

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 2 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 to a premise Licence	Licensing Act 2003 Notice of Decision									
		<p>PREMISES Albe Limited 111 Upminster Road South Rainham RM13 9AA</p> <p>DETAILS OF APPLICATION</p> <p>Application to vary a premises licence under section 34 of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANT Albe Limited</p> <p>1. Details of the application</p> <p>The application to vary the premises licence does not affect the hours of licensable activity. The application is:</p> <p>The premises currently has a premises licence to the below times</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Supply of Alcohol (Off Supplies Only)</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 Sunday</td> <td align="center">08:00hrs</td> <td align="center">23:00hrs</td> </tr> </tbody> </table>			Supply of Alcohol (Off Supplies Only)			Day	Start	Finish	Monday to Sunday
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		<p>Variation applied for:</p> <p>At the beginning of the hearing the applicant submitted the following revised application:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Supply of Alcohol (Off Supplies Only)</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday to Wednesday</td> <td align="center">08:00hrs</td> <td align="center">01:00hrs</td> </tr> <tr> <td>Thursday to Saturday</td> <td align="center">08:00hrs</td> <td align="center">02:00hrs</td> </tr> <tr> <td>Sunday</td> <td align="center">09:00hrs</td> <td align="center">00:00hrs</td> </tr> </tbody> </table> <p>The following suggested conditions were offered:</p> <ol style="list-style-type: none"> 1. A suitable notice to be displayed prominently by the front door asking customers to respect residents and leave quietly, to dispose of litter responsibly, not to drink in the street or to loiter outside the shop. 2. A notice also to be displayed asking customers who have driven to the shop not to bang car doors or rev their car engines etc. 3. To engage with and work with the Police Safer Neighbourhood Team 4. To provide a phone number to the resident so that she can contact the shop in relation to any complaints concerning people loitering outside etc. 5. Staff to monitor the shop frontage by means of the CCTV display etc to check for people loitering outside and to politely ask them to leave the vicinity of the shop. If people are abusive or refuse, staff shall call the Police to ask for assistance where necessary. 6. A minimum of 2 staff to be on duty after 19.00 hours on Friday and Saturday 	Supply of Alcohol (Off Supplies Only)			Day	Start	Finish	Monday to Wednesday	08:00hrs	01:00hrs	Thursday to Saturday	08:00hrs	02:00hrs	Sunday	09:00hrs	00:00hrs
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		<p>2. Promotion of the Licensing Objectives</p> <p>The applicant completed the operating schedule, which formed part of the application to promote the four licensing objectives.</p> <p>The applicant acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the Yellow Advertiser on Wednesday 22 May 2013.</p> <p>3. Details of Representations</p> <p>Valid representations may only address the four 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>There was one valid representation against this application from interested parties. This representation falls under the heading of the Prevention of Public Nuisance.</p> <p><u>Responsible Authorities</u></p> <p>Metropolitan Police: None</p>

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		<p>Licensing Authority: None</p> <p>Public Health: None</p> <p>The London Fire and Emergency Planning Authority: None</p> <p>The Health & Safety Enforcing Authority: None</p> <p>The Trading Standards Service: None</p> <p>Planning Control & Enforcement: None</p> <p>Children & Families Service: None</p> <p>Practice Improvement Lead: None</p> <p><u>Interested parties' representations</u></p> <p>This representation was based upon the prevention of Public Nuisance objective.</p> <p>Ms G Price attended the hearing and informed the sub committee of her strong objections to the applied hours. She resides about 50 feet from the premises, since the premises opened in December 2012 there has been a steady increase in cars parking up and staying with car doors opening and closing. The subcommittee was also informed that the number of people gathering under the large orange canopy at the front of the premises till it closes was of concern. Ms Price was of the view that this will only increase in the summer months making sleeping impossible with windows open which is her right. She stated that 02:00 hours is very excessive, and while she had sympathy for anyone trying to</p>

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		<p>run a small business in the shadow of a 24/7 Tesco, she felt most strongly that she has a right as an individual to sleep in her own property without let hinder, noise or nuisance as do her neighbours.</p> <p>Ms Price informed the sub committee that the applicant through his agent had been in consultation with her to negotiate the hours but a compromise was not reached, therefore Ms Price requested this application to be declined on the grounds of prevention of public nuisance.</p> <p>4. Applicant’s response.</p> <p><u>Reply for the Premises Licensee</u></p> <p>Mr G Hopkins, agent for applicant addressed the Sub Committee. He stated that:</p> <ul style="list-style-type: none"> • Mr Ali Bektasogw was making final arrangement to become the Designated Premises Supervisor shortly. • This premises is being run as a convenience store and the applicant was only trying to enhance his business. • Mr Ali Bektasogw was also a local resident in Rainham. He was aware of the problems in the area and was taking appropriate step to resolve matters. • The premises has a good CCTV system, that covered the inside and outside of the premise. • The premises have trained staff to operate the CCTV system. • At the premises, Challenge 25 is in operation. • The premises was a good family run business aimed at local residents. • The applicant wants to be a good neighbour and as a result has provided Mrs Price with his shop and personal contact number to enable her raise any issues of concern with him. • Mr Ali Bektasogw is aware of the car parking issues and proposes to put up a signage advising clients to respect his neighbours.

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		<ul style="list-style-type: none"> • The applicant was also aware of the people hanging about the premises, he and his staff are taking measures to disperse the people loitering around the premises but that his business has not caused this problem. • The subcommittee was informed that this premises is a well run business with good compliance history with the interest of Rainham. After reflection, his client revised the hours he has requested. • Mr Hopkins informed the subcommittee of a Magistrates Court ruling concerning Leeds City Council where an application had been refused on a policy basis. The court overturned it as too rigid an application of policy. Policy should be utilised as appropriate, and not strictly enforced in all cases. <p>5. Determination of Application</p> <p>Decision</p> <p>Following the hearing held on 1 July 2013, the Sub-Committee’s decision regarding the application to vary a Premises Licence for Albe Limited 111 Upminster Road South Rainham RM13 9AA was 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</p>

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		<p>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 Act 1998.</p> <p><u>Facts/Issues</u></p> <p>Whether the granting of the premises licence would undermine the fo licensing objectives.</p> <p>The prevention of Public Nuisance</p> <p>Mr Hopkins mentioned to the subcommittee that client was aware of the problems narrated by Mrs Price and that Mr Ali Bektasogw and his staffs were taking appropriate measures to deal with the issues. That his client has offered conditions to assist with the application</p> <p>The sub-committee noted that the strong objection from the representati of Mrs Price .</p> <p>Mr Hopkins stated that the applicant had a CCTV system that covered both the front and inside of the premise to assist in preventing crime and disorder.</p>

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		<p>The Sub-Committee stated that they are very moved by the strong representation from Ms Price but are aware that hers is the only objection raised as against the application and there being no representation from the Police or any responsible authorities.</p> <p>This being a residential area, and issues which affect such areas are well known and have been outlined, the sub committee must give some consideration to local residents.</p> <p>The subcommittee appreciate that the applicant is a responsible person and that the conditions offered by the applicant are most reasonable.</p> <p>After serious deliberation the subcommittee will grant a variation to the premise licence as follows:</p> <table border="1" data-bbox="842 927 2047 1066"> <thead> <tr> <th colspan="3">Supply of Alcohol (Off Supplies Only)</th> </tr> <tr> <th>Day</th> <th>Start</th> <th>Finish</th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday</td> <td>08:00hrs</td> <td>01:00hrs</td> </tr> <tr> <td>Sunday</td> <td>09:00hrs</td> <td>00:00hrs</td> </tr> </tbody> </table> <p>6. 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>	Supply of Alcohol (Off Supplies Only)			Day	Start	Finish	Monday to Saturday	08:00hrs	01:00hrs	Sunday	09:00hrs	00:00hrs
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		<ol style="list-style-type: none">1. dismiss the appeal; or2. substitute the decision for another decision which could have been made by the Sub Committee; or3. remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and4. make an order for costs as it sees fit.