


**Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 16 March 2020**

<b>Agenda Item No</b>	<b>Topic</b>	<b>Decision</b>
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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**

<b>A1</b>	REVIEW OF A PREMISES LICENCE - EXPRESS KEBAB HOUSE 171 SOUTH STREET, ROMFORD RM1 1PS	<div><b>Havering</b> L O N D O N   B O R O U G H</div> <p align="center"><b>Licensing Act 2003 Notice of Decision</b></p> <p><b><u>DETAILS OF APPLICATION</u></b></p> <p><b>PREMISES</b></p> <p>Express Kebab House 171 South Street Romford RM1 1PS</p> <p><b>APPLICANT</b></p> <p>Mr Craig Yhnell</p> <p><b>Comments and observations on the application</b></p> <p>The application to review a premises licence was made by Mr Craig Yhnell under s.51 of the Licensing Act 2003. Havering's Licensing Authority received the application on 24 January 2020.</p>
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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 advertising of the application. The required public notice was installed in the Friday 29 November 2019 edition of the Romford Recorder.</p> <p><b>SUMMARY</b></p> <p>The Essex Kebab House premises licence permits late night refreshment to be provided during the following hours:</p> <p>Monday to Sunday – 23:00 to 04:00</p> <p>Mr Yhnell submitted this application to review premises licence no. 3308 on 24 January 2020. Earlier the same day the licence had coincidentally been transferred from its previous holder to the current licence holder. It might therefore be reasoned that the issues detailed in the documents attached to this application occurred during the period prior to the current licence holder's tenure in this role.</p> <p>Documents accompanying the review application comprise a series of five letters sent to Havering environmental health team during October and November 2019, and copied in to a number of ward councillors, which alleged noise nuisance emanating from Express Kebab House. In reply, a noise team officer attempted to contact Mr Yhnell on a number of occasions via telephone and email but received no response. The noise complaint was therefore unable to be progressed by the noise team.</p> <p>The review application indicates that video evidence forms a part of the evidence supporting the review application but at the cessation of the review application's consultation period no video</p>

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		<p>evidence has been provided to the licensing authority.</p> <p>The letter to the council from Mr Yhnell dated 1 November 2019 confirms:</p> <p>I have decided that from now on, I will issue a letter every single time I am awoken and disturbed the middle of the night, due to the noise from Essex Kebab House.</p> <p>Three further letters were sent to Havering's noise team, the final one dated 8 November 2019.</p> <p><b>Comments and observations on the application</b></p> <p>Upon submission of this application the licensing authority advertised the application appropriate further to the requirements of regulations 38 and 39 of <i>The Licensing Act 2003 (premises licence and club premises certificates) Regulations 2005</i>.</p> <p><b>Summary</b></p> <p>There were no representations further to this application made by residents, businesses in the vicinity of the premises or responsible authorities.</p> <p>Ward Councillor Judith Holt submitted a representation in support of the application to review a premises licence.</p> <p>The Licensing Sub-Committee must promote the licensing objectives and must have regard to the Secretary of State's National Guidance created under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.</p> <p>The Applicant attended and was represented by a licensing agent who made submissions on his behalf.</p>

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		<p><b>DECISION</b></p> <p>The Licensing Sub-Committee received an application from Craig Yhnell as an individual for a review of a premises licence for Express Kebab House, 171 South Street, Romford, RM1 1PS.</p> <p>The review was brought on the grounds of prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.</p> <p>Prior to determining the application, Mr Hopkins, representative for the licence holder, raised a preliminary issue submitting that the entire application was defective on the basis that the video footage that was referred to in the application but had not been served within the statutory time frame or at all. In making this submission he invited the Sub-Committee to consider the rules of natural justice and the Human Rights Act. Mr Yhnell set out the difficulties he had had in trying to extract the video footage but was simply not able to. Mr Jones from the Licensing Authority was neutral to the application. The Sub-Committee considered their options which also included adjourning the application for the video footage to be served or considering the application solely on the basis of what had been served by the Applicant and disregarding the video footage. The Sub-Committee decided to consider the application without adjourning and solely on the basis of the written evidence provided, disregarding the video evidence given it had not been provided as required.</p> <p>Mr Jones set the circumstances of the application detailing the premises' location, the details of the application that has been submitted by Mr Yhnell along with the supporting evidence and the representations made by Councillor Holt. Mr Jones also confirmed that there were no representations made by the Metropolitan Police in respect of this application and no further material outside of what had already been provided to the Sub-Committee.</p>

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		<p>The Sub-Committee heard from Mr Yhnell who repeated what was detailed in the email accompanying the application. He confirmed that he stopped submitting letters as the complaints he had continued. He submitted he did not feel like it was fair that the premises was entitled to be open as late as it was, referring to his need to sleep due to his work and studies.</p> <p>The Sub-Committee heard from Mr Hopkins on behalf of the licence holder. He submitted the application was unsubstantiated. He submitted that there was no evidence from the Police, Environmental Health, other neighbours and referred to 53 letters of support that he had. He submitted the premises had never caused any issues in the past and noted the location of the premises and the night-time economy, transport links, and the bus stop that surrounded the premises. He submitted the licence holder could not control the location of the bus stop or the activity arising from premises/transport links surrounding the licence holder's premises. He noted that there had been no further complaints made since November. It was noted the complaints related to a time when Mr Saglam was not the licence holder also and therefore could not be held responsible for what happened then.</p> <p>All parties made short closing submissions repeating the submissions they had already made.</p> <p>In considering the application the Sub-Committee make it clear that no regard was paid to the video evidence or any reference to video evidence as it had not been served as part of the application. The Sub-Committee, following careful consideration of all of the submissions made, refuse the application made by Mr Yhnell. They did not consider the licence holder was failing to uphold the licence conditions and the licensing objectives.</p> <p>The Sub-Committee noted that the only complaints of noise that had been made were from Mr Yhnell. No other evidence of complaints from other neighbours had been provided to the Sub-Committee. The Sub-Committee also noted that the police had no representations to make in</p>

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		<p>respect of the application or indeed in support of it.</p> <p>In coming to their decision, the Sub-Committee noted there was little evidence that Mr Yhnell continued to cooperate with Environmental Health following the application. The Sub-Committee also noted that the licence holder had a continuing duty to uphold the licensing objectives.</p> <p><b>Right of Appeal</b></p> <p>Any party who has made a relevant representation may appeal to the Magistrates' Court <u>within 21 days of notification of the decision</u>.</p> <p>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> <p>Richard Cursons Clerk to the Sub-Committee</p>

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<b>A1</b>		
<b>A2</b>		