

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 18 July 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 - NES CAFE 9 BILLET LANE, HORNCHURCH, RM11 1TS</p>	<p align="right">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Nes Cafe 9 Billet Lane Hornchurch RM11 1TS</p> <p>DETAILS OF APPLICATION</p> <p>The application for a premises license was made under section 17 of the Licensing Act 2003 ("the Act)</p> <p>APPLICANT Mr Oktay Senturk 9 Billet Lane Hornchurch RM11 1TS</p> <p>1. Details of requested licensable activities</p> <p>The application is to permit:</p>
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		<table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th align="center" colspan="3">On-supply of alcohol</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td align="center">Monday to Sunday</td> <td align="center">11:00</td> <td align="center">22:30</td> </tr> </tbody> </table> <p>The premises is located in St Andrews ward which was subject to a special policy further to cumulative impact. Licensing Policy 2 states:</p> <p style="padding-left: 40px;">The Licensing Authority had adopted a special policy relating to cumulative impact in relation to:</p> <ul style="list-style-type: none"> • Romford town centre within the ring road • St Andrews Ward <p>The policy creates a rebuttable presumption that applications for new premises licences, club premises certificates, or variation applications that would add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact and not impact adversely on the promotion of the licensing objectives. The exception to this policy will be for applications for restaurants where alcohol is sold ancillary to a table meal and the terminal licensing hour is in line with the policy.</p> <p>2. Promotion of the Licensing Objectives</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 advertisements of the application. The required public notice was installed in the 9 June 2017 edition of the Romford Recorder.</p>	On-supply of alcohol			Day	Start	Finish	Monday to Sunday	11:00	22:30
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		<p>At the suggestion of the Licensing Authority it was put forward that Premises Licence Annex 2, Conditions 1,3,4,5,6 could be removed; this in line with the section 182 Licensing Act guidance issued by the Government. The applicant had agreed to this suggestion.</p> <p>3. Details of Representations</p> <p>There was one representation against the application from an interested person. The representation was based on the grounds of Public Safety and the Prevention of public nuisance.</p> <p>There was a representation against the application from a responsible authority; Havering’s Licensing Authority.</p> <p>4. Determination of Application</p> <p>Mr Paul Campbell, Havering Licensing Officer attended the hearing and reiterated his representation to the application. The Sub-Committee was informed that the application for a Premises Licence by the applicant had made no reference as to what type of venue it was intended to be and had failed to address fully in the operating schedule what would be done to promote the four licensing objectives.</p> <p>The Licensing Officer indicated that the applicant had also failed to acknowledge that the venue was in a communitive impact area outlined in Havering's Statement of Licensing Policy and what measures would be put into place to make the application an exception to the policy.</p> <p>The Sub-Committee noted that the representation as a Responsible Authority against the application under the licensing objectives were on the grounds of the Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from</p>

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		<p>harm.</p> <p>The Sub-Committee was informed that the premises at 9 Billet Lane was at the moment an unlicensed Cafe currently with opening times of 08:00 to 17:00 hours.</p> <p>Having an additional licensed premises in Hornchurch Town Centre without the correct conditions on their licence would add to the communitive impact area in a negative way.</p> <p>If the licence was granted as applied for, customers would be able to use the premises as a bar to consuming alcohol, at the end of the licensed period move onto other premises with a later licensing hour to finish off their evening, possibly causing issues at those venues as they would be unaware of how much had been consumed, it would add to noise in the area when customers arrive, leave and use the outside area at the front of the premises especially on warm evenings. Once an alcohol licence was granted the venue would be permitted under the licensing deregulations to have live and recorded music to 23:00 hours and automatically be able to install two gaming machines.</p> <p>There was no age verification mentioned in the application to protect children and the details regarding staff training was inadequate for making any assessment.</p> <p>The Sub-Committee was informed that if the venue was a restaurant and the licence granted without appropriate conditions (such as alcohol only being available as ancillary to a meal) it could be transferred at a later date to someone who turns the venue into a bar thus possibly causing problems at a later date.</p> <p>There was no restriction in the application on bottles and glassware for inside or outside areas thus possibly supplying persons with weapons if a disturbance takes place.</p>

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		<p>The Licensing Officer was of the opinion that the premises licence application did not inform the public or responsible authorities what this venue would be operating as if the licence is granted.</p> <p>It was mentioned that from the application it was not known if the premises would be a bar, cocktail lounge, restaurant or pub and as such was difficult to assess what additional nuisance the venue would cause to the area. The location would inevitably cause some impact if the licence was granted.</p> <p>The Licensing Officer stated that there was a lot of information in the Havering's Licensing Policy which was available to assist applicants regarding children and training but the application under consideration had not taken on board the guidance.</p> <p>The Sub-Committee was informed that the application was inadequate for a premises licence located anywhere in Havering let alone one that was in the centre of an area of communitive impact (St Andrews Ward). It was the opinion of the Licensing Officer that the applicant had not demonstrated, in their operating schedule, that there would be no adverse cumulative impact on the licensing objectives. The Sub-Committee was also informed that the applicant's agent was reminded in an email of these concerns and the fact that the application had not addressed the policy.</p> <p>The Licensing Sub-Committee was requested to follow Havering's Licensing Policy (5.0 Location and Special Policies e.g. Cumulative Impact) and refuse the application. The Licensing Officer concluded that if the application was refused and the applicant so wished, a fresh application with full information that informs the public and responsible authorities exactly on what how it would operating; the operating schedule completed to a standard that would limit any negative impact on the vicinity and appropriate conditions offered would be considered on its own merit.</p>

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		<p>The Sub-Committee took in to consideration the written representation of an interested party who was not in attendance.</p> <p>The representation informed the Sub-Committee that the objector resided directly above the premises. The objector indicated that the noise levels that would emanate from the business would be unacceptable. The written representation detailed that noise nuisance that already occurred when person intoxicated with alcohol depart from late night premises in Hornchurch.</p> <p>The Sub-Committee noted from the representation that there was a decked area directly below the bedroom window of the objector and he was of the opinion that the area would be taken over by smokers late at night thus bringing more noise to the outside of the flat.</p> <p>In response the applicant's; Mr Oktay Senturk and his representative Ms Ezgi Yildirim from NARTS Food and Leisure addressed the Sub-Committee stating that the premises was granted an A3 licence and could operate until 23:00 hours.</p> <p>The business was a family run premises and the intention was to include sale of alcohol in the licence in order to compete with other outlet in the area including one next door.</p> <p>The Sub-Committee was informed in response to a question that the decked area was equipped with 12 seats and that premises was acceptable to an agreed restricted time for the use of the decked area by customers.</p>

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		<p>Decision</p> <p>The Sub-Committee was obliged to determine the application with a view to promoting the licensing objectives, which are:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm <p>The Licencing Sub-Committee have considered the application for a premises licence for the Nes Cafe.</p> <p>Written and oral representations were received from one Responsible Authority namely the Council's licensing team. Written representations were also received from an interested person.</p> <p>The Sub-Committee heard evidence from the applicant and considered the submissions made on behalf of the applicant by his agent.</p> <p>The Sub-Committee reminded itself that it must promote the Licensing objectives and have regard to the Statutory Guidance issued under s. 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.</p> <p>The Sub-Committee also reminded itself that as the premises under discussion lies within a Cumulative Impact Zone, there is a rebuttal presumption that applications for a new premises</p>
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		<p>licence in respect of such premises would normally be refused unless the applicant is able to rebut this presumption.</p> <p>Having considered all the evidence the Sub-Committee is of the view that the licence should be refused. The Sub-Committee, with the information before it, was unable to conclude whether the premises would operate as a restaurant or not. The Sub-Committee noted that the application form was silent in relation to this and the Sub-Committee was not convinced with the representations made that premises would in fact operate as a restaurant.</p> <p>The Sub-Committee was of the view that the applicant had failed to demonstrate that the operation of the premises would not add to the cumulative impact and not impact adversely on the promotion of the licencing objective, and had therefore failed to rebut the presumption against the grant of the licence.</p> <p>The Sub-Committee found that the application was wanting in that it failed to properly address the licencing objectives, in particular the question of public nuisance. The Sub-Committee was also concerned that there was confusion over the operational hours between what was stated in the application and in oral evidence given by the applicant. This confusion further supported the concerns held by the Sub-Committee over the application form.</p> <p>The application is therefore refused.</p> <p>The applicant is reminded that the applicant must address the licensing objectives in any future application.</p>

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		<p>Right of Appeal</p> <p>Any party who has made a relevant representation may appeal to the Magistrates' Court <u>within 21 days of notification of the decision.</u></p> <p>On appeal, the Magistrates' Court may:</p> <ol style="list-style-type: none"> 1. Dismiss the appeal; or 2. Substitute the decision for another decision which could have been made by the Sub Committee; or 3. Remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and 4. Make an order for costs as it sees fit. <p>Taiwo Adeoye Clerk to the Licensing Sub-Committee</p>
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A2		