

BABERGH DISTRICT COUNCIL

FROM: Head of Natural and Built Environment

REPORT NUMBER **K1**

TO: LICENSING SUB-COMMITTEE **DATE OF MEETING** 22 APRIL 2010

LICENSING ACT 2003 - HEARING REPORT

1. SUMMARY

1.1 To determine an application under the Licensing Act 2003 made by:

Mr Halit Koksal

in respect of:

Liz's Pizza & Kebab, 55 North Street, SUDBURY, Suffolk CO10 1RE

The hearing is to determine an application to VARY an existing premises licence (Ref: BPL0292) made under section 34 of the Licensing Act 2003. For ease of reference a copy of the existing premises licence summary and conditions are attached as **Appendix 1**.

1.2 Generally, the variation seeks to increase hours for late night refreshment activity on a Friday and Saturday only. The application form and accompanying plans are attached as **Appendix 2**.

2. RECOMMENDATIONS

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- to modify the conditions of the licence;
- to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

The Sub-Committee is able to determine the variation application.

3. THIS APPLICATION

3.1 The premises licence holder remains Mr Halit Koksal, and he has been the premises licence holder since November 2005.

3.2 The variation application seeks to carry on the following licensable activities:

(a) Late night refreshment (indoors and outdoors) – primarily for takeaway

Hours applied for late night refreshment (LNR) are:

- 23:00hrs until 03:00hrs on a Friday and Saturday. The premises currently cease trading at midnight on all occasions.

However, these proposals have since been REDUCED to terminate at 2am after reaching a mediated agreement with the local Police Inspector, on the basis of which he has withdrawn his previous representation.

The variation is not seeking to add, amend or alter conditions already attached to the existing licence BPL0292 (these would therefore carry forward on to any new licence granted) - see Appendix 1.

- 3.3 The statutory advertisements required under the Act have been published and displayed as certified by the applicant. The newspaper advertisement of the application appeared in the Suffolk Free Press on 11 March 2010. The following consultees, as Responsible Authorities under the 2003 Act, have been served with a copy of the application and plan:

RESPONSIBLE AUTHORITY:	RESPONSE:
1. Chief Officer of Police	Representation made and now withdrawn as mediation agreement has been reached.
2. Local Fire Authority	No representation or comments
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	No representation or comments
4. Environmental Health	No representation or comments
5. Local Planning Authority	ADVISORY COMMENTS received that the existing planning controls limit operation until midnight
6. Area Child Protection Committee	As per Chief Officer of Police. Representation made and now withdrawn.
7. Any other Licensing Authority	Not applicable
8. Trading Standards	No representation or comments
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	Not applicable.

- 3.4 One representation has been received during the statutory period from an 'interested party' as defined by the 2003 Act:

- **Mr Brian Goat, 62 North Street, SADBURY, Suffolk CO10 1RE**
(representation submitted via his agent Birchall Steel Consultant Surveyors)

- 3.5 A copy of any representations are attached as **Appendix 3**. Any advisory only comments or representations now withdrawn by Responsible Authority consultees are also attached as Appendix 3 by way of information/clarification.

4. GUIDANCE AND POLICY CONSIDERATIONS

- 4.1 The Sub-Committee is referred generally to section 2 - 'The Licensing Objectives', section 8 - 'Applications for Premises Licences', section 9 - 'Determining Applications' and section 10 - 'Conditions Attached to Premises Licences and Club Premises Certificates' of the Central Government Guidance (as revised January 2010) in respect of this application.
- 4.2 The Government Guidance issued under section 182 of the Licensing Act 2003 advises that duplication with other statutory provisions is to be avoided (sections 1.16 and 10.15 - 10.18 refer) and that any conditions deemed necessary to attach to a licence must be proportionate and focus on relevant measures that are within the direct control of the licence holder.
- 4.3 Licensing law is not the primary mechanism for the general control of individuals once they are away from the licensed premises and beyond the direct control of individual licensees (section 1.26 refers), nor is licensing the 'panacea for all community problems' (section 1.20 refers).
- 4.4 'Need' for licensed premises is not a matter for a Licensing Authority when discharging its licensing functions - it is a matter for planning committees and for the market (section 13.23 of the statutory guidance refers).
- 4.5 It should be noted that applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority. Licensing committees are not bound by decisions made by a planning committee, and vice versa (sections 13.64 - 13.68 of the statutory guidance refer).
- 4.6 The Sub-Committee should have due regard to all relevant sections of the Council's Statement of Licensing Policy in respect of the determination of this application.
- 4.7 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 and Articles 8 and 1 of Protocol 1 when determining applications for the variation of an existing licence.

5. THE ISSUE(S)

- 5.1 The Licensing Act 2003 came into full effect on 24.11.2005. The four underlying objectives of the legislation are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm

These are the **only** grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence.

- 5.2 Members will note that the issues in respect of this application involve balancing the interests of owners, employees, customers and neighbours of licensable premises.

6. PROCEDURE TO BE FOLLOWED AT HEARING

- 6.1 A copy of the 'Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received' is attached to the Agenda.

7. APPENDICES REFERRED TO

- (a) Appendix 1: Summary of existing premises licence BPL0292
- (b) Appendix 2: Application
- (c) Appendix 3: Representations received and any RA advisory comments

MALCOLM FIRTH
Head of Natural and Built Environment Division

CONTACT: Lee Carvell (Principal Licensing Officer) **EMAIL:** lee.carvell@babergh.gov.uk

SUMMARY OF (EXISTING) PREMISES LICENCE BPL0292

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Liz's Pizza
 55 North Street
 SUDBURY, Suffolk CO10 1RE

POST TOWN	SUDBURY	POST CODE	CO10 1RE
TELEPHONE NUMBER	01787 883415		

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- **Late night refreshment (indoors)**

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

STANDARD TIMINGS:

Hours authorised: 23:00hrs until 00:00hrs (Monday to Sunday)

NON-STANDARD TIMINGS / SEASONAL VARIATIONS:

Standard timings continue to apply on all occasions

THE OPENING HOURS OF THE PREMISES

STANDARD TIMINGS:

Opening hours: 11:00hrs to 00:00hrs (Monday to Sunday)

NON-STANDARD TIMINGS / SEASONAL VARIATIONS:

Standard timings continue to apply on all occasions

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

Supply of alcohol is NOT authorised

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mr Halit Koksal
 55 Girling Street, SUDBURY, Suffolk CO10 1LZ

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Not applicable

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Not applicable

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

No restrictions or prohibition applicable

ANNEX 1 - MANDATORY CONDITIONS

The following conditions in Annex 1 are mandatory under the provisions of the Licensing Act 2003:

None applicable to this licence.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

The following conditions in Annex 2 are conditions consistent with the operating schedule submitted by the applicant within the application:

The licence holder has volunteered no steps or conditions beyond existing regulatory requirements.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None.