merits and those that are unlikely to contribute to the cumulative impact problems may be approved.

4.0 Statutory Guidance

4.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 2.1 to 2.18, 2.19, 2.32 to 2.40, 2.41 to 2.47, 3.32 to 3.39, 8.5 to 8.11 and 13.29 to 13.32 may have a bearing upon the application.

5.0 Statement of Licensing Policy

5.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 2.1, 2.3 to 2.6, 3.1 to 3.10, 4.1 to 4.3, 5.1, 5.3, 7.1, 7.2, 8.1, 8.2, 9.1 to 9.3, 10.1, 10.2, and 12.1 may have a bearing upon the application.

6.0 Observations

6.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:

- the prevention of crime and disorder;
- the prevention of public nuisance;
- public safety;
- the protection of children from harm.

6.2 The Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:

- a) Grant the application as requested.
- b) Modify conditions consistent with the operating schedule accompanying the application to such extent as the authority considers necessary for the promotion of the licensing objectives.
- c) Reject the whole or part of the application.

6.3 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant, premises licence holder and persons who made relevant representations.