

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 18 January 2016

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	APPLICATION FOR A NEW PREMISE LICENSE FOR UPMINSTER KEBAB HOUSE, 127 AVON ROAD, UPMINSTER RM14 1RQ	<p align="center">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Upminster Kebab House 127 Avon Road Upminster RM14 1RQ</p> <p>DETAILS OF APPLICATION</p> <p>The application for a new premises license was made under section 17 of the Licensing Act 2003 ("the Act)</p> <p>APPLICANT Mr Seyit Guzel 127 Avon Road Romford RM14 1RQ</p> <p>1. Details of requested licensable activities</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <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>Sunday to Thursday</td> <td align="center">12:00</td> <td align="center">23:00</td> </tr> <tr> <td>Friday to Saturday</td> <td align="center">12:00</td> <td align="center">01:00</td> </tr> </tbody> </table>	Supply of Alcohol			Day	Start	Finish	Sunday to Thursday	12:00	23:00	Friday to Saturday	12:00	01:00
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		<p>The applicant acted in accordance with regulations 25 and 26 of <i>The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005</i> relating to the advertisements of the application. The required public notice was installed in the 4 December 2015 edition of the Romford Recorder.</p> <p>There were some mistakes in the notices initially displayed at the premises. This was pointed out to the agent who submitted the application on behalf of Mr Seyit Guzel. The notices were changed and correctly displayed eventually.</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 • Public safety • The prevention of public nuisance • The protection of children from harm <p>There were no representations against the application from interested persons.</p> <p>There were originally five representations against the application from responsible authorities. However, Marc Gasson for Environmental Health (Noise) team and the Police had withdrawn their representation following mediation with the applicant regarding the hours of opening.</p> <p><u>Responsible Authorities</u></p> <p>Chief Officer of Metropolitan Police (“the Police”): None (previously withdrawn)</p>

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		<p>Licensing Authority: One</p> <p>Planning Control & Enforcement: One</p> <p>Public Protection: None (Previously withdrawn)</p> <p>London Fire & Emergency Planning Authority (“LFEPA”): None</p> <p>Health & Safety Enforcing Authority: One</p> <p>Public Health: None</p> <p>Children & Families Service: None</p> <p>The Magistrates Court : None</p> <p>4. Determination of Application</p> <p>The Licensing Officer stated that Mr Hopkins (the agent) had been involved in the latter part of the process. Mr Hopkins had made a number of changes to the applications including the suggestion of some new conditions. It was noted that these suggestions had not be consulted upon with either interested persons or the responsibly authorities, who may have wished to make representations against the application. Further plans of the premise had been submitted which had been different from those submitted to both Planning and Licensing meaning that there were now three plans of the premises.</p>

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		<p>Mr Campbell representing the Licensing Authority stated that the original agent for the applicant had been very difficult to deal with and, in his opinion, was not aware of the Licensing Act. There had been confusion about how children would be protected at the premise as the operating schedule was very contradictory. Mr Hopkins had only been approached to represent the applicant after the representations period. The concerns raised in respect of children at the premises had now been agreed and were enforceable. Mr Hopkins gave assurance that children would be protected however Mr Hopkins was the agent and would not be involved in the operation or running of the premises. Given this was a new restaurant there were still concerns as to the day to day running of the premises,</p> <p>Mr Campbell, however, still had concerns about the designated area for smokers. He added that one smoker would not have a conversation and this is what the original application had suggested, however the applicant is now looking for no more than six smokers at any one time, these people would increase the noise for those in the vicinity.</p> <p>Mr Campbell felt that the application had been very poorly written and not clear for the public to understand. He added that the public may not be aware that the premises could also provide a takeaway service. It was noted that the Police had not commented on the new changes.</p> <p>Mr Giles representing the Health and Safety Enforcing Authority stated that the application was in a residential area, with residential both above and opposite. The terminal hour had been 00:30, however it was noted that this had now been agreed to 23:30. There were concerns of noise from the dispersing clients of the premises as well as the smokers at the premises.</p> <p>The submitted plans did not include any details of ventilation as had been suggested in the approved planning application and there were concern about no wash hand basin being present in the cooking area, which could lead to contamination between cooked and raw food, leading to food poisoning. This would not meet the Food Safety Legislation.</p>

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		<p>Sam Cadman representing the Council’s Planning Services Team stated that the planning application had been approved in October 2015 and conditions stated that the use could be until 23:00 at the latest. Whilst the applicant had moved the hours back from 02:00 to 23:30, this was still outside of the planning approved hours. This was in line with the residential properties in the area together with the other food establishments close to the premise. Other conditions on the planning approval also needed to be discharged.</p> <p>Mr Cadman confirmed that the planning application had approved A3/ A5 use Restaurant and takeaway, with the majority of use being restaurant.</p> <p>In response the applicant’s agent, Mr Hopkins commented that he would not wish the Sub-Committee to hold anything against the applicant in relation to the previous agents actions. This was a new Turkish restaurant and the applicant, Mr Guzel, had 15 years experience in restaurants, and had had possessed a Personal License since the beginning of the Act.</p> <p>He stated that the restaurant would be for 100 covers with clients from the local area. The main business would be a restaurant with some takeaway services, but not a delivery service. The business would be a seated food business and alcohol would be ancillary to food served by waiting staff. There would be no off sales of alcohol and no drinks permitted outside of the premises. It had been agreed following mediation with the Police that the premise be open until 23:30 with the supply of alcohol up until 23:00. These would be reflected in the conditions on the license.</p> <p>Mr Hopkins further stated that there had been concerns about the number of persons being able to smoke outside the premises, however Mr Guzel had never had any issues at previous premises in relation to Crime and Disorder or Food Safety. The absence of the Police shows that they were satisfied with the framework suggested.</p>

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		<p>Mr Hopkins commented that there had been no local residents representations even to the original application which had stated 02:00 as the closing time. This had now been reduced to 23:30. He stated that a revised plan of the layout of the restaurant had been drawn up, and this was handed to all parties present at the hearing. He added that the License would not be operational until the minor variations on the planning application had been approved.</p> <p>Mr Hopkins stated that the reduction in hours had addressed the Public Nuisance objective and there were other premises in the vicinity that smokers could also be attributed to. Mr Guzel had vast experience with food safety and discussions with Health and Safety would be had to ensure that a wash basin would be installed in the kitchen area.</p> <p>Marc Gasson for Environmental Health (Noise) team withdrew his representation following mediation with the applicant regarding the hours of opening.</p> <p>Mr Hopkins informed Members that the original application had stated only one smoker at any time, however it was felt that six smokers was a reasonable number at any one time. He added that Mr Gasson had agreed that his would not be an issue as this would be enforced after 21:00. It was proposed that CCTV would be installed together with staff monitoring the outside area. No alcohol would be allowed outside the premises.</p> <p>Mr Hopkins suggested that the conditions within the operating schedule be removed and replaced with the following:</p> <ul style="list-style-type: none"> • No children or young person under 18 will be allowed to consume alcohol at any time. • No unaccompanied child under 16 will be allowed on the premises after 20:00. • Challenge 25 will be operated as proof of age policy.

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		<p>Mr Hopkins stated that all licensable activities cease at 23:00 and all takeaway would cease at 23:00. He added that the applicant would engage with local residents about any concerns and a daily register would be kept.</p> <p>Decision</p> <p>Consequent upon the hearing on 18 January 2016, the Sub-Committee’s decision regarding the application for a new premises licence for Upminster Kebab House, 127 Avon Road, Upminster, RM14 1RQ</p> <p>The Sub-Committee agreed that there were a number of areas that had now changed following the appointment of Mr Hopkins as the appointed agent. The Sub-Committee was of the view that the original application and proposed conditions had changed so much that could not make a decision and an adjournment was necessary for consideration of the representations.</p> <p>Therefore the Sub-Committee asked that the applicant and the responsible authorities meet to agree upon the way forward together with suggested conditions to be attached to the license within a period of 2 months.</p> <p>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

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		3. Sub Committee; or 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.
A1		
A2		