

Havering Council – Decisions taken by the Licensing Sub-Committee on Wednesday, 22 February 2017

Agenda Item No	Topic	Decision
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Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.

Part A – Items considered in public

<p>A1</p>	<p>APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF THE LICENSING ACT 2003 - FAMILY NIGHT PIZZA</p>	<p align="right">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Family Night Pizza 6 Faringdon Grove, Faringdon Avenue, Romford, RM3 8TD</p> <p>APPLICANT Mr Jaan Nazari 12 Faringdon Grove, Faringdon Avenue, Romford, RM3 8TD</p> <p>1. Details of Application</p> <p>The premises; Family Night Pizza was a ground floor shop located in a larger industrial unit on an industrial estate in Harold Hill. A number of residential properties lie on the opposite side of Faringdon Avenue. Therefore the area might be classed as one of mixed use.</p> <p>Details of the application</p>
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		<p>The licensable activities sought are:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Provision of Late night refreshment</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Sunday to Wednesday</td> <td align="center">23:00</td> <td align="center">02:00</td> </tr> <tr> <td>Thursday to Saturday</td> <td align="center">23:00</td> <td align="center">03:00</td> </tr> <tr> <td>Sunday preceding a bank holiday Monday</td> <td align="center">23:00</td> <td align="center">03:00</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th align="center" colspan="3">Hours premises open to the public *</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Sunday to Wednesday</td> <td align="center">23:00</td> <td align="center">02:00</td> </tr> <tr> <td>Thursday to Saturday</td> <td align="center">23:00</td> <td align="center">03:00</td> </tr> <tr> <td>Sunday preceding a bank holiday Monday</td> <td align="center">23:00</td> <td align="center">03:00</td> </tr> </tbody> </table> <p>NB The application indicated in section 18 that the shop will be closed to the public at 00:00 and no members of the public will be permitted on the premises after that time.</p> <p>Comments and observations on the application</p> <p>The applicant acted in accordance with regulations 25 and 26 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 relating to the advertising of the application. The required public notice was installed in the 13th January 2017 edition of the Romford Recorder.</p> <p>There were representations against this application from two responsible authorities, namely</p>	Provision of Late night refreshment			Day	Start	Finish	Sunday to Wednesday	23:00	02:00	Thursday to Saturday	23:00	03:00	Sunday preceding a bank holiday Monday	23:00	03:00	Hours premises open to the public *			Day	Start	Finish	Sunday to Wednesday	23:00	02:00	Thursday to Saturday	23:00	03:00	Sunday preceding a bank holiday Monday	23:00	03:00
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		<p>Havering's Planning and Licensing Authorities.</p> <p>2. Details of Representations</p> <p>Havering's Licensing Authority had made an objection to the Late Night Refreshment application submitted by the premises.</p> <p>Mr Campbell outlined that the understanding of the application was that customers would be permitted to attend the premises to collect food until midnight and thereafter a delivery service from the premises would be operational using either a motorbike or car, this would create noise as vehicles arrive, are loaded and leave to deliver the meal.</p> <p>The Sub-Committee was informed that as the premises was a new business, it was not known how busy the premises would be, but the application stated in the operating schedule (Prevention of Crime and Disorder item 10) "A minimum of 2 staff shall be in the shop at all times during permitted hours".</p> <p>The authority was of the view that in order to pay the wages of two staff working in the shop and at least one delivery person plus the running costs of the business, it could be assumed that the premises was expecting to be busy with continuous deliveries between midnight and the finish time to make it a viable business.</p> <p>To operate to the hours applied for and to be successful the premises would need to be busy which would involve vehicles being used continuously to the early hours of the morning and with the nearest residential property being under 75 metres from this premises noise was inevitable and the later the hour the more the potential of noise becomes a nuisance to nearby residents.</p>

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		<p>The Licensing Authority representation outlined that Havering's Licensing Policy had suggested finish times for Take Away fast food premises at Midnight Sunday to Thursday and 01:00 Friday and Saturday but also detailed that "Consideration will also be given to the type of area that the premises was located in with regulated activities normally being permitted until 23.30 in residential areas and 00.30 in mixed use areas".</p> <p>The Sub-Committee was informed that the premises was on the edge of an industrial area with residential properties 75 metres away, in the authority's view it considered the premises to be located in a residential or mixed use area. No other premises nearby was licensed beyond midnight, Mr Campbell had reiterated that as the premises was in an area considered to be in a residential or mix use area the finishing time had to be restricted in line with Havering's Licensing Policy suggested times.</p> <p>Mr Campbell stated that the policy expected that when an application was made for hours outside the hours specified the applicant should outline the measures to militate against Crime and Disorder and Public Nuisance but the authority's view was that the applicant had not fully addressed the licensing objectives or taken into account Havering's Licensing Policy.</p> <p>The Licensing Authority contended that any premises open late at night would cause some noise and at the hour of 2am and 3am would be a nuisance to nearby residents.</p> <p>Mr Campbell concluded that if the Licence for Late Night Refreshment was granted, the authority ask that the Sub-Committee consider restricting the terminal hour to be in line with or earlier than the times outlined in the Licensing Policy.</p>

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		<p><u>Havering's Planning Authority</u></p> <p>Havering's Planning Authority made an objection to the proposed late night refreshment premises licence application on the prevention of public nuisance licensing objective.</p> <p>Mr Cadman, for the Local Planning Authority (LPA) informed the sub-committee that the use of the premises as a fast food takeaway had not been subjected to an assessment by the planning department. It was the view of the service that due to the location of the premises any planning applications for a fast food takeaway at this premises would not be supported by the planning department.</p> <p>Mr Cadman stated that it was unlikely that the expectations set out in licencing policy 6 would be met. However, as the planning and licencing regimes were separate the merit of the licence application was considered.</p> <p>The Planning Authority noted that the applicant was seeking a late night refreshment licence but the premises would not be open to customers after midnight. The Planning Authority would agree that this does go some way in mitigating the issues of public nuisance insofar as minimising the comings-and-goings of customers to the premises but the issue still remain as home delivery would be in operation using cars.</p> <p>The Planning Authority would accept that even though the applicant had demonstrated some experience and knowledge of operating a hot-food takeaway in accordance with Licencing Policy 8 but the fact remain that the application does not refer to the impact the activities proposed in the licence on the surrounding area which would be especially prominent given the proximity to the local primary school (Broadford School). Mr Cadman was of the opinion that as such the main concerns had not been addressed including the effect on parking in the local area.</p>

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		<p>The Planning Authority detailed the following other concerns:</p> <ul style="list-style-type: none"> • The potential of additional litter and rubbish being produced during times which the premises will be open to customers / members of the public. • The impact of introducing a hot-food takeaway which operated from 8am every day on the local school, and the effect this would have on the ability of persons connected with the school (including children, parents and staff) to have access to healthy food. • The premises was located in an industrial estate, and there have not been any steps outlined on having additional persons coming and going to the property, and what steps are taken to help mitigate the hazards of a working industrial estate; where there is a rebuttable presumption that there would be large and heavy vehicles operating. • Given that the premises had approximately 70 houses located within a 200m radius of the property, there was no indication of how additional persons coming and going to the premises in the late hours - and the additional vehicle movements in the late evening / early hours would affect the local residents and the local road network. • The opening hours contravene the suggested hours as set out in Licencing policy 7, and there was no justification as to why this was, or how the additional times would not have a detrimental impact on the surrounding area. <p>Mr Cadman was of the view that without further information, the Planning Authority was unable to determine if the correct measures were in place to completely satisfy the concerns detailed.</p> <p>The Sub-Committee was informed that given the arguments as set out above, the licence application fails to meet the requirements and expectations set out in licencing Policies 1, 6, 7, 8 and 14, and the planning department's concerns on the prevention of public nuisance have not been alleviated though the application.</p>

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		<p>In response to the Sub-Committee’s enquiry, Mr Cadman stated that he had not visited the premises to ascertain the issues raised. On the impact of the late night refreshment application on the school, Mr Cadman mentioned that several hundred pupils, parent and teachers would not have an option of a healthy meal in the vicinity of the school.</p> <p>The Sub-Committee was informed that the current planning permission for the premises was for industrial use and the authority was also not aware of any late business operating in the area.</p> <p>The Sub-Committee was asked to defer a decision on granting a late night refreshment licence as applied until more information with regards to the operating schedule was provided.</p> <p>The Planning Authority concluded that as the lawful planning use of the site was not a hot-food takeaway, a planning enforcement investigation may have to be undertaken, with enforcement action considered.</p> <p>.</p> <p>3. Applicant’s response.</p> <p>The applicant’s legal representative, Mr Graham Hopkins, addressed the Sub-Committee.</p> <p>Mr Hopkins stated that the outlet was previously a Chinese restaurant situated in the vicinity of a Café and an Indian restaurant. The Sub-Committee was informed that the applicant, Mr Jaan Nazari had two years’ experience in the pizza trade.</p> <p>Mr Hopkins was of the view that the representation of Planning Services was not relevant, that it was the intention of the applicant to seek planning permission once he had successfully applied for a premises licence.</p>

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		<p>The Sub-Committee was informed that the applicant had consulted the Police on its intention and had accepted the recommended offered by the Police Licensing Officer. Mr Hopkins stated that the premises would only accommodate six persons in the seating area, that the chairs and tables in the area would be removed at 23:00 hours and also accepted that the premises would close its doors to customers at 00:00 hours and concentrating on home delivery service thereon.</p> <p>Mr Hopkins indicated that the primary operating hours for the business was during the day time to offer. It was stated that pizza was a healthier option as it was served with fresh salad.</p> <p>The premises had a carpark in front of the business for its customers and delivery services. It was the intention that delivery driver would come into the premises and wait for orders in order to avoid causing a noise nuisance with revering engine and slamming of doors.</p> <p>It was mentioned that the premises would produce its meal using a gas fired oven which also did not require a flue and have two staff members in the premises at all times.</p> <p>Mr Hopkins stated that the noise nuisance issue was irrelevant as the Public Health – Noise Team and local residents had not objected to the application.</p> <p>The applicant agent further stated that in the case of Brewdog v Leeds City Council the Judge stated that “It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain clanging down to allow such clubs to continue to trade while shutting out Brewdog which attracts more discerning customers who do not engage in binge drinking, though I do accept the requirement of the Cumulative Impact Policy is to ascertain specifically whether there will be impact.”</p>

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		<p>The Sub-Committee was informed that the premises had been empty for some time and the applicant was bringing it back to use. It was noted that a Banqueting hall was located above the premises that closed at midnight; Mr Hopkins indicated that the patrons of the hall were mainly Afro-Caribbean attending weddings or birthday parties and they were not the target customers for the applicant.</p> <p>Mr Hopkins commented that the applicant had taken into consideration the suggestion of the Police on the issue of crime & disorder, the premises would be fitted with CCTV system that meets the requirement of the Police.</p> <p>The Sub-Committee was informed that the last order in the premises would be taken at 23:45 hours.</p> <p>In response to a question, the Sub-Committee was informed that the applicant had worked previously in Sunderland as an operation shift supervisor.</p> <p>It was the applicant intention to undertake the conflict management training which he would also cascade to his staff members. It was also envisaged that one delivery run would enable the staff to deliver to two or three homes as the business had insulated boxes to keep the food hot.</p> <p>Mr Hopkins stated that the applicant had offered to bring down the electronic shutters at the front of the premises at midnight and arrange for delivery drivers to enter and egress the premises through the fire exit.</p> <p>In response to a question, the Sub-Committee was informed that the applicant was seeking to explore the market and that in the long run would determine the viability of the early morning operating schedule. The business was looking to serve local residents about a three miles radius.</p>
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		<p>The Sub-Committee was informed that in order to avoid gang culture and people congregating around the presence, the premises had offered to close its doors at midnight and remove all furniture from the seating area.</p> <p>In summation Mr Hopkins stated that the premises was satisfied that it had satisfied the licensing objectives and taken the suggestion of the Police in to consideration. He was of the opinion the responsible Authorities had the option of a review if things go wrong that would have to be supported with evidence.</p> <p>In response to a question, Mr Campbell, Licensing Authority informed the Sub-Committee that the Banqueting Hall had a capacity of about 210 persons including staff at the presence. That the Diana banqueting hall was generally used as a party venue and it had a kitchen facility on the premises.</p> <p>During its deliberation that The Sub-Committee sought further clarification that the shutters at the premises was controlled electronically and that the shutter covered both the main entrance and the fire exit to the premises.</p> <p>4. Decision</p> <p>In making its decision, the Sub-Committee had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering’s Licensing Policy.</p> <p>In addition the Sub-Committee took account of its obligations under section 117 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.</p>

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		<p>Having considered the representations and submissions from Havering’s Planning, Licensing Authorities’ and the from the applicant’s representative, and having regard to the licensing objectives and in particular the prevention of public nuisance and crime and disorder licensing objectives, the Sub-Committee granted the Premises Licence subject to all conditions offered in the operating schedule on page 20 and 21 of the agenda and subject to the following additional conditions:</p> <ul style="list-style-type: none"> • All home deliveries between 00:00 and end of licensable activities at 1am or 1.30am shall be made via the fire exit door. • The main door and shutter to the premises shall be closed from 00:00 hours until 06:00 hours • All staff at the premises shall be trained in conflict management <table border="1" data-bbox="842 928 1554 1161"> <thead> <tr> <th colspan="3">Provision of Late night refreshment</th> </tr> <tr> <th>Day</th> <th>Start</th> <th>Finish</th> </tr> </thead> <tbody> <tr> <td>Sunday to Wednesday</td> <td>23:00</td> <td>01:00</td> </tr> <tr> <td>Thursday to Saturday</td> <td>23:00</td> <td>01:30</td> </tr> <tr> <td>Sunday preceding a bank holiday Monday</td> <td>23:00</td> <td>01:30</td> </tr> </tbody> </table>	Provision of Late night refreshment			Day	Start	Finish	Sunday to Wednesday	23:00	01:00	Thursday to Saturday	23:00	01:30	Sunday preceding a bank holiday Monday	23:00	01:30
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