

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

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		<p style="text-align: right;">Licensing Act 2003 Notice of Decision</p> <p>PREMISES</p> <p>Best One 5-7 Boxmoor Road Collier Row RM5 2SH</p> <p>DETAILS OF APPLICATION</p> <p>This application for a variation to a premise license was made under section 34 of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANT</p> <p>Mr Baris Akdag 131 Risley Avenue Tottenham London N17 7HN</p>
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Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
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		<p>1. Details of requested licensable activities</p> <p>The current premises licence hours:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Supply of alcohol</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 Saturday</td> <td align="center">08:00</td> <td align="center">20:00</td> </tr> <tr> <td>Sunday</td> <td align="center">10:00</td> <td align="center">20:00</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>Monday to Friday</td> <td align="center">06:00</td> <td align="center">20:00</td> </tr> <tr> <td>Saturday & Sunday</td> <td align="center">07:00</td> <td align="center">20:00</td> </tr> </tbody> </table> <p>Details of the variation applied for</p> <p>Initial application:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Supply of alcohol</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 Sunday</td> <td align="center">07:00</td> <td align="center">23:00</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>Monday to Friday</td> <td align="center">06:00</td> <td align="center">23:00</td> </tr> <tr> <td>Saturday to Sunday</td> <td align="center">07:00</td> <td align="center">23:00</td> </tr> </tbody> </table>	Supply of alcohol			Day	Start	Finish	Monday to Saturday	08:00	20:00	Sunday	10:00	20:00	Opening hours			Day	Start	Finish	Monday to Friday	06:00	20:00	Saturday & Sunday	07:00	20:00	Supply of alcohol			Day	Start	Finish	Monday to Sunday	07:00	23:00	Opening hours			Day	Start	Finish	Monday to Friday	06:00	23:00	Saturday to Sunday	07:00	23:00
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Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

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		<p>Following mediation meeting with the Police on 24 September 2015, the requested variation of hours was submitted:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Supply of alcohol</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 Saturday</td> <td>08:00</td> <td>21:30</td> </tr> <tr> <td>Sunday</td> <td>10:00</td> <td>21:30</td> </tr> </tbody> </table> <p>2. Non Standard Timings</p> <p><u>Seasonal variations</u></p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Supply of alcohol</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Christmas Day</td> <td>12:00</td> <td>21:30</td> </tr> </tbody> </table> <p><u>Non-standard timings</u></p> <p>None.</p> <p>3. Promotion of the 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 Romford Recorder on Friday 11 September 2015.</p>	Supply of alcohol			Day	Start	Finish	Monday to Saturday	08:00	21:30	Sunday	10:00	21:30	Supply of alcohol			Day	Start	Finish	Christmas Day	12:00	21:30
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Agenda Item No	Topic	Decision
		<p>4. 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 seven representations against this application from interested persons.</p> <p>There were no representations against this application from responsible authorities.</p> <p>The Licensing Officer stated that following the letter from Mrs Whymark in respect of the underage sales, a test purchase had been carried out on the premises. The premises had passed the test.</p> <p><u>Responsible Authorities</u></p> <p>Police: None</p> <p>Planning Control & Enforcement: None</p> <p>Public Protection: None</p> <p>London Fire & Emergency Planning Authority (“LFEPA”): None</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>Licensing: None</p> <p>Health & Safety Enforcing Authority: None.</p> <p>Public Health: None</p> <p>Children & Families Service: None</p> <p>Trading Standards: None</p> <p>Havering Clinical Commissioning Group: None</p> <p><u>Interested parties' representations</u></p> <p>All seven of the representations from interested persons raised concerns under the prevention of public nuisance licensing objective. Only one interested party attended the meeting. One of the seven representations was withdrawn prior to the hearing.</p> <p>Mrs Whymark, who attended the meeting, cited concerns under the protection of children from harm licensing objective.</p> <p>Mrs Whymark confirmed that she still objected to the application even though she was now aware that the hours had changed from 23:00 to 21:30. She addressed the Sub-Committee stating that alcohol was being sold at the premises without asking for ID. She informed the Sub-Committee that her 14 year old daughter's friends had attended a party at her house and had stated that they had been able to purchase alcohol from an off licence in Collier Row as well as the shop in Boxmoor Road. She stated that to her knowledge the shop did not have any signs on the premise stating that ID would be asked for, and ID was clearly not being asked for. She informed the Sub-Committee that, although the shop keepers say they</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>operated Challenge 25, her 21 year old son had not been challenged for his ID and, her husband had been into the shop to speak to someone about underage sales. She added that there was a public house at the other end of the road that had a licence for off-sales and that the town centre of Collier Row was only a 10 minute walk or 5 minute bus ride away should resident wish to buy alcohol.</p> <p>Mrs Whymark stated that the Applicant did not live in the area. She felt that the Applicant's representations came across as threatening to open until 23:00 if they were not granted their licence. She was of the opinion that the shop did not have a clear view of the outside area and although it did have CCTV, this did not cover the corner of the road at its junction with Kingshill Avenue, where youths currently gathered. She considered that the groups of youths gathering around at all times were fuelled by alcohol. She said that she had not seen a person from the shop going outside to talk to them. Mrs Whymark informed the Sub-Committee that there had previously been an application for a take-away which the applicant had objected to stating that there was not a need for any premises in the area to be open after 20:00. She informed the Sub-Committee that a lot of the elderly did not want the shop to be open after 20:00 and, she felt that there would be issues if the licence was granted.</p> <p>5. Applicant's response</p> <p>Mrs Deniz Erdel, joint partner with the applicant, Mr Baris Akdag, made the representations at the hearing to address the representation made by the interested parties. She stated that following mediation with the Police the applicant had agreed to reduce the sale of alcohol from 23:00 to 21:30. However she was aware that the residents had put together a petition in objection, so the applicant had also put together a petition in support, which the Sub-Committee was asked to accept as late documentation at the hearing</p> <p>The Sub-Committee was informed by the Licensing Officer that advice had been given to the</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>applicant and objectors on the same terms about the late representations and the submission of petitions. Both sides had been told they could invite the Chairman to accept the documents at the hearing. Mrs Whymark informed the Sub-Committee that they had been told it was too late to submit and that is why they had not proceeded to bring their objecting petition to the hearing and she objected to the petition being accepted.</p> <p>On the basis that the petition was not dated and the interested parties were not happy for the petition to be accepted since they had been informed that they had missed the deadline for any submissions, the Sub-Committee decided not to accept the petition in support. The Sub-Committee explained to the application that the decision would be based on facts and law and that, admitting the petition would not necessarily have had any influence on its decision.</p> <p>Mrs Erdel stated that there was no representation from the Police and the Applicant had reduced the hours from 23:00 to 21:30, so the variation was only an extension of 1 ½ hours and they had accepted the conditions set by the Police. A lot of money had been invested in the property and they were looking to generate a profit. She stated that if they were successful in obtaining the licence until 21:30 then the opening hours would only be up until 21:30. If however they were unsuccessful then in order to generate a profit they would have no choice but to remain open until 23:00 where they could sell other household items to their customers. The owner of the Costcutters in Highfield Avenue from whom they had purchased the business had reduced the hours from Best One and as a consequence diverted customers to Costcutters. They were now offering more products, and Mr Akdag had recently purchased the store next door which he would be merging with this premise. Mr Akdag was keen to get those customers back to his store.</p> <p>Mrs Erdel stated that for the elderly residents in the area, the journey to Collier Row was a 20 minute walk and this could present safety issues. It was hoped that Best One would be able to provide all that residents would need without the risks of travelling into the main high street</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>late at night. She pointed out that Mr Gaynor had withdrawn his representations.</p> <p>Mrs Erdel addressed the representations made stating that the issues were not relevant to the current management. She added that Mr Akdag had experience. He had only been the owner since July 2015, discussion had taken place with the Police and controls had been put in place to comply with licensing objectives. The shop was under new management. There was CCTV which surrounded the building and staff had been trained in ensuring that ID was requested before the sale of alcohol, where necessary. Systems were in place to ensure that underage sales were not carried out. She added that she would wish to contest the allegation of underage sale of alcohol since they had CCTV in the shop which could be checked and there was signage visible asking for ID.</p> <p>On the points made by the interested parties about the parking arrangements. Mrs Erdel stated that the parking was for the shops and not residents. On the issues about the shutters, Mrs Erdel stated that the shutters were necessary for the security of the premises and the noise they made was minimal.</p> <p>Mrs Erdel also responded to allegations that an attendant in the shop had been intimidating and shouting. Mrs Erdel explained that the shops staff were not intimidating, however in the process of expressing a view or talking, the Turkish language could seem harsh. There had been no interaction between the shop attendant and the resident according to the CCTV footage.</p> <p>In closing the applicants representations, Mrs Erdel stated that the interest of residents and children were paramount. The applicant intended to promote peace and be neighbourly.</p> <p>6. Determination of Application</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
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		<p>Decision</p> <p>Following the hearing held on 20 October 2015, the Sub-Committee’s decision regarding the application for a variation to the Premises Licence for Best One, 5-7 Boxmoor Road, Collier Row.</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> <p>Agreed Facts</p> <p><u>Facts/Issues</u> Whether the granting of the premises licence would undermine the licensing objectives.</p> <p>Prevention of public nuisance The Sub-Committee noted the comments of the interested parties that in the past there had been an off-licence which had caused problems with youths hanging around outside the premises. However the applicant</p>
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Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>had explained that they had adequate CCTV and that they would close the premise at 21:30 if the license was granted</p> <p>Protection of Children from Harm</p> <p>The Sub-Committee noted the comments of the interested party in relation to the underage sales. The applicant had been keen to pursue this as again the CCTV would have been operational. The Sub-Committee also noted that a Challenge 25 scheme would operate to ensure that any person attempting to purchase alcohol who appeared to be under the age would need to provide documented proof that he/she was over 18 years of age. The Sub-Committee had also been advised that the premises passed a test purchase carried out after a complaint of alleged underage sales at the premises.</p> <p>Having considered the application, written representations and oral responses including the conditions submitted and agreed by the Police following a Mediation meeting, the Sub-Committee was satisfied that the application and operating schedule would not impact negatively on the Licensing Objectives.</p> <p>The Sub-Committee therefore granted the application as applied for including the conditions agreed by the Police:</p> <ol style="list-style-type: none"> 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

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>have coverage appropriate to the risk.</p> <ol style="list-style-type: none"> 2. 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. 3. A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premise 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. 4. Recordings shall be made available to an authorised person of the Licensing Authority or Havering Police together with facilities for viewing. 5. All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme on-going and under constant review and must be made available to a relevant responsible authority when called upon. 6. No single can sales (Alcoholic drinks) after 20:00hrs. 7. A proof of age scheme such as Challenge 25 shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification card such as a driving licence or passport. 8. Prominent clear notices shall be displayed at the point of entry to the premises and

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<p>in a suitable location at any points of sale advising customers that they may be asked to produce evidence of age.</p> <p>9. All occasions when persons have been refused service shall be recorded in writing and kept at the premises for six months.</p> <p>10. Prominent clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved.</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 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 shop window must be kept clear in order to monitor and eliminate the risk of children, asking adults to buy age restricted products for them. A prominent, clear notice shall be displayed at the premises about the sale of alcohol to minors and the relevant offences involved in proxy sales.</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 20 October 2015

Agenda Item No	Topic	Decision
		<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 4. make an order for costs as it sees fit. <p>Wendy Gough Clerk to the Licensing Sub-Committee</p>
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