

**Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 9 June 2016**

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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><b>A1</b></p>               | <p>Guvners, St Georges House, 2 Eastern Road, Romford RM1 3QF - Application to review the premises licence</p> | <p align="right"><b>Licensing Act 2003<br/>Notice of Decision</b></p> <p><b>PREMISES</b><br/>Guvners,<br/>St Georges House,<br/>2 Eastern Road,<br/>Romford<br/>RM1 3QF</p> <p><b>DETAILS OF APPLICATION</b></p> <p>Application for a review made by PC Oisin Daly, on behalf of the Metropolitan Police, under section 51 of the Licensing Act 2003. The application was received by Havering’s Licensing Authority on 19 April 2016.</p> <p><b>APPLICANT</b><br/>PC Oisin Daly<br/>On behalf of the Metropolitan Police,<br/>19 Main Road,<br/>Romford<br/>RM1 1B7</p> <p><b>1. Details of existing licensable activities</b></p> <table border="1" data-bbox="952 1348 1915 1420"> <tr> <td align="center" colspan="3"><b>Late Night Refreshment.</b></td> </tr> <tr> <td align="center"><b>Day</b></td> <td align="center"><b>Start</b></td> <td align="center"><b>Finish</b></td> </tr> </table> | <b>Late Night Refreshment.</b> |  |  | <b>Day</b> | <b>Start</b> | <b>Finish</b> |
| <b>Late Night Refreshment.</b> |  |   |                                |  |  |            |              |               |
| <b>Day</b>                     | <b>Start</b>   | <b>Finish</b>   |                                |  |  |            |              |               |

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|                      |       | <table border="1"> <tr> <td>Sunday to Wednesday</td> <td>23:00</td> <td>03:00</td> </tr> <tr> <td>Thursday to Saturday</td> <td>23:00</td> <td>05:00</td> </tr> </table><br><table border="1"> <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> <tr> <td>Sunday to Wednesday</td> <td>23:00</td> <td>03:00</td> </tr> <tr> <td>Thursday to Saturday</td> <td>23:00</td> <td>05:00</td> </tr> </table> <p><b>2. Grounds for Review</b></p> <p>The application for a review of the premises licence had been served under section 51 of the Licensing Act 2003. The grounds for the review were that the premises' management had a lack of regard towards the promotion of the licensing objectives, in particular the prevention of crime and disorder and public safety.</p> <p>In accordance with S.51 of the Act the Licensing Authority had advertised the review, inviting representations to be made by responsible authorities or interested parties. An appropriately worded public notice advertising this application had been placed at the premises, at Havering Town Hall and on Havering's website on 20<sup>th</sup> April 2016.</p> <p><b>3. Details of Representation</b></p> <p><b>Police Submission</b></p> <p>Guvners was located in the main dispersal zone for Romford's night time economy. It</p> | Sunday to Wednesday | 23:00 | 03:00 | Thursday to Saturday | 23:00 | 05:00 | Opening Hours |  |  | Day | Start | Finish | Sunday to Wednesday | 23:00 | 03:00 | Thursday to Saturday | 23:00 | 05:00 |
|----------------------|-------|---|---------------------|-------|-------|----------------------|-------|-------|---------------|--|--|-----|-------|--------|---------------------|-------|-------|----------------------|-------|-------|
| Sunday to Wednesday  | 23:00 | 03:00   |                     |       |       |                      |       |       |               |  |  |     |       |        |                     |       |       |                      |       |       |
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|                |       | <p>was in the Cumulative Impact Zone and at the centre of Romford’s transport hub, with the train station, bus station and taxi ranks all being in close proximity.</p> <p>Recent crime figures published by the Metropolitan Police had shown Romford Town Centre having the third highest number of violence with injury crimes in London. It was therefore of great importance that licensees of premises in the area acted in a responsible manner.</p> <p>Mr Sabir’s criminal record suggested that he could not be trusted. His main concern was the money not having regard to the licensing objectives.</p> <p>The Sub-Committee had asked questions regarding Mr Sabir’s court appearance on the 9<sup>th</sup> May. PC Daly had advised the Sub-Committee that the case had been deferred again.</p> <p>PC Daly advised that other premises in the area had a dispersal policy, quoting McDonalds and Hot and Tasty has two close by premises which have dispersal policies.</p> <p>Full details of all the incidents which had occurred at these premises had been listed in the police’s written statements.</p> <p>On 3 April 2016 police had been called to the venue at 00:30 hrs. Mr Sabir had called the police as he had followed a male to a nearby road, the male had allegedly broken a TV at the stall. The suspect had been identified and had run from the police in to a block of flats.</p> <p>An altercation had occurred at the venue with a lone member of staff and the suspects</p> |

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|                |       | <p>girlfriend. The member of staff was alleged to have told the suspects girlfriend to go away or they would 'slap them', the suspect had misheard the staff member and thought they had said 'stab them'. The suspect had then pushed a Perspex Panel which in turn had caused the TV to fall off the wall.</p> <p>Mr Sabir had not wanted to pursue the allegation he just wanted the cost or replacement of the TV instead. Officers had viewed the CCTV footage and described it as unclear stating that it did not show the TV falling off the wall.</p> <p>On 29 April 2015 officers on patrol had noticed that the venue had still been open and serving at 04:20 hours. Later that day an officer had been approached by Mr Sabir who had reported a disturbance outside the premises at 04:40hours that morning.</p> <p>On two occasions on 1 November Police Officers had noticed that the premises were open for business outside the hours permitted under the planning permission.</p> <p>The police had reported that on two separate occasions Mr Sabir had been found in possession of cannabis. On the first occasion on 31 August 2014 Mr Sabir had been working at the venue, on the second occasion on 5 May 2012 he had been approaching a car.</p> <p>On 10 April officers had noticed that the venue was open and serving hot food at 04:45 hours and the queue was not being managed. At 04:15 hours that same day Mr Sabir had been observed being extremely drunk and walking towards the venue.</p> <p>The Police had advised that Mr Sabir had been charged with two serious sexual offences whilst operating the premises.</p> |

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|                       |              | <p>The Police had submitted late a copy of a Closure Order granted by the Magistrates Court on 5<sup>th</sup> May which closed the business from 23:00hours to 07:00hours every day until 5 August 2016. The Licencing Officer had advised the Sub-Committee that the Order had been available for circulation at the time the agenda was published but he had omitted it from the papers sent.</p> <p>In conclusion the Police had grave concerns that Mr Sabir would continue to consistently and repeatedly ignore his legal obligations to promote the licensing objectives in the same way in the same way he had ignored his legal requirements to comply with Planning law.</p> <p><b>Planning Authority Representations</b></p> <p>Sam Cadman had advised the Sub-Committee that the representation had been submitted under the Prevention of Public Nuisance Objective.</p> <p>Planning permission had been granted in 2013 to change the use of the premises from A1 to mixed A1/A5 (snack food and hot food takeaway) with a condition limiting opening hours to 10:00 to 22:30 only Monday to Sunday. A subsequent application to vary the opening hours had been refused in 2015. This condition had been imposed to enable the Local Planning Authority to retain control in the interests of amenity, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.</p> <p>In the circumstances the Planning Authority were supporting the Police request that the licence be revoked.</p> <p>A breach of condition notice had been served on Mr Sabir on 22 October 2015 because</p> |

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|                       |              | <p>he had failed to comply with the condition limiting opening hours.</p> <p><b>Licensing Authority representation</b></p> <p>Paul Jones on behalf of the Licensing Authority advised that the Authority use Licensing Policy as a prism through which they assess the review.</p> <p>In this instance the premises had operated in contravention of planning law and in opposition to the conditional requirements of its premises licence since this had been granted in August 2012. The premises licence holder had failed to promote the licensing objectives during the provision of licensable activity, effectively operating illegally.</p> <p>Whilst the premises licence permitted the sale of hot food from 23:00 to 03:00 on Sunday to Wednesday and 23:00 to 05:00 on Thursday to Saturday, the planning permission restricted the hours to 10:00 to 22:30. Mr Sabir could only legally operate within the shorter hours.</p> <p>Mr Sabir had also failed to comply with condition 5 of Annex 3 to the licence which had required him to implement a written dispersal policy to prevent customers from congregating outside the premises and the immediate vicinity and move customers away from the premises in such a way as to cause minimum disturbance or nuisance to neighbours. Such a policy would need to be submitted to the licensing authority for approval in writing. This had not been done.</p> <p><b>Children &amp; Young People Services representation</b></p> <p>A written representation had been received from Children &amp; Young People Services</p> |

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|                |       | <p>under the prevention of harm to children objective.</p> <p><b>Mr Sabir's Submission</b></p> <p>In response to the representation made by the responsible authorities Mr Sabir asked for the opportunity to show the Sub-Committee some photographs which would prove he had complied with the Dispersal Policy condition and show some CCTV footage which he had shown to the Magistrate's Court at the hearing to decide on the Police's application for a Closure Notice.</p> <p>The Chairman called for an adjournment to allow the responsible authorities an opportunity to view the evidence and decide whether they had any objection to the submission of late evidence.</p> <p>When all parties returned the Chairman advised that the Sub-Committee had agreed that the CCTV footage could not be shown, but if the other parties had no objection the Sub-Committee would view the photographs.</p> <p>The photographs had been taken three days before the hearing and showed the various notices displayed by Mr Sabir, which in his belief complied with the condition requiring a Dispersal Policy. He indicated that these notices had been displayed since 2013 when the premises sold bagels. Later in his evidence he stated that the current notices had only been on display since March 2014. Mr Jones had provided a photograph of the premises taken on 20 April 2016 when he had placed the notice of review on the premises this photograph failed to show all the signs.</p> <p>Mr Sabir had advised the Sub-Committee that the premises had a private frontage which was not part of the public highway.</p> |

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|                |       | <p>He had informed the Sub-Committee that he had owned the premises for over 5 years. Initially they were known as Wacky bagels and sold cold food and drink. In 2013 he had obtained a licence to sell hot food. He had complied with all the conditions applied to the licence:</p> <ul style="list-style-type: none"> <li>• He had displayed clear signs;</li> <li>• He had provided litter bins;</li> <li>• He had 8 channel CCTV which stored images for 80 days; and</li> <li>• He had complied with the condition requiring a Dispersal Policy.</li> </ul> <p>The Sub-Committee asked Mr Sabir to refer to the licence and remind himself of the conditions. Having read through the conditions Mr Sabir accepted that he had failed to comply with condition 5 which required a written dispersal authority which had been approved in writing by the Licensing Authority.</p> <p>He had tried to make the business work by opening during the daytime but his customer base was in the night time. They had served 38,000 customers in the last 18 months. He therefore felt cheated by the council for not approving the extension of opening hours. Following the latest refusal of planning permission he had appealed to the Planning Inspectorate and hoped to receive a favourable decision shortly. He had understood from planning that they would not be following up on the enforcement action until the result of his appeal was known.</p> <p>Mr Sabir had addressed the issue raised by the police regarding lone person working and had advised that there was always 3 to 4 persons engaged at the premises. One would take the orders and money, there would be someone frying burgers, etc, a third looking after the fries and the fourth handing out the food.</p> |



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|                |       | <p>He referred to the incident on 3 April 2016. A lone female had approached the premises to order some food. A group of one male and two females were next in line. The male approached the lone female and made some rude comments. The two other females with him then approached the lone female and started abusing her. A member of his staff intervened and his comments were misheard by the male who pushed the glass panel and caused a TV to fall off the wall and break.</p> <p>In his statement PC Davis accused Mr Sabir of being irate and agitated on the evening. Mr Sabir stated that when he had followed the male he had been assaulted but the police were not interested in pursuing the matter.</p> <p>PC Daly did indicate that there seemed to be some discrepancies between the CCTV evidence and PC Davis’s statement, but this could be a result of the statement being filed 5 days after the incident.</p> <p>Mr Sabir explained the incident with the screwdriver and explained why he had failed to attend meetings with the police, but claimed he had responded to every e-mail he had received from the police.</p> <p>With regard to the allegations of sexual assault Mr Sabir advised the Sub-Committee that he had been on remand for 22 months and whatever had occurred had been consensual and had not occurred at the premises. Every time he had attended court the police had sought an adjournment.</p> <p>In reply PC Daly advised that the initial point of contact between Mr Sabir and the complainant had occurred at the premises.</p> |

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|                |       | <p>Mr Sabir had asked how noise from his customers could be an issue when Pulp and Fiction were open until 04:00hours and they generate a significant level of noise.</p> <p>In response to questions from the Sub-Committee Mr Sabir admitted to regularly selling food after the hours permitted by his licence, but in his opinion this had not been a problem until PC Daly had arrived.</p> <p>In response to further questioning Mr Sabir had maintained that it was only recently that he had realised he had been breaking the law by opening beyond the hours permitted by his planning permission.</p> <p><b>4. Determination of Application</b></p> <p>Consequent upon the hearing held on 9 June 2016 the Sub-Committee’s decision regarding the review of the premises licence for Guvners, St Georges House, 2 Eastern Road, Romford, RM1 3QF is 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"> <li>• The prevention of crime and disorder</li> <li>• Public safety</li> <li>• The prevention of public nuisance</li> <li>• The protection of children from harm</li> </ul> <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</p> |

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|                |       | <p>and Disorder Act 1998, and Articles 1 of the First Protocol of the Human Rights Act 1998.</p> <p><b>Decision:</b></p> <p>The Sub-Committee having considered very carefully all the oral and written submissions presented by the various parties, Have decided to revoke the licence to promote the following licensing objectives:</p> <ul style="list-style-type: none"> <li>• The prevention of crime and disorder;</li> <li>• Public Safety; and</li> <li>• The prevention of public nuisance.</li> </ul> <p><b>5. Right of Appeal</b></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"> <li>1. dismiss the appeal; or</li> <li>2. substitute the decision for another decision which could have been made by the Sub Committee; or</li> <li>3. remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and</li> <li>4. make an order for costs as it sees fit.</li> </ol> |

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|                       |              | <p align="center">James K Goodwin<br/>Clerk to the Sub-Committee</p> |
| <b>A1</b>             |              |  |
| <b>A2</b>             |              |  |