

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 15 April 2014

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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 | APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF THE LICENSING ACT 2003 | Licensing Act 2003 Notice of Decision | | | | | | | | | | | |
|-------------------------------|---|---|--|-------------------------------|--|--|------------|--------------|---------------|----------|-------|-------|-------------------|
| | | <p>PREMISES Just Falafel 104-106 South Street Romford Essex RM1 1RX</p> <p>APPLICANT Baraaks Ltd T/A Just Falafel Pacific House 382 Kenton Road Harrow Middlesex HA3 8DP</p> <p><u>Details of the application</u></p> <p>Prior to the hearing the applicant had reduced the hours sought, and the application was therefore amended to the following:</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">Thursday</td> <td align="center">23:00</td> <td align="center">03:00</td> </tr> <tr> <td align="center">Friday & Saturday</td> <td align="center">23:00</td> <td align="center">04:00</td> </tr> </tbody> </table> | | Late night refreshment | | | Day | Start | Finish | Thursday | 23:00 | 03:00 | Friday & Saturday |
| Late night refreshment | | | | | | | | | | | | | |
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| Thursday | 23:00 | 03:00 | | | | | | | | | | | |
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| | | <table border="1"> <thead> <tr> <th align="center" colspan="3">Hours premises open to the public</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Thursday</td> <td align="center">07:00</td> <td align="center">03:00</td> </tr> <tr> <td>Friday & Saturday</td> <td align="center">09:00</td> <td align="center">04:00</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th align="center" colspan="3">Non-standard timings</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Christmas Eve</td> <td align="center">23:00</td> <td align="center">02:00</td> </tr> <tr> <td>New Year's Eve</td> <td align="center">23:00</td> <td align="center">05:00</td> </tr> </tbody> </table> <p><u>Comments and observations on the application</u> 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 Romford Recorder on Friday 7 March 2014.</p> <p><u>Summary</u> There was one valid representation against this application from an interested person. There were three representations against this application from responsible authorities.</p> <p><u>Details of representations</u></p> <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 | Hours premises open to the public | | | Day | Start | Finish | Thursday | 07:00 | 03:00 | Friday & Saturday | 09:00 | 04:00 | Non-standard timings | | | Day | Start | Finish | Christmas Eve | 23:00 | 02:00 | New Year's Eve | 23:00 | 05:00 |
|--|-------|--|--|--|--|-----|-------|--------|----------|-------|-------|-------------------|-------|-------|-----------------------------|--|--|-----|-------|--------|---------------|-------|-------|----------------|-------|-------|
| Hours premises open to the public | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | | <p>Interested persons' representations</p> <p>Cllr Frederick Thompson made representation against this application based upon the prevention of crime and disorder and the prevention of public nuisance licensing objectives.</p> <p>Responsible authorities' representations</p> <p>Licensing Officer Arthur Hunt made representation against this application on behalf of Havering's licensing authority. Mr Hunt's representation was based upon the licensing objectives in relation to the prevention of crime and disorder and the prevention of public nuisance.</p> <p>PC Davies, on behalf of the Metropolitan Police made similar arguments to Mr Hunt, basing his representation on the prevention of crime and disorder and public safety licensing objectives.</p> <p>Health and Safety Officer John Giles also made a representation against this application on behalf of Havering's Health & Safety service. His representation was based on the public safety licensing objective.</p> <p>There were no representations from the other responsible authorities.</p> <p>Prior to the hearing the Sub-Committee was advised that following discussions between the applicant, the interested person and one of the responsible authorities the representations made by Councillor Frederick Thompson and Health and Safety Officer John Giles had been withdrawn.</p> <p>The Sub-Committee was also advised that following discussions between the applicant and the Police a number of conditions outlined in the Police's representation had now been agreed by the applicant.</p> |

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| | | <p>Details of Representations</p> <p>Licensing officer – Mr Arthur Hunt appeared and reiterated his written objection against the application. He stated that:</p> <p>Crime and Disorder – the premises was in a “Cumulative Impact Area” and had not addressed the issue at all in the submitted application and ‘operating schedule’. Public Nuisance – the premises sought to operate outside hours suggested by Havering’s Licensing policy, without any justification.</p> <p>Mr Hunt made mention of licensing policy 012 which related to the hours during which it was felt appropriate to provide licensable activity in given areas of the borough.</p> <p>Metropolitan Police – PC Davies appeared and reiterated his written objection against the application. He stated that:</p> <p>Romford town centre attracted an average of 10,000 people over the weekend period from Thursday to Sunday, and the premises was located beneath a residential block of flats, in a mixed use area on the main road that ran through Romford town centre next to the largest venue in the town Fiction Nightclub</p> <p>There were currently 14 pubs and bars in the area of the ring road and 5 premises serving late night refreshment.</p> <p>Romford town centre had been identified as under stress because of the cumulative effect of the concentration of licensed premises which had led to serious problems of disorder and/or public nuisance affecting residents, visitors and businesses.</p> |

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| | | <p>Applicant's response.</p> <p>The applicant, who was represented Mr Graham Hopkins, responded to the points made by both Mr Hunt and PC Davies.</p> <p>Mr Hopkins began by asking PC Davies if the conditions contained within his written submission, which had subsequently been agreed to by the applicant, would address the possible problems identified in the representations.</p> <p>PC Davies replied that the conditions would go a long way to ensuring that the premises remained incident free and manageable noting in particular the added benefit of employing Security Industry Authority (SIA) trained door staff.</p> <p>The Sub-Committee was advised of the type of food that the applicant would be selling and also noted that Just falafel operated five other restaurants in central London and this premises would be the sixth one in the UK.</p> <p>Mr Hopkins pointed out that the premises had been empty for a period of 2/3 years and that the applicant had invested a considerable amount of money in bringing the premises up to its current standard.</p> <p>The Sub-Committee was also advised that the Manager of the premises Mr Mohammed Ali had previously been employed in the hospitality trade for approximately 12 years and also held a SIA licence.</p> <p>Mr Hopkins advised that the premises had only been open a short while but was already attracting a loyal customer base and now wanted to compete in the night time economy along with its competitors.</p> |

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| | | <p>All staff were to be trained in avoiding conflict with customers and that the 2 SIA door staff, one of which would be equipped with a Bodycam, would work closely with the door staff employed by McDonalds and Fiction nightclub.</p> <p>Mr Hopkins also advised that the applicant was considering signing up to the town centre's radio service and that the premises was equipped with CCTV. Furthermore any unsecured seating in the premises was to be removed after 23.00 hours and use of the premises' toilet would be restricted to emergencies only. It would therefore not be a place for people to hover around, being that there will be two SIA doormen and a maximum capacity of 20.</p> <p>Mr Hopkins submitted that the premises, upon the current application (with conditions agreed with the Police, and the further conditions put forward by the applicant) would not add to the cumulative impact upon any of the licensing objectives in the area. He stated that at the moment all patrons of Fiction nightclub go to McDonalds. Having an alternative option on the other side of the road will in fact assist, where it is a well-run premises with suitable conditions. Mr Hopkins wished to clarify that that premises did not have any residential dwellings either above or adjacent and that no noise complaints had been raised from nearby residences relating to the operating of Just Falafel. Nor were there any potential noise concerns, as Environmental Health had not made representation.</p> <p>The Sub-Committee was also advised that the premises was afforded with very good transport links and this would help in dispersing patrons once they had purchased their food.</p> <p>In summation Mr Hopkins advised the Sub-Committee that Just Falafel was a conscientious business that wanted to compete in the night time trade that the town centre offered whilst working the responsible authorities to ensure a safe and pleasant dining experience.</p> <p>Mr Hopkins concluded by commenting that due to the nature of licensing policies 012 and 018</p> |

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| | | <p>it was natural for any business wishing to offer late night refreshment to have an application heard by the Licensing Sub-Committee in line with policy. This in itself was sufficient as a hurdle to ensure any such applications were strong enough to satisfy the Licensing Authority.</p> <p>While the area was dubbed a “mixed use “area, Mr Hopkins submitted that this part of Romford was barely residential, and there ought to be a more flexible approach regarding hours. To rigidly apply this policy would kill the night time economy.</p> <p>In terms of the cumulative impact policy, Mr Hopkins submitted that this application justified a departure from it, as it would not have a negative impact on cumulative impact.</p> <p>In reply to questions from the Sub-Committee the applicant Mr Sabar confirmed that the premises would employ 3 serving staff and 2 SIA door staff and that the food served was hot as opposed to cold food.</p> <p>Determination of Application</p> <p>Consequent upon the hearing held on 15 April 2014, the Sub-Committee’s decision regarding the application for a premises licence for Just Falafel was as set out below, for the reasons stated:</p> <p>The Sub-Committee was obliged to determine these applications with a view to promoting the licensing objectives.</p> <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 section 117 of the Crime</p> |

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| | | <p>and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.</p> <p>Agreed Facts</p> <p>Whether the granting of a premises licence would undermine any of the four licensing objectives.</p> <ul style="list-style-type: none"> <li style="text-align: center;">• Prevention of Public Nuisance <p>That Mr Hunt raised an objection on the grounds of the potential of noise disturbance being experienced by nearby residents as the premises was situated in a mixed use environment.</p> <p>The Sub-Committee was of the view that there was no evidence of noise complaints linked to the premises, nor any representation from Environmental Health.</p> <p>While policy 012 recommended that hours in a mixed use area would normally be permitted until 00:30, it accepted that this area was home to numerous late night establishments, and that, on its merits, this application warranted a departure from this policy.</p> <ul style="list-style-type: none"> <li style="text-align: center;">• Prevention of Crime and Disorder <p>That both Mr Hunt and PC Davies raised objections on the grounds that the business could attract a greater number of individuals to the area seeking late night refreshment which could lead to crime and disorder issues.</p> |
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| | | <p>Licensing policy 018 recommended that applications of this nature be refused as the town centre had previously been identified as an area in which resources to cope with late night anti-social behaviour issues were limited.</p> <p>Section 182 guidance to the Act required that the applicant addressed the steps required to promote the four licensing objectives</p> <p>The Sub-Committee was of the view that the applicant had successfully demonstrated that the measures that he was prepared to take would minimise the possibility of any increase in incidents of crime and disorder, and this had been accepted by the Police at hearing. The Sub-Committee were therefore satisfied that the modified application would justify a departure from policy 018.</p> <ul style="list-style-type: none"> • Public safety <p>That PC Davies had raised an objection on the grounds that due to the cumulative effect of the concentration of licensed premises within the town centre the premises could lead to problems of dispersing patrons from the town centre.</p> <p>The Sub-Committee was of the view that the applicant had satisfactorily demonstrated the measures to be taken to avoid issues of public safety</p> |

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| | | <p>Decision</p> <p>Having considered the oral and written submissions of the objectors and the applicant in relation to the application, the Committee decided to grant the application which included the previously agreed conditions that had been sought by the Police and agreed to by the applicant.</p> <p>The application concerned a premises seeking to provide late night refreshment in an area that was subject to a cumulative impact policy, and applications in this area will generally be refused, unless an applicant is able to demonstrate that there would be no cumulative impact on any of the licensing objectives. For an application in this area to be refused, it would still need to be shown that the grant of the application would have a negative impact, and that appropriate conditions would be ineffective in preventing the problems involved.</p> <p>While the representations referred to the policy itself, there was very little evidence as to the negative impact this premises would have upon any of the licensing objectives. The application appeared to have merit, and the responsible authorities had not given any indication as to what impact, with the agreed and further submitted conditions, the premises would have in terms of cumulative impact.</p> <p>The Sub-Committee were minded to agree that this premises may in fact aid dispersal, providing an option other than McDonalds, particularly given the capacity limit of 20 people, and the 2 SIA doormen that would be present from 23:00 onwards.</p> <p>With the reduced hours and the conditions that would be in place, the Sub-Committee were satisfied that the applicant had addressed all issues raised, that the application would not impact upon the cumulative impact in the area, and that therefore this justified an exception to</p> |

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| | | <p>the policy.</p> <p align="center">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. <p align="center">Appendix 1</p> <p>CONDITIONS ATTACHED TO THE PREMISES LICENCE FOR JUST FALAFEL 104-106 SOUTH STREET ROMFORD RM1 1RX</p> <p>1, A properly specified and fully operational CCTV system shall be installed or the existing system maintained to a satisfactory standard. The system shall incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises. All other areas of risk identified in the operational requirement shall have coverage appropriate to the risk.</p> |

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| | | <p>2, To obtain a clear head and shoulders image of every person entering the premises on the CCTV system persons entering the premises should be asked to remove headwear unless worn as part of religious observance.</p> <p>3, The CCTV system shall incorporate a recording facility and all recordings shall be securely stored for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system shall comply with other essential legislation and all signs as required shall be clearly displayed. The system shall be maintained and fully operational throughout the hours that the premise is open for any licensable activity.</p> <p>4, A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.</p> <p>5, Recordings shall be made available to an authorised person of the Licensing Authority or Havering Police together with facilities for viewing.</p> <p>6, All door supervisors shall enter their full details in the premises daily register at the commencement of work. This shall record their full name, home address, contact telephone number, SIA registration number and the time they commenced and concluded working. If the door supervisor was supplied by an agency details of that agency shall also be recorded including the name of the agency, the registered business address and a contact telephone number.</p> <p>7, All door supervisors working outside the premises or whilst engaged in the dispersal of patrons at the close of business shall wear 'high visibility clothing'.</p> |

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| | | <p>8, There will be a minimum of 2 SIA approved door supervisors on duty between 23:00 and 15 minutes after the last closing time to ensure that patrons are dispersed from the vicinity. With at least one doorman to be operating a body style camera</p> <p>9, All staff shall be trained in dealing with persons who are incapacitated through the use of drugs or the combined effect of drugs and alcohol.</p> <p>10, The premises licence holder shall implement a written dispersal policy to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours both residential and business and to make the minimum impact upon the neighbourhood in relation to potential nuisance, anti-social behaviour, crime and disorder. The policy shall be approved in writing by the Licensing Authority.</p> <p>11, A premises daily register shall be kept at the premises. This register shall be maintained and kept for a minimum of 12 months. This register should record the name of the person responsible for the premises on each given day. The premises daily register shall record all calls made to the premises where there is a complaint made by a resident or neighbour of noise nuisance or anti-social behaviour by persons attending or leaving the premises. This shall record the details of the caller, the time and date of the call, the time and date of the incident about which the call is made and any actions taken to deal with the call. The premises daily register shall be readily available for inspection by an authorised person throughout the trading hours of the premises. The premises daily register shall also record all incidents in relation to the use of any force by staff or door supervisors in the removal of persons from the premises. It shall record the time and date of the occurrence, name or brief description of the person removed and details of the staff members involved.</p> <p>12, The premises licence holder shall sign up to the Safe and Sound approved charter. And will attend all safe and sound meetings</p> |

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| | | <p>13, All furniture inside the premises will either be fixed to the floor (to include fixtures and fittings, chairs, tables) or removed from the premises between the hours of 23:00 and the proposed closing time</p> <p>14 The seating area in the restaurant shall be closed to customers at 23.00 daily. All non-secured chairs and stools shall be removed from the public area at 23.00.</p> <p>15 The seating area shall be cordoned off from public use by a barrier of a type to be agreed with the Council's Health and Safety Officer.</p> <p>16 A member of staff trained in first aid shall be on duty throughout the permitted licensed hours after 23.00.</p> <p>17 No alcohol will be permitted in the premises or be allowed to be consumed in the premises at any time.</p> <p>18 Appropriate notices will be displayed by the front door advising customers entering the venue that no alcohol will be permitted in the premises or be allowed to be consumed inside at any time.</p> <p>19 All sales staff will be trained for their role on induction and be given appropriate refresher training every six months. Written training records will be kept for each member of staff and be produced to Police or Council Officers on request. Training will include acknowledging customers, serving in turn, explaining service / cooking times or delays, avoiding conflict, monitoring customer behaviour and conduct, dealing with persons under the influence of drugs or alcohol or both and liaising with Door Supervisors.</p> |

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| | | <p>20 A phone number will be clearly displayed on the front window for local residents to be able to call the restaurant with any complaints or concerns. These shall be recorded in the Premises Daily Register.</p> <p>21 The shutter on the food display in the restaurant public area will be closed and secured at 23.00.</p> <p>22 A maximum of 20 customers will be allowed in the premises at any one time during permitted hours. Door Supervisors will monitor the number of customers inside the premises at any one time.</p> <p>23 A Notice shall be prominently displayed by the exit door advising customers to respect residents and leave quietly, not to linger outside the premises and to dispose of litter responsibly.</p> |