



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No: 20/01813/LAPRE

Applicant: KDG Maidstone Ltd

Regarding German Donner Kebab 79-85 Week Street Maidstone kent ME14 1QX

Date(s) of hearing: 2nd October 2020

Date of determination: 2nd October 2020

Committee Members: [Chairman]: Councillor Hinder (B)
Councillor Garten
Councillor Robertson

Legal Advisor in attendance at hearing(s): Robin Harris, Team Leader (Contentious),
MKLS

Democratic Services Officer in attendance at hearing: Oliviya Parfitt

Senior Licensing Officer for application: Lorraine Neale

This was an application for:

- Variation Grant
 Provisional Statement Review Other

for a

- Premises Licence Club Premises Certificate Personal Licence
 Temporary Event Notice

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

- Name: Mr Gurjeet Dhillon
- Legal or other representative: N/A

Responsible Authorities

Kent Police (Made a representation which was subsequently withdrawn following proposed conditions being agreed and added to the operating schedule.)

Other Persons

Name: Ms Lisa Postiglione

Witnesses and legal representatives in support of interested parties

N/A

Representations considered in the absence of a party to the hearing:

N/A

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives
Section 13 which relates to responsible authorities;
Section 16-24 which relate to the grant of a premises licence;
Schedule 1 which relates to Regulated Entertainment

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 8 & 9 which relates to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 17 which relates to the 4 licensing objectives;
Chapter 17.9 – 17.15 which relates to the prevention of crime and disorder;
Chapter 17.16 – 17.18 which relates to public safety
Chapter 17.19 – 17.22 which relates to the prevention of nuisance;
Chapter 17.23 – 17.26 which relates to the prevention of children from harm;

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

N/A

C: Determination:

The Committee has decided to:

- Grant the application as applied for. (For clarity, this includes the conditions that were agreed with the Police prior to the hearing subject to the amendment of condition 1a to remove the reference to the sale and supply of alcohol which is not relevant to this application.)

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee noted that there were conditions agreed with Kent Police, but that a CCTV condition related to the sale/supply of alcohol, which was not relevant to this application. The Sub-Committee had regard to the written and oral submissions from Ms Postiglione, but were satisfied that the operating schedule, with Police conditions, amended for accuracy, was sufficient to promote this licensing objective.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective and noted that the Covid Secure capacity of the premises was closer to 30 people rather than 90. The Sub-Committee had regard to the representations made by Ms Postiglione, but felt that they were outside the definition of public safety within the meaning of the Licensing Act 2003.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee had regard to the written representations received and the statements made during the hearing in relation to this licensing objective. The representations in as far as they were relevant, were predominantly concerned with noise from the premises and the disruption that this could cause to local residents and with the waste (litter) generated by the premises.

The applicant confirmed that they have substantial experience of managing late night food premises and their staff are well trained to deal with patrons that frequent these premises. The applicant further advised that there are bins immediately outside the premises and their operating model (franchise) requires them to litter pick in the immediate vicinity of the premises every day before the shop opens.

The applicant confirmed that as a business they were always open to the concerns of local residents who were welcome to contact them directly with any concerns. The applicant also advised the Sub-Committee that as a leaseholder, as well as the licensing objective they had obligations in their lease that protected the neighbours from causing a nuisance.

Taking into account all of the above, the Sub-Committee were satisfied that the operating schedule was sufficient to promote this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee noted that the representations made under this licensing objective related to public health, rather than alcohol or sexual entertainment, none of which feature in this application. As such, the Sub-Committee was satisfied that the operating schedule provided by the applicant was sufficient to promote this licensing objective.

PRINT NAME (CHAIRMAN): C Councillor Bob Hinder

Signed [Chairman]:

A copy of the original document is held on file

Date: 5th October 2020