

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 1 July 2013

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	Variation of a Premises Licence at Hot and Tasty Chicken, 140 South Street, Romford	<p>Licensing Act 2003 Notice of Decision</p> <p>PREMISES Hot & Tasty Chicken 140 South Street Romford RM1 1TE</p> <p>An application for a variation to a premises licence under section 34 of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANT Mr Hyadulla Turkmani c/o 140 South Street Romford RM1 1TE</p> <p>1. Details of the application:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Late Night Refreshment</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 Wednesday</td> <td align="center">23:00hrs</td> <td align="center">03:00hrs</td> </tr> <tr> <td align="center">Thursday to Saturday</td> <td align="center">23:00hrs</td> <td align="center">05:00hrs</td> </tr> <tr> <td align="center">Sunday</td> <td align="center">23:00hrs</td> <td align="center">02:00hrs</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th align="center" colspan="3">Opening Hours</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Late Night Refreshment			Day	Start	Finish	Monday to Wednesday	23:00hrs	03:00hrs	Thursday to Saturday	23:00hrs	05:00hrs	Sunday	23:00hrs	02:00hrs	Opening Hours			Day	Start	Finish			
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		<p>Valid representations may only address the following licensing objectives:</p> <ul style="list-style-type: none"> The prevention of crime and disorder The prevention of public nuisance The protection of children from harm Public safety <p><u>Responsible Authorities' representations</u></p> <p><i>Planning Control Service</i> The representation was based upon concerns in relation to public safety, the prevention of crime and disorder and the prevention of public nuisance. The representation indicated that the granting of the application would be in opposition to the premises' current planning permissions.</p> <p><i>Licensing Authority</i> The Authority made representation against the application based upon its concerns in relation to the prevention of public nuisance and the prevention of crime and disorder licensing objectives. The representation drew attention to the perceived deficiencies in the application in explaining what additional steps the applicant would take to promote the four licensing objectives, in addition to fulfilling the requirements of Havering's licensing policies 12 and 18, the Licensing Act's s.182 guidance and the premises' past compliance history with regard to Havering's licensing policy 15.</p> <p><i>The Metropolitan Police</i> The Police representation was based on the prevention of crime and disorder and public safety policies. The representation identified a series of crimes and instances of anti-social behaviour which had occurred at the premises over the past year, and also a number of premises licence breaches over that same period. In addition, the</p>

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		<p>representation raised concern over the apparent lack of availability of CCTV images to aid the Police investigation of the crime and disorder incidents which had occurred at the premises.</p> <p>There were no representations from the following responsible authorities:</p> <p>The London Fire and Emergency Planning Authority The Health & Safety Enforcing Authority The Trading Standards Service Children & Families Service Practice Improvement Lead</p> <p>6. Representations</p> <p>Licensing Authority</p> <p>The representation from the Licensing Authority addressed the prevention of crime and disorder and public safety licensing objectives.</p> <p>The Licensing Authority representative, Mr Paul Campbell, argued that:</p> <ul style="list-style-type: none"> ○ The application did not offer to extend the use of door supervisors for the hours requested despite there being a condition for door supervisors on Friday and Saturday nights attached to their existing permission. Other premises within the locality were required to have door supervisors during all hours of licensable activity. Mr Campbell suggested that the omission indicated that the applicant had failed to understand that increased hours in that location could result in increased instances of anti-social behaviour. Indeed, Mr Campbell referred to an incident on

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		<p>5th June which could have been avoided had door supervisors been present.</p> <ul style="list-style-type: none"> ○ Mr Campbell made reference to a number of occasions where the applicant had failed to comply with his existing licence to provide door supervisors. On one particular occasion, 4 May 2013, the Police took the step of closing the premises owing to concerns about public safety in and around the premises. ○ The premises was located within the cumulative impact zone for Romford. Furthermore, in mixed use areas such as this 00.30hrs was considered to be the appropriate finishing time for regulated activities. The proposal would far exceed those hours and have a detrimental effect on the quality of life for nearby residents. In Mr Campbell's view, competition had been the driving force behind the application and that other local premises would seek to extend their hours should this be granted. The demand therefore was generated by profit and not the need for such premises to stay open later. ○ The application had failed to address the steps required to promote the licensing objectives as per sections 8.34 and 8.42 of the Licensing Act 2003 as it specifically fails to mention the steps it would take to deal with the potential conflict which could arise in an area recognised for instances of anti-social behaviour, crime and nuisance. Furthermore, given the premises is within a cumulative impact zone, there would need to be exceptional grounds were to grant an extension of hours in the policy area, there did not appear to be anything exceptional in this application. ○ The applicant's failure to comply with the conditions of the existing licence were also a cause for concern. On 2 occasions, 28th April 2013 and 4th May 2013, the premises had operated in breach of its licence by operating without door supervisors. Also, on 25th May 2013, the premises had operated outside its licensable hours. ○ For those reasons the Licensing had been unable to support the application.

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		<p>The representation from the Metropolitan Police also addressed the prevention of crime and disorder and public safety licensing objectives.</p> <p>The Metropolitan Police representative, PC Jason Rose, argued that:</p> <ul style="list-style-type: none"> ○ The premises was located in an anti-social behaviour hotspot as it was a congregation point for late night revellers seeking transport home. Premises within the saturation zone had staggered closing times in order to manage large numbers of individuals who were under the influence of alcohol. ○ PC Rose referred to a number of incidents at the premises where crimes had been recorded. ○ On 5 July 2012, there was a report of racially aggravated harassment. On attending the premises, Police had been informed that the CCTV system was defective. ○ On 2 February 2013, a man was arrested outside the premises for a breach of his ASBO. ○ On 17 February 2013, an incident of grievous bodily harm occurred within the premises. Staff denied any such incident had taken place and the premises had been cleaned of any blood or blood splatter. Again, CCTV had been unavailable upon request. ○ On 16 March 2013, a man had been arrested under Section 5 of the Public Order Act after a row had developed between a customer and a member of staff at the premises. ○ On 5 June 2013, a man was arrested at the premises for actual bodily harm. Again, CCTV wasn't available upon request but was made available some 34 hours after the incident had occurred. ○ PC Rose also remarked that the premises had been visited by Police in

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		<p>connection with breaches of licence.</p> <ul style="list-style-type: none"> ○ On 28 April at around 00:05 hours it was observed that no door supervisor was present. Mr Turkmani stated he did not feel that he needed door staff. ○ On 4 May 2013 at approximately 00:30hrs, Police noticed that a door supervisor was not on duty as was required by the premises licence. When approached, Mr Turkmani advised that there was no door supervisor present. Police closed the premises under Section 161 of the Licensing Act 2003 and 09:00hrs the following morning owing to the potential for public disorder at the premises. ○ On 25 May 2013, Police witnessed the premises trading beyond its permitted hours and reported the matter to the Licensing Authority. ○ The Metropolitan Police were unable to support the application as the variation requested would increase the likelihood of crime and disorder as customers visiting the premises would likely be under the influence of alcohol. The threat would be increased by the absence of door supervisors which were not suggested as part of the application. ○ In addition, the repeated failures to assist Police in the investigation of crimes through the production of CCTV coverage and failure to report incidents gave no confidence that the applicant was a responsible operator. <p>The representation from Councillor Frederick Thompson addressed the prevention of public nuisance, the protection of children from harm and the prevention of crime and disorder licensing objectives. The increased hours would delay the dispersal of persons under the influence of alcohol from the town centre and increase nuisance caused by litter, vomit and other human waste. The premises could also become a focus of public disorder as it will attract persons under the influence of alcohol. Additionally, the increased noise caused by people congregating in the area would disturb the sleep of young children who live in close proximity to the premises.</p>

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		<p>There was nobody present from the Planning Service to present its representations which addressed the public safety, prevention of crime and disorder and prevention of public nuisance licensing objectives.</p> <p>In response, the Applicant’s representative, Mr Kilic, stated that his client had previously operated a nearby premises which served late night refreshment but he had sold that business in 2011. His client had purchased Hot and Tasty at the end of March 2013 and therefore could not be held responsible for some of the incidents referred to by the Police in its representation. His client was keen to extend the hours of operation in line with other nearby premises.</p> <p>Mr Kilic accepted that there had been occasions where door supervisors had not been present on the premises, however this was due to sickness absence reported at short notice. Mr Turkmani, the owner, had recently signed with a company which had provided door supervisors to the premises since mid-May 2013. To address Police and Licensing Authority concerns, his client offered to have door supervisors available for the increased hours of operation with an additional door supervisor deployed on Friday and Saturday.</p> <p>Referring specifically to the incident on 5 June, Mr Kilic explained that the CCTV operating system had been upgraded and Mr Turkmani hadn’t been able to work the system at that time. On 7 June, the Police were provided with CCTV coverage of the incident referred to.</p> <p>Mr Kilic stated that his client couldn’t be held responsible for the behaviour of persons</p>

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		<p>outside of the premises. Had noise nuisance been a major concern then he would have expected nearby residents to have submitted representations. He added that his client would apply for planning permission to vary the hours open to the public if he received permission to have his licence varied.</p> <p>Mr Kilic's client indicated that he might have to close the premises if the variation was refused.</p> <p>7. Determination of Application</p> <p>Decision:</p> <p>Consequent upon the hearing held on 8 July 2013, the Sub-Committee's decision regarding the application for a variation to a Premises Licence for Hot & Tasty Chicken is as set out below, for the reasons shown:</p> <p>The Sub-Committee was obliged to determine this 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>In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.</p> <p>In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights</p>

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		<p align="center">Act 1998.</p> <p>Agreed Facts <u>Facts/Issues</u></p> <p>Whether the granting of a variation to the premises licence would undermine the licensing objectives.</p> <p>Mr Campbell, PC Rose and Councillor Frederick Thompson all asserted that the increased hours of operation for the sale of late night refreshment would merely exacerbate existing worries regarding the likelihood of increased anti-social behaviour and public disorder by persons congregating in and around the premises who were under the influence of alcohol in an area which had been identified as a crime hotspot. Mr Campbell and PC Rose voiced their concerns to the sub-committee of the failure by the applicant to uphold conditions attached to the current licence, specifically around the use of door supervisors.</p> <p>Both Mr Campbell and PC Rose added that the Council’s Licensing Policy (012 – hours and 018 – location, cumulative impact and saturation) would be compromised if the request were to be allowed.</p> <p>In addition, the Planning Service and Councillor Thompson contested that the increased hours would encourage persons to loiter in and around the premises causing disturbance to nearby residents and creating a public nuisance.</p> <p>In response, Mr Kilic argued that a number of the incidents reported by the Police pre-dated his client’s tenure at the premises and therefore he could not be held responsible for those. He acknowledged that there had been issues with the appointment of door supervisors, however a ne</p>

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		<p>arrangement was in place to ensure that aspect of the licence was dealt with and his client had offered additional door staff to cover the increased hours. He added that his client could not be held responsible for the behaviour of intoxicated individuals who congregate in the area near to his shop. Referring specifically to Licensing Policies 12 and 18, Mr Kilic argued that there were nearby premises which had similar hours to what his client was requesting and that the vitality of the business could be at risk if the extension was not granted.</p> <p>The Sub-Committee stated that in arriving at this decision, it took into account the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council’s Licensing Policy.</p> <p>The Sub-Committee noted that the premises was situated in a cumulative impact zone due to high levels of alcohol-related disorder. This placed additional responsibility on premises licence holders to uphold and promote the licensing objectives. As such, any application for licences or variations of licences would need to show awareness of these problems and provide assurances that they can and will be dealt with.</p> <p>Whilst the Sub-Committee accepted that some of the reported crimes relate to a period prior to the current owner, it demonstrates the problems in the area as aforementioned. The breaches of the current licence gave significant concern to the management of the premises.</p> <p>Given those concerns and the general nature of the area at the hours applied for, the Sub-Committee did not receive sufficient assurances from the applicant in order for it to be satisfied that existing problems in the vicinity, and with the premises themselves would not be exacerbated by granting the additional hours applied for.. The application therefore was REFUSED in full.</p>
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		<p>8. Right of Appeal</p> <p>Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the Magistrates' Court <u>within 21 days of notification of the decision</u>. 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.