

Havering Council – Decisions taken by the Licensing Sub-Committee on Friday, 27 April 2018

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

A1	<p>APPLICATION FOR A NEW PREMISES LICENCE - CURRY SHACK, 118 NORTH STREET, HORNCHURCH, RM11 1SU</p>	<p>PREMISES:</p> <p>Curry Shack 118 North Street Hornchurch RM11 1SU</p> <p>DETAILS OF APPLICATION</p> <p>The application for a premises licence was made by Anil Sehdev and Sunil Sehdev under section 17 of the Licensing Act 2003. The application was received by Havering's Licensing Authority on 27th March 2018.</p> <p>APPLICANT</p> <p>1. Details of requested licensable activities</p> <p>The application was to permit the provision of the following licensable activities:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <th colspan="3">Supply of alcohol</th></tr> <tr> <th>Day</th><th>Start</th><th>Finish</th></tr> <tr> <td>Monday to Sunday</td><td>08:00</td><td>22:00</td></tr> </table> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <th colspan="3">Opening Times</th></tr> <tr> <th>Day</th><th>Start</th><th>Finish</th></tr> <tr> <td>Monday to Sunday</td><td>08:00</td><td>22:30</td></tr> </table>	Supply of alcohol			Day	Start	Finish	Monday to Sunday	08:00	22:00	Opening Times			Day	Start	Finish	Monday to Sunday	08:00	22:30
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		<p>2. Promotion of the Licensing Objectives</p> <p>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 Romford Recorder on the 6th April 2018.</p> <p>3. Details of Representations</p> <p>There were three representations against the application submitted by concerned residents. There were no representations against the application submitted by responsible authorities.</p> <p>4. Determination of Application</p> <p>Mr Paul Campbell, Havering Licensing Officer attended the hearing, during which he presented his report.</p> <p>Written representations were received from local residents Janet Harris, Paul Prater and Glyn and Kayley Harrington, all of whom also attended the hearing and were invited to address the Sub-Committee.</p> <p>Mr Harrington addressed the sub-committee, during which he highlighted his concerns regarding public safety due to the congestion already in the vicinity and the proximity of the premises to a busy main road; the limited parking available for customers accessing this premise and other business units.</p> <p>Mr Harrington brought to member's attention his concerns regarding the prevention of</p>

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		<p>crime and disorder. Mr Harrington explained that there had been incidences of anti-social behaviour at the end of Kershaw Close, an area not covered by CCTV and expressed concern that if the premises licence were granted, opportunistic crime may increase in the area.</p> <p>Mr Harrington stated that in respect of prevention of public nuisance, noise would travel from the proposed beer garden, adding to the cumulative noise already negatively impacting on local residents. Mr Harrington questioned the integrity of the Council regarding planning permission for the premises and was advised that the consideration of planning matters was not in the sub-committee's remit.</p> <p>Mr Todd addressed the sub-committee representing Ms Harris, during which he advised that Ms Harris was concerned that there had been no prior consultation until a few days prior to the hearing. Ms Harris objected to the application on the grounds of unacceptable constant food and spice odours being omitted from the premises, unacceptable noise from extractors that would be fitted to the rear of restaurant and from talking, which would come from the garden space at the rear of the proposed restaurant, directly adjacent to her property and which would become more prevalent if the restaurant were granted an alcohol licence. Ms Harris further objected to the application due to unacceptable cigarette smoke from individuals using the rear restaurant garden and which impact on her grandchildren when they were in the garden. Ms Harris raised concern regarding the unacceptable and increased parking issues along Kershaw Close, and the risk of increased rubbish, especially food waste accumulating in or outside of the restaurant with the potential to cause vermin and rat infestation.</p> <p>The applicant and their representative were provided the opportunity to ask questions of those who had made representations, but declined to do so.</p>

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		<p>Graham Hopkins, GT Licensing, presented the application on behalf of the applicant, during which it he proposed the following amendments to the application:</p> <p>A) General</p> <ul style="list-style-type: none"> • The sale of alcohol be amended to 11:00-22:00 daily and opening hours to 08:00-22:30 daily. • The restaurant would be operated in a responsible manner and actively promote the licensing objectives at all times. • The premises will operate strictly as a bona fide restaurant where the sale of alcohol will be ancillary to the consumption of a full table meal. Curry Shack will provide a seated service for approximately 50 covers and will also provide a take away service by customer collection and a home delivery service. • There is no request for regulated entertainment and any music will be played at background level only. • While the Curry Shack is located within the St Andrews Ward Cumulative Impact Zone, under Licensing Policy LP2, the premises is exempt from the cumulative impact policy as it will operate as a bona fide restaurant with permitted and opening hours within Havering's Licensing Policy LP7. <p>B) Prevention of Crime and Disorder</p> <ul style="list-style-type: none"> • CCTV covering the interior and exterior of the restaurant will be installed and will kept operational at all times the premises are open to the public. It shall be capable to taking

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		<p>a head and shoulders shot of persons entering the premises, be capable of storing images for a minimum of 31 days and a member of staff trained and capable of downloading images shall be on duty at all times the premises are open to the public. Images shall be provided to the police or authorised council officers on request.</p> <ul style="list-style-type: none"> • The premises will operate strictly as a restaurant with the sale of alcohol only being permitted to customers taking or intending to take a substantial table meal, seated at a table and with service by waiting staff only. • Customers taking or intending to take a table meal, may be permitted to drink alcohol before, during or after their meal. Customers waiting for a table may be permitted to wait and have a drink while seated at the bar. Customers may also be permitted to take home a part consumed bottle of wine purchased on the premises provided that it is sealed. • There will be no sale or consumption of alcohol permitted at the servery / bar and no vertical drinking. • Customers buying / collecting a take away meal will not be permitted to buy or consume alcohol. • No bottles, glasses or drinks will be permitted to be taken outside the restaurant. • After 21:00 a maximum of 5 smokers will be allowed outside the front of the restaurant. • Challenge 25 will be operated as the proof of age policy. • Front of house / waiting staff will be trained on induction and at six monthly intervals for

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		<p>their role and in the operation of Challenge 25. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict, responsible alcohol retailing and safeguarding children.</p> <ul style="list-style-type: none"> • An incident book shall be kept at the premises, and made available to the police or authorised council officers, which will record the following: <ul style="list-style-type: none"> a) All crimes reports b) Lost property c) All ejections of customers d) Any complaints received e) Any incidents of disorder f) Any seizure of drugs or offensive weapons g) Any faults in the CCTV h) Any refusal in the sale of alcohol i) Any visit by a relevant authority or emergency service j) Where police are called the CAD number shall be obtained and recorded • Notices will be prominently displayed by the entry/exit door and servery/bar (as appropriate) advising customers that: <ul style="list-style-type: none"> a) CCTV and Challenge 25 are in operation b) Advising customers of the provisions of the Licensing Act regarding underage and proxy sales. c) The trading and opening times of the premises. d) That no bottles, glasses or drinks may be taken outside the restaurant at any time. e) To respect residents and leave quietly and not to loiter outside.

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		<p>f) That only 5 smokers are allowed outside after 21:00.</p> <p>C) Public Safety</p> <ul style="list-style-type: none"> • A fire risk assessment and emergency plan will be prepared and regularly reviewed. Staff will be given appropriate training in respect of fire safety. <p>D) Prevention of Public Nuisance</p> <ul style="list-style-type: none"> • Notices will be prominently displayed by the entry/exit door and point of sale as appropriate. • No bottles, glasses or drinks will be permitted to be taken outside of the restaurant at any time. • A maximum of 5 smokers will be permitted outside the front of the restaurant after 21:00 at any one time. • Management and staff will regularly monitor the outside of the restaurant including customers smoking outside by CCTV and physically. Suitable containers will be provided for cigarette ends. • The restaurant front will be kept tidy at all times and shall be swept at close. • No deliveries will be received or glass bottles/rubbish removed between 20:00 and 07:00. • A phone number will be displayed for residents to contact management with any

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		<p>concerns. Details of any complaints and the action taken will be recorded in an incident book.</p> <ul style="list-style-type: none"> • Staff will call a cab for customers on request. The local cab office number will be displayed for customers use. • Music will only be played at a background level. <p>E) Protection of children from harm</p> <ul style="list-style-type: none"> • Notices will be prominently displayed by the entry/exit and point of sale as appropriate. • Challenge 25 will be operated as proof of age policy. Only a photographic driving licence, valid passport, ministry of defence/armed forces photographic identity card or proof of age card bearing the holders photograph and the pass hologram / logo on it will accepted as proof of age. • All refusals of service will be recorded in an incident book (refusals section) and will be made available to the police or authorised Council officers on request. • Front of house / waiting staff will be trained on induction and at six monthly intervals in the operation of Challenge 25. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict, responsible alcohol retailing and safeguarding children. • No child or young person under 18 will be permitted to consume alcohol on the premises at any time.

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		<ul style="list-style-type: none"> • No unaccompanied children will be permitted on the premises after 19:00. <p>Mr Hopkins explained that the other units within the block were commercial units and not residential, and that an application for A3 use for the premises had been granted. A further planning application had been submitted for an air conditioning unit, of which was still to be determined.</p> <p>Mr Hopkins further explained that the application for a beer garden behind the premise had been withdrawn and confirmed that there would be no customers in the garden to the rear of the premise, although staff would have use of the area. Furthermore, the application for off sales had been withdrawn.</p> <p>Mr Hopkins took the opportunity to remind the sub-committee that planning concerns should not be taken into consideration.</p> <p>In response to parking concerns, Mr Hopkins advised that parking would be available to customers at the Chequers Public House and that a notice would be displayed to customers requesting that they refrain from parking in Kershaw Close. The interested parties expressed concern that the parking proposals were insufficient for the number of covers proposed. The applicant stated that he would consider reducing the number of covers to 30-35 and amending the hours of supply of alcohol to 18:00 – 22:00 hours.</p> <p>Mrs Harrington questioned the applicant on their waste disposal management plans and was advised that in accordance with a planning condition, bins would be kept at the rear of the property and that a third party contractor would be employed to remove the waste. In response to further questioning, it was explained that the waste would be removed from the premise via the other units.</p>

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		<p>Mr Harrington alleged that the applicant had not properly advertised the application, in that the requisite notice had not been displayed so that the public could read and digest it. Photographs were submitted by Mr and Mrs Harrington that showed the notice displayed by the applicant positioned behind a bush and a skip. Mr Harrington gave evidence that the notice was inaccessible and could not be read.</p> <p>The applicant accepted that a skip had been positioned in front of the notice shortly after he had displayed it, but said that he had also displayed another notice on the clear glass front door of the premises. This was not visible in the photographs produced by Mr and Mrs Harrington and they denied that there had been any notice displayed on the door.</p> <p>The licensing officer Paul Campbell, who had initially prepared a report for the sub-committee informing them that the applicant had complied with the statutory requirements, said that if he had been aware that the notice had not been displayed as required, he would have regarded the application as invalid.</p> <p>Decision:</p> <p>The sub-committee considered the mandatory requirement imposed on the applicant by regulation 25(a) of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 to advertise the application <i>“for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice... prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises”</i>.</p> <p>Having considered the available evidence the sub-committee were not satisfied, pursuant to section 18(1)(b) of the Licensing Act 2003 that the applicant had complied with that requirement.</p>

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		The sub-committee therefore declined to determine the application.