

Havering Council – Decisions taken by the Licensing Sub-Committee on Friday, 8 September 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 VARIATION TO A PREMISES LICENCE - STATION LANE EXPRESS, 89 STATION LANE, HORNCHURCH, RM12 6JU.</p>	<p align="center">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Station Lane Express 89 Station Lane Hornchurch RM12 6JU</p> <p>DETAILS OF APPLICATION</p> <p>The application to vary a premises licence was made under section 17 of the Licensing Act 2003 ("the Act)</p> <p>APPLICANT Mr Jacob Kattooparambil Cherian 89 Station Lane Hornchurch RM12 6JU</p> <p>1. Details of requested licensable activities</p> <p>Details of the application</p> <p>Variation applied for:</p>
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		<table border="1"> <thead> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Tuesday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Wednesday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Thursday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Friday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Saturday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Sunday</td> <td>08:00</td> <td>23:00</td> </tr> </tbody> </table> <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 Yellow Advertiser of the 4 August 2017.</p> <p>3. Details of Representations</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’s Licensing Specialist attended the hearing and reiterated his representation against the application.</p>	Day	Start	Finish	Monday	08:00	23:00	Tuesday	08:00	23:00	Wednesday	08:00	23:00	Thursday	08:00	23:00	Friday	08:00	23:00	Saturday	08:00	23:00	Sunday	08:00	23:00
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		<p>The Sub-Committee was informed that the application to vary a premises licence by the applicant had asked to remove conditions placed on the premises licence by a Licensing Sub-Committee in 2012 and to extend the hours which were also imposed at that time. The application had not made any reference in the operating schedule directly relating to the conditions asked to be removed or extended hours.</p> <p>The Licensing Specialist also stated that the application had failed to acknowledge that the venue was in a cumulative impact area outlined in Havering's Statement of Licensing Policy and what measures would be put in place to make the application an exception to the policy.</p> <p>Mr Campbell informed the Licensing Sub-Committee that the representation as a responsible authority against the application was based upon the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm licensing objectives.</p> <p>The Sub-Committee noted that the premises was a convenience store which was permitted to sell alcohol for off supply Monday to Sunday 08:00 to 20:00. It was located in a parade of shops which had residential properties above. It was in St Andrews Ward which was highlighted in Havering's Licensing Policy as an area of cumulative impact. The Licensing Officer was of the view that varying a premises licence to a premises in Hornchurch without the correct conditions on the licence and procedures in place would add to the cumulative impact area in a negative way.</p> <p>The Sub-Committee was informed that the application requesting longer licensed hours would create additional disturbance for neighbours and additional hours where children have to be protected from harm. It was also mentioned that the store applied for a premises licence in August 2012 for the sale of alcohol Monday to Sunday 06:00 to 23:00 but following objections</p>

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		<p>received at that time from the police, licensing authority and interested parties, at the hearing of the Licensing Sub-Committee on 27 September 2012, conditions and reduced operating times were imposed on the licence.</p> <p>A copy of the decision notice was offered but considered not to be necessary for the hearing. It was the view that the application should be judged on its own merits.</p> <p>The Licensing Specialist outlined that the premises was transferred on 7 August 2014 and then a second transfer was made to Mr Jacob Cherian the current licence holder on 4th May 2017. The premises had been operating as a convenience store/off licence without issue since September 2012.</p> <p>The Licensing Officer detailed to the Sub-Committee that the application had not addressed the following of Havering's licensing policies: Policy 1.7, Policy 4.3, Policy 4.4, Policy 4.6, Policy 4.8, Policy 5.1, Policy 5.3, Policy 5.5, Policy 5.6.</p> <p>The Sub-Committee was informed that the Licensing Officer had also made contact with the applicant on receipt of the application, highlighting that the premises was located in a cumulative impact zone and sought additional information from the applicant. It was noted that no additional information was received even though the issue was highlighted to the applicant in an email and letter when acknowledging receipt of the application in July 2017.</p> <p>The Licensing Officer was of the opinion that further to the application requesting conditions to be removed and additional times granted, the applicant had not addressed these conditions in the operating schedule or the measures that would be in place relating to these conditions to promote the four licensing objectives.</p> <p>It was also the view of the Licensing Specialist that the operating schedule in the application</p>

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		<p>did not address the cumulative impact in any way, on this point alone consideration should be given to rejecting the application.</p> <p>In conclusion the Sub-Committee was informed that the application was inadequate for a premises licence located in an area of cumulative impact (St Andrews Ward).</p> <p>The Sub-Committee was urged to follow Havering's Licensing Policy (5.0 Location and Special Policies, e.g. Cumulative impact) and refuse the application.</p> <p>The Licensing Specialist stated that if the application was refused and if the applicant wished to submit a fresh application providing full information in the operating schedule would be expected to be completed to a standard that would limit any negative impact on the vicinity. Appropriate conditions could be offered in the application so that problems did not arise in the future if the licence was transferred to another person/body.</p> <p>In response the applicant Mr Kevil Jacob addressed the Sub-Committee stating that his father (Mr Jacob Cherian) took over the premises in May 2017.</p> <p>The business was a family run premises and they were inexperienced in completing the application document.</p> <p>The Sub-Committee was informed that the family were not aware of the restriction on the premises licence until the transfer had reached an advanced stage that would have had a financial impact on the family.</p> <p>Mr Jacob also narrated the family's plight whilst seeking professional advice to complete the application form. He stated that the cost of using an agent was considered to be excessive and they decided to complete the form without any outside guidance.</p>

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		<p>The business had been affected by the current conditions on the premises licence as it did not allow the business to sell single cans of alcohol and was generally affecting sales at the premises.</p> <p>Mr Jacob informed the Sub-Committee that as a result of the conditions on the licence, many of their customers were leaving the premises and doing all their shopping in other outlets along the road.</p> <p>The Sub-Committee was informed that the premises was fitted with a CCTV system that met the requirement of the police, that Challenge 25 was in operation at the premises and the business was in touch with its neighbours and there were no issues of concern.</p> <p>Mr Jacob apologised to the Sub-Committee for the manner in which the application had been completed.</p> <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 Sub-Committee considered the application to vary a premises licence made by Mr Jacob Kattooparambil Cherian pursuant to Section 34 of the Licensing Act in respect of Station Lane</p>

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		<p>Express, 89 Station Lane Hornchurch RM12 6JU. The premises fell within the St Andrew Cumulative Impact Zone.</p> <p>Written and oral representations were received from one responsible authority, namely the Council's Licensing Authority.</p> <p>The Sub-Committee also heard evidence from the applicant and considered the submissions made by the applicant.</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><u>The Application</u> The Sub-Committee considered the applicant's request in respect of an extension of the hours of business from 20.00 to 23.00, seven days a week.</p> <p>There were no representations against the application from interested parties. There were concerns raised by the Licensing Authority. These concerns were reiterated at the hearing. The Sub-Committee looked at the written application and the written representation contained therein. It also listened with care to the evidence given by the applicant in respect of how he proposed to meet the licensing objectives as set out in the council's Statement of Licensing Policy document. It also considered the Guidance issued pursuant to section 182 of the Licensing Act 2003.</p> <p><u>The Decision</u> The applicant failed to mention in his application the significance of being in the St Andrews</p>

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		<p>cumulative impact area. Although the application was considered on its merits it was apparent that no thought had been given to how this extension would not add to cumulative impact.</p> <p>The applicant requested the removal of a number of conditions on the licence namely: Not to sell ciders, lager or spirit based mixers over 5.5%ABV. Not to sell lager, cider, beer or spirit based mixers unless they are sold in packs of 4 or more. Not to sell wines or spirits in less than 75cl.</p> <p>On the evidence available at this time the variation was unrealistic as it would not meet the licensing objectives.</p> <p>It was apparent that the premises are in a residential area. There are homes located all around the premises.</p> <p>It is noted that the current licence holder has only recently taken over the licence. The application made no real attempt to deal with the issues specific to the cumulative impact area. It also made no real attempt to deal with the criteria set out in Havering’s Licencing Policy document.</p> <p><u>The Reasons</u></p> <p>The Sub-Committee sympathised with the applicant’s difficulty in running a viable business. The applicant demonstrated himself as an honest, reliable and frank witness; however the Licensing Policy and its objectives needed to be maintained particularly when dealing with a cumulative impact zone and the presumptions that flow from that. In the circumstances the Sub-Committee was prepared to extend the hours of the licence until 9.00pm every evening and no further. All other conditions on the licence remain unchanged.</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.
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