

Havering Council – Decisions taken by the Licensing Sub-Committee on Wednesday, 8 January 2014

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

<p>A1</p>	<p>APPLICATION FOR A PREMISES LICENCE MADE UNDER SECTION 17 OF THE LICENSING ACT 2003 ("the Act").</p>	<p align="right">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Vertigo Lounge, 17-19 Station Lane, Hornchurch, RM12 6JL</p> <p>DETAILS OF APPLICATION</p> <p>This application for a new premises licence is made under section 17 of the Licensing Act 2003 ("the Act").</p> <p>APPLICANT Darren Eva, 17-19 Station Lane, Hornchurch, RM12 6JL</p> <p>1. Details of existing licensable activities</p> <p>The premises operate a Premises Licence for the following licensable activities:</p>
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		<table border="1"> <tr> <td colspan="3">Recorded Music</td> </tr> <tr> <td>Sunday to Thursday</td> <td colspan="2">10.00 to 23.00</td> </tr> <tr> <td>Friday & Saturday</td> <td colspan="2">10.00 to 00.00</td> </tr> </table> <table border="1"> <tr> <td colspan="3">Supply of alcohol (on & off premises)</td> </tr> <tr> <td>Sunday to Thursday</td> <td colspan="2">12.00 to 23.00</td> </tr> <tr> <td>Friday & Saturday</td> <td colspan="2">12.00 to 00.00</td> </tr> </table> <p>2. Details of requested licensable activities</p> <p>Application is for:</p> <table border="1"> <tr> <td colspan="3">Films, Performances of dance, Recorded music, Provision of anything of a similar description to live music, recorded music or performances of dance,</td> </tr> <tr> <td>Day</td> <td>Start</td> <td>Finish</td> </tr> <tr> <td>Sunday to Thursday</td> <td>10:00</td> <td>23:15</td> </tr> <tr> <td>Friday & Saturday</td> <td>10:00</td> <td>01:45</td> </tr> </table> <table border="1"> <tr> <td colspan="3">Live music</td> </tr> <tr> <td>Day</td> <td>Start</td> <td>Finish</td> </tr> <tr> <td>Sunday to Thursday</td> <td>10:00</td> <td>23:00</td> </tr> <tr> <td>Friday</td> <td>10:00</td> <td>01:45</td> </tr> <tr> <td>Saturday</td> <td>10:00</td> <td>01:15</td> </tr> </table>	Recorded Music			Sunday to Thursday	10.00 to 23.00		Friday & Saturday	10.00 to 00.00		Supply of alcohol (on & off premises)			Sunday to Thursday	12.00 to 23.00		Friday & Saturday	12.00 to 00.00		Films, Performances of dance, Recorded music, Provision of anything of a similar description to live music, recorded music or performances of dance,			Day	Start	Finish	Sunday to Thursday	10:00	23:15	Friday & Saturday	10:00	01:45	Live music			Day	Start	Finish	Sunday to Thursday	10:00	23:00	Friday	10:00	01:45	Saturday	10:00	01:15
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		<p>Christmas Eve, Christmas Day and Boxing Day to remain open for extra hours. To remain open for one extra hour on the morning that clocks go forward to negate the effects of the change from British Summer time to Greenwich meantime.</p> <p>4. 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 advertising of the application. The required public notice was installed in the 13 November 2013 edition of the Yellow Advertiser.</p> <p>The main difference between this application and the current licence is that it sought to increase the amount of licensable activities to be held at the premises. Also, that the sale of alcohol is to increase from 00:00 on Friday and Saturday to 01:30.</p> <p>5. 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 • Public safety • The prevention of public nuisance • The protection of children from harm <p>There were four representations against this application from responsible authorities, namely the Licensing Authority, Police, Planning Enforcement and Havering's Noise</p>

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		<p>Specialist.</p> <p><u>Responsible Authorities</u></p> <p>Chief Officer of Metropolitan Police (“the Police”): The Police made representation to this application and at the hearing reiterated their view, that granting this application as presented would undermine the Licensing objective based on the prevention of public nuisance. The Sub-Committee was informed that the application was contrary to the Council’s Licensing Policy 012 which provided guidance on “mixed use” areas, in that it was outside the policy guidelines, and extended noise issues could negatively impact on local residents. The Police contended that to have a venue open run the risk in attracting clientele departing other premises. While there had been no reported issues at the venue, and it was run to a high standard, there was a concern that the extended hours could be detrimental to the standard being set.</p> <p>Planning Control & Enforcement: The Planning Officer reiterated the detailed representation that was based on the prevention of crime and disorder and the prevention of public nuisance licensing objectives. The Sub-Committee was informed that the current licensing hours were in conflict with the Planning consent, and it was also mentioned that the service had received a complaint alleging breaches of planning hours. The position of the Planning service was that a valid planning application should be submitted requesting a variation of hours as the current application was incomplete. Therefore the service was requesting that the Sub-Committee decline the application in accordance to planning laws. The Officer did advise that the premises had made a planning application, but it was currently invalid as further information was required.</p> <p>Licensing Authority: The Licensing Officer reiterated a representation against the application based on the prevention of public nuisance objective in that the application</p>

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		<p>would extend the hours of the premises past those suggested by Havering’s Licensing Policy 012. The sub committee was informed that the Licensing policy 017 supported the authority’s to refuse application in St Andrews ward for pubs and bars. It was also detailed that Licensing Policy 007 encourages for the appropriate planning consents to be in place before a licensing application was made. The current planning usage consent for this venue indicated that the premises may operate Monday to Sunday between 10:00 to 23:00 hours. The Licensing Officer informed the Sub-Committee that whilst they do not oppose the granting of the application, the authority would urge the determination of this application in consideration of the guidelines of policy 012.</p> <p>Public Protection: The Havering Noise Specialist Officer on behalf on the service reiterated a representation based upon the prevention of public nuisance licensing objective. The Sub-Committee was informed that contrary to the Council’s Licensing Policy 12, hours with respect to “mixed use” areas, that the application was outside the policy guidelines. It was detailed that such application that sought to operate beyond these guidelines hours must successfully demonstrate why it should be an exception to the policy guidelines. The Officer did advise the Sub-Committee that there were no complaints relating to the premises, and no other concerns.</p> <p>London Fire & Emergency Planning Authority (“LFEPA”): None</p> <p>Health & Safety Enforcing Authority: None.</p> <p>Public Health: None</p> <p>Children & Families Service: None</p> <p>The Magistrates Court: None</p>

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		<p>In response to the representations made by the responsible authorities the applicant, Mr Eva, informed the Sub-Committee that he was encouraged that all of the objections were in general terms, and none disclosed any complaints or concerns as to the current operation of the premises. He explained that when the licence was first applied for (and granted) it contained over 100 conditions, which the applicant had considered necessary at the time. Many of these were not appropriate, so the current application sought to tidy up. The older licence would be surrendered should this application be successful.</p> <p>He explained that the premises had had no incidents of violence or aggression, no complaints, and had always upheld the licensing objectives. The application was partly commercially based, but also for the benefit of customers, whose options in Hornchurch were limited in terms of nicer places to frequent at later hours. His premises had established a reputation as being a well-run, safe location, and he would not risk that, this would continue should the application be successful.</p> <p>He set out that generally the premises operated its ground floor as a bar set up for vertical drinking, the second floor a restaurant and the top floor been used as cocktail bar. Currently the premises was mindful of its operating hours and that this was been managed tightly.</p> <p>He informed the sub committee that a valid planning application had been lodged to amend the planning consent. He added that with the guidance and advice of the Noise Team, the premises was able to improve the noise insulation of the venue.</p> <p>Mr Eva stated that the premises was an aspirational and well run venue that was now well established in Hornchurch and that Hornchurch Town Centre was richer with the presence of Vertigo Lounge.</p> <p>In response to questioning by the Sub-Committee, Mr Eva stated that the premises would adhere to its current Planning Consent.</p>

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		<p>Mr Eva also stated that he was happy for the inclusion of the two proposed conditions suggested by the Police on the Licence, being a last admission time, and the use of toughed drinking glass on the premises.</p> <p>6. Determination of Application</p> <p>Decision</p> <p>Consequent upon the hearing held on 8 January 2014, the Sub-Committee’s decision regarding the application for a Premises Licence for the Vertigo Lounge 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 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>

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		<p>Agreed Facts <u>Facts/Issues</u></p> <p>Whether the granting of the premises licence would undermine the licensing objectives.</p> <p>• Prevention of Public Nuisance</p> <p>The sub committee heard from all responsible authorities present that there was the potential for public nuisance objective to be breached as the location of the premises was covered by the Licensing Policy 012 which refers to the hours during which licensable activity would normally be permitted. The sub committee noted that the applicant was seeking parity with other licensed premises in the locality. The sub committee also noted that the representations from the responsible authorities did not include any complaints relating to the venue. The Police suggested that a last admittance time would assist matters, and the Applicant indicated that would be acceptable.</p> <p>• Prevention of Crime and Disorder</p> <p>The sub committee noted the comment in respect of the Planning Consent in relation to the licensing objective. The sub committee also noted the response of the applicant that a valid application had been lodged seeking to vary the planning consent and that the premise would operate within the current planning operating hours.</p> <p>Having considered the written representations and oral responses, the Sub-Committee decided that given the accepted fact that the premises are very well-run, the fact that</p>

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		<p>the representations received disclosed no current issues or complaints, and no representation had been made by the people living in the proximity of the venue, no risk to the licensing objectives had been demonstrated should the application be granted. The Sub-Committee therefore granted the application as applied for, with the proposed conditions as per the operating schedule and to include the following additional conditions that were suggested by the Police and accepted by the applicant:</p> <ul style="list-style-type: none"> • That the premises will operate a last admittance time for patrons to 90 minutes before closing time on Friday and Saturday nights • That the premises will only serve drinks in toughened glassware. <p>The Sub-Committee stated that in arriving at this decision, it took into consideration the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council’s Licensing Policy.</p> <p>7. 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

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		4. make an order for costs as it sees fit. Taiwo Adeoye Clerk to the Licensing Sub-Committee