


Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 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

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| <p>A1</p> | <p>APPLICATION TO VARY A PREMISES LICENCE - ARONA, 89 STATION LANE, HORNCHURCH, RM12 6JU</p> | <div style="text-align: center;">  <p>Havering LONDON BOROUGH</p> </div> <p align="center">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Arona 89 Station Lane Hornchurch RM12 6JU</p> <p>DETAILS OF APPLICATION</p> <p>The application to vary a premises licence was made under section 34 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> |
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Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|-----------------------|--------------|--|
| | | <p>Details of the application</p> <p>The application was modified during the consultation process. There no longer is an application to vary the premises' alcohol supply hours. Instead the following modifications to the licence are sought:</p> <p>With regard to Annex 3 of the current premises licence:</p> <ol style="list-style-type: none"> 1. No more than 15% of the sales area of the premises shall be devoted to the sale or display of alcohol. <p>Condition 1 above – Remove and replace it with "No more than 30% of the sales area of premises shall be devoted to the sale or display of alcohol."</p> <ol style="list-style-type: none"> 5. The premises shall not stock any cans/bottles of lager, cider, beer or spirit-based mi unless they are in packs of four or more. <p>Condition 5 above – Remove</p> <ol style="list-style-type: none"> 6. No bottles of wine or spirits less than 75cl shall be sold off the premises. <p>Condition 6 above – Remove and replace it with "No bottles of wine or spirits less than shall be sold off the premises."</p> <p>The applicant was also seeking to add a series of conditions to the licence as identified in section 16 of the amended application.</p> <p>Comments and observations on the application</p> |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|-----------------------|--------------|--|
| | | <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 22 September 2017 edition of the Havering edition of the Yellow Advertiser.</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 Yellow Advertiser of the 22 September 2017.</p> <p>3. Details of Representations</p> <p>There was a representation against the application from a responsible authority; the Metropolitan Police.</p> <p>4. Determination of Application</p> <p>Police Licensing Officer Oisin Daly attended the hearing and reiterated the representation against the application which were on the following grounds:</p> <p>1. The prevention of crime and disorder. 2. The protection of children from harm.</p> <p>PC Daly informed the Sub-Committee that he visited the premises with the intention of</p> |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|----------------|-------|--|
| | | <p>speaking to the owner regarding the risks involved in the sale of high strength alcohol and the issues that it can bring by way of street drinking and those at risk of alcoholism.</p> <p>PC Daly stated that during the course of the visit, the current premises licence was not displayed in the premises. On speaking to Mr Cherian it became clear that he was unable to communicate confidently in English and did not have an understanding of any of the conditions on the licence.</p> <p>The Sub-Committee was informed that during further checks through the conditions on the licence, the following breaches were identified:</p> <p>Condition 1 stated; clear notices should be prominently displayed at all exits respecting residents and leave quietly. The notice was not in place.</p> <p>Conditions 5, 6 and 7 that detailed staff training, refresher training and maintaining records. PC Daly stated that Mr Cherian did not have the records available and stated that his training consisted of his personal licence. He stated that he worked the majority of the time by himself and employed his son in the evenings.</p> <p>Conditions 8, 9, 10 and 11 that related to CCTV quality, recording and having a staff member available at all time to operate it. PC Daly stated that a CCTV system was in operation however Mr Cherian did not know how to operate it and as such it was not possible to verify the CCTV system capability to record and playback or quality.</p> <p>Condition 14 related to an Incident log. The Sub-Committee was informed that Mr Cherian was unable to provide the Incident Log register.</p> |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|----------------|-------|---|
| | | <p>Conditions 16 and 17 that detailed the Challenge 25 scheme; PC Daly was of the view that Mr Cherian did not understand the scheme and its emphasis on challenging persons who appear to be under 25 years of age.</p> <p>Condition 18 required that a Refusal log be kept and maintained on the premises. PC Daly stated that there was none available on his request.</p> <p>PC Daly was of the view that given the breaches identified and no understanding of Challenge 25 during the visit, the Police would ask that the Sub-Committee refuse the application in its entirety. There were several conditions breached and no understanding of Challenge 25. The Police stated that the venue was now a concern and would require additional follow up visits to ensure compliance.</p> <p>The Police were aware that the premises recently had a variation to its operating licence following a hearing on 8 September 2017 that granted an additional hour and was now requesting to supply of high strength beers.</p> <p>In response the applicant's son; 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 he shared managing the shop with his father.</p> <p>The Sub-Committee was informed that on the day the Police Licensing Officer visited the premises, his father was alone in the shop and he froze at the presence of a Police Officer. As a result he was unable to satisfactorily meet the various request of the Police Licensing Officer.</p> <p>Mr Kevil Jacob informed the Sub-Committee that he had now applied to take over as the designated premises supervisor as a soon as practical and also acquired a personal licence.</p> |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|-----------------------|--------------|--|
| | | <p>He added that following the Police visit his mother now supports his father on the premises to improve communication in his absence.</p> <p>He had also taken his father through all conditions of the premises licence and he now had an understanding of the requirement of challenge 25.</p> <p>Mr Kevil Jacob informed the Sub-Committee that he did offer to present the required items to the Police Licensing Officer on the day.</p> <p>He said that Mr Jacob Cherian was now confident at operating the CCTV system and able to download to a disc as maybe required.</p> <p>Following questioning by the Sub-Committee, Mr Kevil Jacob explained that it was the wish of the premises to increase the sales area for the sale or display of alcohol by 30%</p> <p>It was also the wish of the premises to be able to sell bottles of wine or spirits less than 70cl off the premises.</p> <p>Mr Cherian apologised to the Sub-Committee for his father's inability to communicate effectively with the Police Licensing Officer and in order to avoid any such occurrence his mother was now in the shop to support Mr Cherian.</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 |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|----------------|-------|--|
| | | <ul style="list-style-type: none"> • 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 Cherian in pursuant to Section 34 of the Licensing Act in respect of Arona, 89 Station Lane Hornchurch RM12 6JU. The premises fell within the St Andrews ward Cumulative Impact Zone.</p> <p>Written and oral representations were received from Metropolitan Police Licensing team and the applicant's son responded accordingly.</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 was asked to vary the licence in the following three ways:-</p> <ul style="list-style-type: none"> • Increase the floor space to sell alcohol to 30% • Permit the sale of single cans of lager etc. • Permit the sale of wines and spirits in bottle sizes of 20cl and above. <p>In relation to the increase in floor space, the Sub-Committee was concerned that it is difficult to judge the impact that the doubling of the sales floor space would have on the promotion of licensing objectives. The Sub-Committee was of the view that the best way to promote the licensing objectives was to allow an incremental approach to any increase in floor space which would allow the responsible authorities to monitor the impact of any increase.</p> |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|----------------|-------|---|
| | | <p>Therefore the Sub-Committee is prepared to grant the increase to 20% and provided this did not have any discernible effect then the applicant could apply to increase the floor space again in the future.</p> <p>The Sub-Committee has decided that condition 1 of annex 3 should be varied to read as follows: “No more than 20% of the sales area of the premises shall be devoted to the sale or display of alcohol.”</p> <p>In relation to the sale of single cans of lager etc., the Sub-Committee is of the view that the sale of single cans of lager etc. tends to draw the type of customers who purchase alcohol to drink immediately (i.e. street drinkers). As the premises is located within the cumulative impact zone, the Sub-Committee is of the view that the sale of alcohol to this type of customer should be discouraged as discouraging these individuals promotes the licensing objectives and therefore the application to vary this condition is refused.</p> <p>In relation to the sale of bottles of wine and spirits over 20cl, the Sub-Committee was of the view that to allow the sale of half bottles (i.e. 35cl bottles) and quarter bottles (i.e. 20cl bottles) would attract street drinkers in the same way as the sale of single cans would and therefore the requested variation would not be appropriate. The Sub-Committee was however of the view that the current condition was too restrictive and could be relaxed to allow for the sale of bottles of spirits and wines sold in normal size bottles (i.e. 70cl) and therefore the Sub-Committee has decided to vary condition 6 of annex 3 to read as follows “no bottles of wine or spirits less than 70cl shall be sold for consumption off the premises.” The Sub-Committee was of the view that the variation to this extent would promote the licensing objectives.</p> |

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 November 2017

| Agenda Item No | Topic | Decision |
|-----------------------|--------------|--|
| | | <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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| A2 | | |