

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

	<p>APPLICATION FOR A NEW PREMISES LICENCE - THE PROHIBITION LOUNGE, 17 VICTORIA ROAD, ROMFORD, RM1 2JT</p>	<div data-bbox="1160 467 1742 598" data-label="Image"> </div> <p align="center">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Prohibition Lounge 17 Victoria Road, Romford, RM1 2JT</p> <p>APPLICANT Miss L Tsakmakis 17 Victoria Road, Romford, RM1 2JT</p> <p>1. Details of Application</p>
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		<table border="1"> <thead> <tr> <th align="left" colspan="3">Live Music</th> </tr> <tr> <th align="left">Day</th> <th align="left">Start</th> <th align="left">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday – Thursday</td> <td>16:00</td> <td>22:00</td> </tr> <tr> <td>Friday – Saturday</td> <td>16:00</td> <td>23:00</td> </tr> <tr> <td>Sunday</td> <td>10:00</td> <td>22:00</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th align="left" colspan="3">Recorded Music</th> </tr> <tr> <th align="left">Day</th> <th align="left">Start</th> <th align="left">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday – Thursday</td> <td>08:30</td> <td>22:00</td> </tr> <tr> <td>Friday - Sunday</td> <td>08:30</td> <td>22:30</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th align="left" colspan="3">Supply of alcohol</th> </tr> <tr> <th align="left">Day</th> <th align="left">Start</th> <th align="left">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday – Thursday</td> <td>12:00</td> <td>23:30</td> </tr> <tr> <td>Friday</td> <td>12:00</td> <td>00:00</td> </tr> <tr> <td>Saturday – Sunday</td> <td>10:00</td> <td>00:00</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th align="left" colspan="3">Opening Hours</th> </tr> <tr> <th align="left">Day</th> <th align="left">Start</th> <th align="left">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday – Saturday</td> <td>08:00</td> <td>23:00</td> </tr> <tr> <td>Sunday</td> <td>09:00</td> <td>22:30</td> </tr> </tbody> </table>	Live Music			Day	Start	Finish	Monday – Thursday	16:00	22:00	Friday – Saturday	16:00	23:00	Sunday	10:00	22:00	Recorded Music			Day	Start	Finish	Monday – Thursday	08:30	22:00	Friday - Sunday	08:30	22:30	Supply of alcohol			Day	Start	Finish	Monday – Thursday	12:00	23:30	Friday	12:00	00:00	Saturday – Sunday	10:00	00:00	Opening Hours			Day	Start	Finish	Monday – Saturday	08:00	23:00	Sunday	09:00	22:30
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		<p>Non-standard timings</p> <p>The applicant sought to open until 01:00 on New Years Eve for the licensable activities requested.</p> <p>Comments and observations on the application</p> <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 advertising of the application. The required public notice was installed in the Yellow Advertiser on the 25 May 2016.</p> <p>2. Details of Representations</p> <p>There were no representations against this application from interested persons.</p> <p>There have been representations against this application from the following responsible authorities:-</p> <p>Licensing Authority</p> <p>Metropolitan Police</p>

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		<p>Planning Enforcement</p> <p>Public Health</p> <p>Details of representations</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 <p>The licensing authority’s representation covered all four of the licensing objectives. The premises were located in one of Havering’s special policy areas in relation to cumulative impact. The application had not adequately provided reasoning to rebut the presumption of licensing policy 2 that such applications will normally be refused unless the applicant could demonstrate why the operation of the premises involved would not add to the cumulative impact and not impact adversely on the promotion of the licensing objectives. This had lead the licensing authority to have concerns further to the promotion of the licensing objectives. Additionally, the application appeared somewhat confused leading the licensing authority to suspect that the applicant did not have a thorough grasp of the demands placed upon premises licence holders further to the provision of licensable activity and the promotion of the licensing objectives.</p>

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		<p>The premises appeared to have been operating since September 2014 when the licensing authority received its first licence application. The first application was incomplete and given that it was submitted electronically was held pending submission of premises plans and DPS consent as well as clarification of a series of confusing elements within the application. Those documents were not supplied and clarification of the application was not provided and the application was refused four months later in January 2015.</p> <p>A second application was submitted in September 2015. It also contained a series of confusing elements. Additionally, the second application was not accompanied by an application fee. After discussion with the licensing authority, the applicant declined to proceed with the application.</p> <p>The third and current application was submitted in May 2016. This application also contained confusing elements which had been brought to the applicant's attention but had yet to be resolved. The application was not accompanied by any supporting evidence further to the requirements of licensing policy 2. The situation had been drawn to the applicant's attention and a further statement to cumulative impact was subsequently provided, however, this statement lacked substance. Again, the apparent weakness of the statement was drawn to the attention of the applicant in an attempt to strengthen the applicant's and a second statement was provided, however the second version also lacked substance.</p> <p>During the period since September 2014 Licensing Officers had engaged extensively with the applicant but the current application appeared to contain confusing elements in the same way as the first. This might suggest that the applicant had not gained</p>

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		<p>sufficient knowledge from the previous applications; knowledge which might have re-assured the responsible authorities that the licensed premises would operate in accordance with the law and with Havering’s licensing policy.</p> <p>In an attempt to engage with the applicant the licensing authority sought clarification on a number of confusing elements of the premises licence application and made a number of suggestions which would have strengthened the application and helped to clarify the premises’ operation. As submitted, the application appeared to suggest the premises were neither wholly a restaurant nor wholly a pub, but wished to have a foot in both camps. These interventions were met with ever increasing levels of apparent resentment from the applicant. A number of modifications to the operating schedule were submitted by the applicant but subsequently contradicted to the point where it was not possible to have a definitive grasp of the actual operating schedule. The applicant would therefore need to clarify such matters for the Sub-Committee’s consideration.</p> <p>The application had also failed to address elements of the following licensing policies:</p> <p>1, 2, 5, 6, 8, 9 and 16.</p> <p>In conclusion whilst Havering sought to support business ventures, the Authority also had a duty to assess the application within the context of the whole of the area in which it was located and how the operation of such a premises would aid the promotion of the licensing objectives. The nature of the application was such that it presented the venue neither wholly as a pub nor wholly as a bistro, the result being that it could become either should the operators choose to modify the current business model. If the</p>

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		<p>application were to be granted as it stood the premises could legitimately become a pub in future if the applicant chose to.</p> <p>Confusing elements within the application had the result that the licensing authority's confidence in the premises operators' ability to successfully promote the licensing objectives was undermined.</p> <p>Finally the application and its attendant supporting statement had not provided adequate re-assurances that the premises would not add to cumulative impact in the area and would not impact adversely on the promotion of the licensing objectives.</p> <p>The licensing authority would however support an application for a restaurant at the location which permitted the supply of alcohol ancillary to the provision of a table meal.</p> <p>The licensing authority also commented regarding the validity of the flyer attached in the supplementary agenda which appeared to be for an event that included fixed price food and drinks for the evening.</p> <p>The Metropolitan Police's representation addressed the prevention of crime and disorder and public nuisance objectives.</p> <p>The Sub-Committee was advised that the premises had successfully applied for twelve Temporary Event Notices (TENs) that had been taken place with no incident.</p> <p>There had been a history of groups of people congregating around the area, shown by CCTV coverage, which had indicated possible drug use in the area.</p>

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		<p>The police had concerns that if the premises was granted a premises licence subject to the current application that the premises could be a place for people to congregate and this in turn could increase disorder and criminality to the area.</p> <p>The police also had concerns with regards to noise nuisance as the premises was located in an area where there were some residential properties and dispersal of patrons at the terminal hours of the application could lead to noise disturbances.</p> <p>The application also failed to address CCTV provision or any of the conditions that went with it.</p> <p>Negotiations had been ongoing with the applicant, but had recently become rather terse and unproductive.</p> <p>The police also had concerns that if the application was granted as was, then the premises could change it operating terms and become a “pub” overnight.</p> <p>There were also other conditions that did not seem to be accepting to the applicant including transparency around children in the venue, dispersal policy, staff training and refusal logs which led the police to support refusal of the granting of a premises licence.</p> <p>The police also produced a breakdown of violence with injury offences that had taken place in the area during March 14 2016 to June 13 2016. The figures showed that there had been a small reduction in these type of offences.</p>

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		<p>The representation from planning enforcement addressed the public nuisance objective. Although the applicant had now secured planning permission for the change of use from A1 to A3 and the retention of the outside decking area officers still had concerns regarding the dispersal of patrons from the premises. Officers also had concerns that if the premises were to become a drinking establishment then it would be in breach of planning permission as the premises was licensed for A3 use. Officers wished to see a condition applied to the licence that would only see alcohol served ancillary with the taking of a table meal.</p> <p>The representation from Public Health addressed the prevention of crime & Disorder, public safety and the prevention of public nuisance. As the applicant had not proven how the premises would not add to the cumulative impact of the area the service it was felt that the promotion of the licensing objectives had not been demonstrated.</p> <p>3. Applicant's response.</p> <p>The applicant's representative, Mr Etherton, addressed the Sub-Committee. Mr Etherton advised that the incorrect notice placed at the premises had been replaced with the correct one almost immediately and that the notice placed in the Yellow Advertiser made mention of "a full bar".</p> <p>Mr Etherton commented that the previous applications had been withdrawn at the licensing authority's request and also clarified that the flyer for the evening event was for a "tasting" session and not for full drinks. It was also confirmed that off sales had</p>

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		<p>been applied for so that customers could take home any wine left in a bottle that a customer had not consumed.</p> <p>Mr Etherton confirmed that the differing hours in the application were there because the applicant had been advised to apply for the longer hours to sell alcohol so that there would be no need in the future to apply for an extension of licensing hours.</p> <p>Mr Etherton also commented that the premises was not planning on opening as a drinking only venue as they would then be required to have planning permission under class A4.</p> <p>Mr Etherton confirmed that the applicant had successfully applied for 28 separate TENs and all of the events had been run successfully with not one single complaint or phone call to the emergency services.</p> <p>Mr Etherton also wished to confirm that all staff were trained to promote Challenge 25 and received a training refresher every six months. The premises did not hold parties for the 18-21 age group due to possible problems. CCTV was currently being installed in the premises which would give the police access to the images for the required length of time. The premises also kept a Challenge 25 book and refusal log and no off sales of alcohol were made unless it was in a sealed container.</p> <p>Mr Etherton also confirmed that smokers did not congregate at the front of the premises as this was one of the reasons for having the decking at the side of the premises and that staff were trained not to serve patrons who appeared intoxicated.</p>

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		<p>Mr Etherton also commented that there had been no complaints of noise from surrounding properties but sometimes music being played at the Goose public house could be heard from outside in the street.</p> <p>Mr Etherton also confirmed that a disused warehouse behind the application premises had been converted to a gym which accommodated roughly one hundred users each day, who all accessed the gym by means of going through the application premises.</p> <p>The licensing authority questioned Mr Etherton regarding the mixed use of premises and Mr Etherton confirmed that the bistro only had six tables but most of the use took place on the outside decking including singing, bands and tasting events. The tasting events were organised and run by local businesses.</p> <p>Mr Etherton confirmed that the applicant had perhaps made some errors when completing the applications but they were happy to provide what the responsible authorities wanted but did not wish to add a condition that alcohol was to taken ancillary to the taking of a meal as that was not what the business was about.</p> <p>4. Determination of Application</p> <p>Consequent upon the hearing held on 18 July 2016, the Sub-Committee’s decision regarding the application for the granting of the premises licence for The Prohibition Lounge was as set out below, for the reasons stated:</p> <p>The Sub-Committee was obliged to determine the application with a view to promoting</p>

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		<p>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 and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.</p> <p>5. Decision</p> <p>Having considered the oral and written submissions of the objectors and the applicant and having regard to the licensing objectives, the Sub-Committee noted that the premises was in a cumulative impact zone and that therefore there was a presumption that the application would be refused unless the applicant could demonstrate that the premises would not add to the area’s existing problems.</p> <p>The Sub-Committee was concerned that despite significant consultation with the police and the licensing authority the applicant had been unable to demonstrate that they would not add to the existing problems already being experienced in the cumulative impact zone and for this reason refused the granting of the premises licence.</p> <p>Appeal</p> <p>Any party to the decision may appeal to the Magistrates Court within 21 days of</p>

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		notification of the decision. On appeal, the Magistrates Court may make an order for costs as it sees fit.
A1		
A2		