

Licensing Act 2003 – responsible authority representation

This representation is made by a responsible authority for the London Borough of Havering concerning a premises licence application for the premises as detailed below.

Applicant: Littlemore Food Ltd
Premises: Lakers Chicken Unit 2a 2-4 Eastern Road Romford RM1 3PJ

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Organisation: London Borough of Havering Licensing Authority
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Objection summary:

The concerns of the licensing authority are broadly two-fold: the location of the premises at Havering's most significant crime 'hot-spot' and in a cumulative impact zone (CIZ) and the terminal hours sought.

Policy considerations

4. Expectations of applicants

4.2 It is for these reasons that Havering expects detailed and meaningful operating schedules that will enable all parties to understand what is being sought by an application, and if granted how the premises will operate. In completing the operating schedule, applicants are expected to have regard to this Statement of Licensing Policy which sets out the expectations of the Authority as to the steps that are appropriate for the promotion of the licensing objectives.

4.3 The completion of a full and detailed operating schedule will give those reading the application greater confidence that the applicant seeks to make a positive contribution and is demonstrating a commitment to both those living in the vicinity and the licensing objectives.

Applicants are expected to:

- Demonstrate knowledge of the local area when describing the steps they propose to take to promote the licensing objectives;
- Undertake enquiries about the area in which the premises are situated to inform the content of the application;
- Obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
 - The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children congregate.
 - Any risk posed to the local area by the applicants' proposed licensable activities;

- Steps to protect vulnerable residents
- Any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- Any other relevant policies that the local authority has adopted.

4.5 Where specific policies apply in the area (for example, a Cumulative Impact Policy), applicants are also expected to:

- Demonstrate an understanding of how the Policy impacts on their application,
- Identify any measures they will take to mitigate the impact, and
- Confirm why they consider their application should be an exception to the Policy.

4.9 The failure by an applicant to clearly and fully demonstrate in the operating schedule that they have properly considered the promotion of the four licensing objectives is a legitimate concern should the application come before the licensing sub-committee.

6. Cumulative Impact

6.3 For areas where a cumulative impact policy is adopted, it creates a rebuttable presumption that applications for new premises licences, club premises certificates, or variation applications that will 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 may be for applications for restaurants where alcohol is sold ancillary to a table meal.

6.5 This cumulative impact policy is not absolute. The circumstances of each application within the cumulative impact area will be considered upon its own merits and the Licensing Authority shall permit licences and certificates that are unlikely to add to the cumulative impact and not impact adversely on the licensing objectives.

6.6 Upon receiving representations in relation to a new or variation application the Licensing Authority will consider whether it would be justified departing from the cumulative impact policy in the light of the individual circumstances of the case. The impact of an application is expected to be different for premises with different formats and characteristics. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine one or more of the licensing objectives and that conditions or restrictions would be an ineffective solution.

6.7 Examples of applications that the Licensing Authority may consider as exceptional may include, though not are limited to:

- Small premises with a capacity of 50 persons or less only intending to operate during hours specified in section 12.
- Premises which are not alcohol led and operate only within the hours specified in section 12 such as coffee shops

12. Licensing Hours

12.1 When dealing with new and variation applications the Licensing Authority may give more favourable consideration to applications with the following closing times:

Public Houses and Bars
 23:00 hours Sunday to Thursday
 Midnight Friday and Saturday

Nightclubs

01:00 hours Sunday to Thursday

02:00 hours Friday and Saturday

Restaurants and Cafes

23:00 hours Sunday to Thursday

Midnight Friday and Saturday

Off licences

23:00 Monday to Sundays

Hot food and drink supplied by takeaways, fast food premises

Midnight Sunday to Thursdays

01:00 Friday and Saturday

Hotel residents only

24 hours sale of alcohol for on sales only

12.2 Consideration will also be given to the type of area that the premises is located in with regulated activities normally being permitted until 23.30 in residential areas and 00.30 in mixed use areas.

12.3 The above hours are a guide and each application will be considered on its own merits.

12.4 The above hours are intended to guide applicants on the Licensing Authority's expectations when preparing their operating schedules.

12.5 For applications within the above hours there is no presumption that the application will automatically be granted in all cases where a relevant representation has been made. If no representations are received, the application will be granted by the licensing authority under delegated powers.

12.6 Applicants who wish to provide licensable activities outside the hours specified above should ensure where relevant the operating schedule specifies detailed measures to militate against crime, disorder and public nuisance etc. taking into account:

- The location of the premises and the character of the area in which they are situated
- The proposed hours during which licensable activities will take place
- The adequacy of the applicant's proposals to prevent crime and disorder and prevent public nuisance
- Whether customers have access to public transport when arriving at or leaving the premises
- The proximity of the premises to other licensed premises in the vicinity and the hours of operation of those other premises policies and proposals for the orderly dispersal of customers.

21. Children and Licensed premises

21.1 The Licensing Authority will require measures to protect children from harm to be reflected in the operating schedule, having regard to their type of premises or licensable activities.

21.2 Applicants for premises licences and club premises certificates authorising the admission of children without accompanying responsible adults will be required to submit a safeguarding children protection policy detailing the steps to be taken to ensure that children in their charge will be protected from harm when on licensed premises or engaged in activities relating to the licence.

21.6 The Licensing Authority recognises that children are one of the most vulnerable groups in our society and that some activities associated with licensed premises are not appropriate for children. The Licensing Authority will be looking for management arrangements to be in place to address this. Following relevant representations, it will consider the imposition of additional controls by way of licence conditions where activities take place on the premises may present a risk of physical, moral or psychological harm to children. It will also look for strict controls in place to prevent the sale of alcohol to underage children.

Representation

This application for a premises licence seeks to authorise the provision of late night refreshment until 02:00 Sunday to Wednesday and until 05:00 Thursday to Saturday. As such, the hours sought lie outside Havering's licensing policy guidelines further to premises' hours of operation. In addition, and despite seeking these terminal hours, the application provides no acknowledgement that the premises is located in Havering's main CIZ which conflicts with the relevant provisions of licensing policy paragraph 4.2. The application makes no acknowledgement of its location at Havering's most significant crime hot-spot and neither does the application provide any rationalisation to justify the terminal hours sought. This would appear to conflict with the relevant provisions of paragraphs 4.3 and 6.3 of Havering's licensing policy, as provided above.

The absence of any rationalisation to justify the terminal hours prevents the responsible authorities from fully understanding the intentions of the premises' operator. This further conflicts with the aforementioned paragraphs 4.2 and 6.3 as the applicant has not satisfactorily demonstrated why the operation of the premises will not add to cumulative impact in the area. Contrary to the provisions of paragraph 4.5 the application does not clarify why it is considered that it should be an exception to the cumulative impact policy. The licensing authority's reasonable conclusion, therefore, is that the operation of this premises until the terminal hours sought **will** be likely to adversely impact upon the promotion of the licensing objectives and hence contribute to cumulative impact.

In addition to the standard hours sought in section 17 of the application, i.e. 02:00 Sunday to Wednesday and 05:00 Thursday to Saturday, an ambiguous application for non-standard timings indicates that the premises seeks to remain open to the public until 05:00 "*on bank holiday weekends*" and on "*any festive days.*" There is, however, no application to provide late night refreshment until these non-standard hours. We might reasonably query why the premises seeks to remain open until these non-standard hours if late night refreshment is not to be provided during these times.

While providing hot food to take away the premises can also accommodate twenty-four seated diners. The provision of on-site dining until 02:00 and 05:00 conflicts with the general principles of the CI policy. Participants in Romford's night time economy might reasonably be expected to disperse directly from the various alcohol on-supply premises at which the preceding hours have been spent, rather than delay their departure by eating hot food until 05:00 in a restaurant premises or on the street. We should also remember that paragraph 12.1 of the licensing policy indicates that the guideline terminal hour for consumption of hot food in a dine-in restaurant is 23:00 Sunday to Thursday and 00:00

Friday and Saturday. The terminal hours sought by this application, whether the premises may be considered predominantly dine-in or predominantly take-away, are far in excess of those hours Havering's licensing policy deems suitable.

Section 18 of the application contains the steps the applicant proposes to take to promote the licensing objectives.

The prevention of crime and disorder

“A C.C.T.V. system has been installed and is working to the satisfaction of the local Police and the Licensing Authority.”

Contrary to this misleading assertion the licensing authority has not been made aware of the premises' CCTV system specifications and thus is unable to confirm whether it is working to our satisfaction.

“We will organise professional security personnel on Thursday, Friday and Saturday nights both inside and outside the premises.”

While such a proposal is to be welcomed the proposal does not define the hours during which security personnel may be on duty. The proposal is therefore less reassuring than it could have been.

The prevention of public nuisance

“Prominent, clear and legible notices are displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and the area quietly.”

While such a notice may go some way to addressing customers' dispersal we might have hoped that, given the late terminal hours sought at this location a dispersal policy would have been proposed and a copy supplied; however, the application makes no reference to a dispersal policy.

The protection of children from harm

Despite the premises wishing to remain open until 05:00 at the weekend the only proposal offered by the applicant further to a premises licence holder's duty to protect children from harm is as follows:

“There are no age restricted items sold on the premises.”

The conclusion the licensing authority draws from this proposal is that the application disregards any future obligation to protect children from harm for the reason that “age restricted items” are not sold at the premises. We might therefore reasonably conclude that the intention of the premises is to include children as a part of the venue's intended customer base during the period from 23:00 to 05:00 the day following. We should remind ourselves that the need for late night take-away premises to be incorporated within the ambit of the *Licensing Act 2003* is, in part, to address the potential problems inherent in attracting a customer base during late night periods when those customers are likely to be under the influence of alcohol and hence pose a risk to themselves and to others. We should also remember that paragraph 21.1 of Havering's licensing policy requires *measures to protect children from harm to be reflected in the operating schedule*. Any such measures are entirely absent from this application. In addition, paragraph 21.2 requires that *Applicants for premises licences... authorising the admission of children without accompanying responsible adults will be required to submit a safeguarding children protection policy*. Again, no such policy was provided.

This application appears to contend that a premises licence holder's legal duty to protect children from harm ceases to exist when *age restricted items* are not sold at the premises. This appears to entirely ignore children's attraction to fast-food restaurants. A late night licensed premises which does not restrict the attendance of under-18s risks becoming a destination for vulnerable children. Such children are susceptible to the attentions of predatory adults who may identify and attend a given premises based upon the presence of children during late hours. The fact that this application appears willing to permit the attendance at the premises of unaccompanied children between the hours of 23:00 and 05:00 is a matter of great concern to this licensing authority. The absence of any acknowledgement or awareness of the potential risks posed to children as indicated in this application undermines any confidence the licensing authority may have in the premises' ability to successfully promote this licensing objective.

The legal duty for premises licence holders to protect children from harm is not simply a local matter but is instead reflected within the section 182 *Guidance to the Licensing Act 2003*. Paragraphs 2.27 to 2.37 address this particular licensing objective. Particularly pertinent are paragraphs 2.32 and 2.34 which include the following clauses:

- conditions relating to the protection of children from harm can include restrictions on the hours when children may be present
- Licensing authorities should give considerable weight to representations about child protection matters.

Complaint and inspection history (if applicable)

Not applicable

Representation summary

To conclude, Havering's licensing authority is currently unable to support this application for a premises licence to permit the provision of late night refreshment at this premises. The reasons for this opposition are as follows:

- The premises is located at Havering's worst crime hot-spot in the borough's main CIZ: the application makes no acknowledgement of these matters.
- The application does not demonstrate an understanding of how Havering's CI policy might impact upon the application, neither does it provide any reasoning as to why the application might be considered an exception to the CI policy.
- The application seeks to permit the premises to operate outside the guideline hours suggested by paragraph 12.1 of Havering's licensing policy, yet it provides no rationalisation to clarify why such a departure may be considered acceptable.
- The application offers no proposals to aid the protection of children from harm who may attend this premises during the period of 23:00 to 05:00. We suggest that the absence of any such measures would place children at risk. This alone might appear to preclude the grant of this application.

It is for these reasons that the licensing authority would suggest that the application should not be granted as submitted.

Signed Paul Jones

Dated 4th December 2023