

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
7 December 2015 (10.30 - 11.25 am)**

Present:

COUNCILLORS

Linda Van den Hende (Chairman), Philippa Crowder and Phil Martin.

Present at the meeting were Mr Michael O'Meara (applicant), Paul Jones, Licensing Officer and Sam Cadman, Planning and Enforcement Technician.

Also present were the Legal Advisor and Clerk to the Sub-Committee.

The Chairman reminded Members of the action to be taken in an emergency.

1 APPLICATION TO VARY A PREMISES LICENCE FOR THE DINER, 13 FARNHAM ROAD, ROMFORD, RM3 8ED.

PREMISES

The Diner,
13 Farnham Road,
Romford,
RM3 8ED

DETAILS OF APPLICATION

Application for a variation to a premises licence under section 34 of the Licensing Act 2003 ("the Act").

APPLICANT

Mr Alan Masters,
70 Birch Road,
Romford,
RM7 8EP

&

Mr Michael O'Meara,
69 Birch Road,
Romford,
RM7 8EP

1. **Details of the application**

The current premises licence conditions

Recorded Music		
Day	Start	Finish
Monday to Saturday	08:00	22:00
Sunday	09:00	17:00

Supply of alcohol		
Day	Start	Finish
Monday to Saturday	11:00	22:00
Sunday	11:00	17:00
Christmas Day & New Year's Day	09:00	22:00

Hours premises open to the public		
Day	Start	Finish
Monday to Saturday	08:00	22:00
Sunday	09:00	17:00
Christmas Day & New Year's Day	08:00	22:00

The application sought to permit the following:

Live Music		
Day	Start	Finish
Saturday	18:00	23:30
Christmas Eve & New Year's Eve	18:00	00:30

Recorded Music		
Day	Start	Finish
Monday to Thursday	08:00	23:00
Friday & Saturday	08:00	00:00
Sunday	09:00	21:00
Christmas Eve & New Year's Eve	08:00	00:30

Late Night Refreshment		
Day	Start	Finish
Monday to Thursday	23:00	23:30
Friday & Saturday	23:00	00:30
Christmas Eve & New Year's Eve	23:00	01:00

Anything similar to live music, recorded music or performance of dance (i.e. dancing by diners to live music)*		
Day	Start	Finish
Saturday	09:00**	23:30
Christmas Eve & New Year's Eve	09:00	00:30

*Spontaneous dancing by diners would not constitute a licensable activity.

** The application had indicated 06:00; however, this had been confirmed as a typographical error.

Supply of alcohol		
Day	Start	Finish
Monday to Thursday	11:00	23:00
Friday & Saturday	11:00	00:00
Sunday	11:00	21:00
Christmas Eve & New Year's Eve	11:00	00:30

Hours premises open to the public		
Day	Start	Finish
Monday to Thursday	08:00	23:30
Friday & Saturday	08:00	00:30
Sunday	09:00	21:30
Christmas Eve & New Year's Eve	08:00	01:00

2. Promotion of the Licensing Objectives

The applicant completed the operating schedule, which formed part of the application, to promote the four licensing objectives.

The applicant acted in accordance with regulations 25 and 26 of the pertinent regulations governing the advertising of such applications. The required public notice was installed in the Havering Yellow Advertiser in the week ending 6 November, 2015 edition.

3. Details of Representations

Valid representations may only address the four licensing objectives

- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of children from harm
- Public Safety.

There was just one representation against this application from a responsible authority.

Responsible Authorities

Metropolitan Police: None.

London Fire & Emergency Planning Authority (“LFEPA”): None.

Planning Control & Enforcement: Planning Control and Enforcement had objected under the licensing objective ‘Prevention of Public Nuisance’.

The Sub-Committee’s attention had been drawn to condition 2 attached to the planning permission (P1796.10) granted on 23 May 2011 for the change of use of the premises from Class A1 to Class A3 and the installation of extract ducting to the rear.

The condition stated:

“The premises shall not be used and no deliveries shall be made other than between the hours of 08:00 hours and 22:00 hours on Mondays to Saturdays and between 09:00 hours and 17:00 hours on Sundays without the prior consent in writing of the Local Planning Authority.”

In granting this planning permission [P1796.10] for the use of the premises, consideration had been given to the prevention of public nuisance; and most notably to the local residents located in close proximity. The application to vary the licence sought to have the use operating outside of the times previously approved by planning; which had not been appealed against or challenged / changed since. As this was the case, planning had objected to the application as it sought to have use operating past the approved times until the late hour (being open until 24:30hrs on a Saturday night); and would be contrary to licencing policy 007. This would increase the noise and activity in the late evening / night time (when there was a lower ambient noise level in the area) to a level that had not been prevalent to the distress of the local residents and to the general public, and was also deemed unacceptable and unneighbourly; and contrary to Licencing policy 008.

Furthermore, allowing alcohol to be served from 11:00hrs until 24:00hrs might increase the chance of persons under the influence loitering in the nearby areas, causing anti-social behaviour; which might be especially prevalent given the large pedestrianized areas; most notably along Hilldene Avenue.

Children & Families Service: None

Environmental Health Service: None

The Magistrates Court: None

Interested parties' representation

None.

4. Applicant's response.

Mr O'Meara had replied on behalf of the joint applicants. The applicants had submitted the planning application in 2010 for the change of use. The applicants were looking to establish a family themed restaurant and had applied for limited hours i.e. closing at 10:00pm on Mondays to Saturdays inclusive and 7:00 pm on Sundays.

Since the premises had opened other businesses had opened in the area with later opening hours and this had affected their business. There had been no incidents at their restaurant and they had utilised the Temporary Event Notice provisions on themed nights. These had attracted no adverse comments from neighbours, nor from noise control nor from the Police.

Mr O'Meara had explained that tickets were sold for the themed nights and they took no bookings for 18 year old and 21 year old parties.

The kitchen would be closed at 9.30pm but the licence would be required to serve hot drinks.

At the time the applicants had submitted the application to vary the licence they had submitted a fresh planning application. However, the public consultation period for the planning application would not expire until 19 December.

Mr O'Meara had indicated that he would be happy to amend the hours to comply with the proposed hours as set out in the new Licensing Policy due to come in to force in 2016.

5. Determination of Application

Decision

Following the hearing held on 7 December 2015, the Sub-Committee's decision regarding the application to vary the Premises Licence for The Diner, 13 Farnham Road, Romford, Essex, RM3 8ED was as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which were:

- The prevention of crime and disorder
- Public safety

- The prevention of public nuisance
- The protection of children from harm

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.

In addition, the Sub-Committee had taken 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.

The Sub-Committee having considered the representation made on behalf of Planning and Enforcement and the response from the applicant resolved to grant the application for the following hours:

Live Music		
Day	Start	Finish
Saturday	18:00	23:30
Christmas Eve & New Year's Eve	18:00	00:30

Recorded Music		
Day	Start	Finish
Monday to Thursday	08:00	23:00
Friday & Saturday	08:00	00:00
Sunday	09:00	21:00
Christmas Eve & New Year's Eve	08:00	00:30

Late Night Refreshment		
Day	Start	Finish
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*Spontaneous dancing by diners would not constitute a licensable activity.

Supply of alcohol		
Day	Start	Finish
Monday to Thursday	11:00	23:00
Friday & Saturday	11:00	00:00
Sunday	11:00	23:00
Christmas Eve & New Year's Eve	11:00	00:30

Hours premises open to the public		
Day	Start	Finish
Monday to Thursday	08:00	23:30
Friday & Saturday	08:00	00:30
Sunday	09:00	23:30
Christmas Eve & New Year's Eve	08:00	01:00

The Sub-Committee advised the applicant that he would not be able to implement these hours until he had received the appropriate planning permission.

Chairman