

Havering Council – Decisions taken by the Licensing Sub-Committee on Friday, 24 April 2020

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 PREMISES LICENCE - YOGI NEWS & OFF LICENCE	<p align="center">Licensing Act 2003 Notice of Decision</p> <p>PREMISES Yogi News & Off Licence 121 Mungo Park Road Rainham RM13 7PP</p> <p>APPLICANT Mr Yogeshkumar Gordhanbhai Patel (DPS)</p> <p>1. Details of requested licensable activities An application for a new premises licence was made by the above applicant, under section 17 of the Licensing Act 2003. The application was received by the London Borough of Havering on the 26 February 2020.</p> <p>The application seeks to provide the following licensable activity:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th align="center" colspan="3">Off supplies of alcohol, hours premises open to the public</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td align="center">Monday to Sunday</td> <td align="center">06:00</td> <td align="center">23:00</td> </tr> <tr> <td align="center">Christmas Eve, New Year's Eve</td> <td align="center">06:00</td> <td align="center">00:00</td> </tr> </tbody> </table>	Off supplies of alcohol, hours premises open to the public			Day	Start	Finish	Monday to Sunday	06:00	23:00	Christmas Eve, New Year's Eve	06:00	00:00
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		<p>Comments on the application</p> <p>In response to contact from the licensing authority the applicant reduced the terminal hours for the two non-standard timings to those hours detailed above.</p> <p>2. Promotion of the Licensing Objectives</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 acted in accordance with regulations governing the advertising of the application.</p> <p>3. Details of Representations</p> <p>There were no representations opposing the application from responsible authorities.</p> <p>Representations have been received from two ward councillors on the grounds of the prevention of public nuisance, public safety, the prevention of crime and disorder and the protection of children from harm.</p> <p>The applicant was present for the hearing along with a Licensing Consultant who made submissions in support of the application.</p> <p>The premises is not situated within a cumulative impact zone (CIZ) as set out in Annex 1 to the Council’s Licensing Policy. Where representations are received against an application in the CIZ, there is a rebuttable presumption under the CIZ Policy to refuse the application unless the applicant can demonstrate that the grant of the licence will not add to existing problems in the</p>

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		<p>area.</p> <p>As the premises is not within a CIZ, there is no such rebuttable presumption in the application.</p> <p>The Licensing Sub-Committee noted that this was not a cumulative impact zone and the number of other licensed premises in the area could not be a consideration for the sub-committee.</p> <p>4. Determination of Application</p> <p>The Sub-Committee considered all representations and submissions and decided to grant the application with conditions as below.</p> <p>The Licensing Sub-Committee has considered an application for a new premises licence for Yogi News & Off Licence, 121 Mungo Park Road Rainham, RM13 7PP.</p> <p>Two ward councillors were present at the virtual hearing to expand upon their written representations.</p> <p>Councillor Stephanie Nunn addressed the sub-committee stating her objection was on the basis that 2 shops selling alcohol already exist on the parade of shops where the applicant's premises are located. It was suggested that adding another shop to the parade will not be good for residents due to the possibility of increasing anti-social behaviour.</p> <p>Councillor Nunn also stated that the two shops selling alcohol in the small parade of shops, Coop shuts at 10 pm and continually struggles with shoplifting and drug dealing outside and Londis with a licence to 11 pm but choose to close by 8 pm because of the low level crime and anti-social behaviour experienced in the evenings with youths buying alcohol and drinking in</p>

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		<p>the area urinating along the side alley and at the back of the shops.</p> <p>It was also stated that there are families living above these shops and the current two shops with an off licence are situated at each end of the parade. An off licence shop in the middle of the parade is unfair to residents who live above the shops and nearby.</p> <p>Councillor Barry Mugglestone addressed the sub-committee reiterating the written objection to the application.</p> <p>The representation raised concern on the grounds of protection of children from harm stating that the premises is in close proximity to a school. It was also noted that two shops on the parade already have off sales licence, the two shops currently experience anti-social behaviour with shop lifting hence public safety will be compromised.</p> <p>It was suggested that a further shop selling alcohol will increase the likelihood to the level of public nuisance.</p> <p>The Sub-Committee was also informed that a new premises will potentially bring extra footfall at night to the parade which will affect the residents and raise issues of public safety.</p> <p>Both ward councillors submitted that the application for alcohol off sales licence by the premises had attracted a 121 local residents to sign a petition saying they did not want a third shop in the parade to sell alcohol.</p> <p>The Sub-Committee noted that the issues raised by the ward councillors that referred to the cumulative impact of a third off licence in the parade and raised concerns about the area generally that were not directly attributable to the applicant or the premises.</p>

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		<p>Mr Panchal Licensing Consultant made submissions on behalf of the applicant. He noted that there were no complaints about the applicant or the premises directly.</p> <p>Mr Panchal suggested that the applicant Mr Patel was an experienced and responsible personal licence holder. He previously worked at Candy News and Newboy for eight and two years respectively without any conviction.</p> <p>The applicant had recently taken over the premises in February 2020, the newsagent had existed in the parade since 2003.</p> <p>Mr Panchal confirmed that the applicant was willing to adopt any best practice conditions in respect of the licensing objectives. These included conditions targeting underage sales:-</p> <p>The Sub-Committee was informed that the ten cameras will be installed on the premises. The CCTV system would cover the area outside the front of the shop, inside the shop and the back of the shop.</p> <p>Mr Panchal outlined the following measures that the premises will be adopting in respect of the licensing objectives:</p> <ol style="list-style-type: none"> 1. Training manual recording all staff training. 2. Refusal and incident books. 3. Assurance of staff immigration status before employment. 4. The applicant is committed to working with responsible authorities in the promotion of the licensing objectives. 5. Promotion of Challenge 25 and the installation of notices for customers to respect local residents and leave quietly.

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		<p>Mr Panchal outlined the following guidance of the Licensing Act 2003 in support of the application: indicates at paragraph 10.15</p> <ul style="list-style-type: none"> • Paragraph 10.15; A shop should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. • Section 14.19; There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. That this is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. • Section 9.43; An application should be considered on a case-by-case basis and that the determination must be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. <p>In response to questioning by the sub-committee the applicant through his agent clarified that the premises currently closes at 21:00 hours because of the low crime and anti-social behaviour in the area. It was stated that there was a remote shutter in place to safeguard staff if there was an incident.</p> <p>The applicant responded that all alcohol will be in a physical and lockable shutter if conditioned.</p> <p>That the premises is a family business run by Mr Patel and his wife and two other staff</p>

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		<p>members who work in the premises from 19:00 hours until closing.</p> <p>Mr Panchal was of the opinion that some of the people who signed the petition currently attend the premises and may not have understood what the petition was about.</p> <p>The Sub-Committee was informed that since Mr Patel took over the premises, there has been no police intervention or incident at the premises.</p> <p><u>DECISION</u></p> <p>Having considered all submissions the Sub-Committee decided to grant the licence as follows:</p> <p>Opening times:</p> <p>Monday to Sunday from 06:00 to 21:00 hours.</p> <p>Sale of Alcohol (off premises only)</p> <p>Monday to Sunday from 10:00 to 21:00 hours.</p> <p><u>REASONS</u></p> <p>In granting the licence the Licensing Sub-Committee noted the absence of any representations from Responsible Authorities. It also took into account the Applicant’s previous management experience of 10 years at 2 similar premises and the proposed conditions relating to cctv and Incident and Refusal Books. The Applicant confirmed that the premises has remote controlled lockable shutters which could be used in the event of an incident occurring outside the shop.</p>
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		<p>The Applicant also confirmed that signage would be in place telling customers to leave the premises quietly. The Sub-Committee noted that the applicant and staff would be trained in the Licensing Act 2003 and the licensing objectives and that this training would be carried out by the applicant’s Licensing consultant who had over 15 years’ experience in licensing training. The Sub-Committee also took account of the applicant’s willingness to work with the Responsible Authorities to ensure that the licensing objectives were promoted</p> <p>The sub-committee decided that the licensing hours should be reduced to 10:00 to 21:00 hours. The Sub-Committee noted paragraph 10.15 of the s182 Guidance but was of the opinion that this reduction was justified in order to promote the licensing objective of the protection of children who attend at a nearby school and to reduce the nuisance to local residents, some of whom live above the premises. Although the premises are not in the CIZ the Sub-Committee noted that there have been issues in the area related to anti-social behaviour. It was of the opinion that the reduced hours together with the conditions below, in particular the cctv inside and outside the shop, would ensure that the prevention of crime and disorder licensing objective would be promoted.</p> <p><u>Conditions:</u></p> <ol style="list-style-type: none"> 1. CCTV shall be installed at the premises. <ol style="list-style-type: none"> a. CCTV implementation will be to the Information Commission Standards. b. The CCTV system shall be maintained in good working condition and record the premises 24 hours every day.

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		<ul style="list-style-type: none"> c. CCTV recordings shall be retained for a minimum of 31 days and be made available to the Police and the Licensing Authority as soon as is reasonably practicable on request. d. The CCTV equipment shall have suitable export methods to CD/DVD/USB e. Staff working at the premises shall be trained in the use of the CCTV equipment and a training log shall be kept on the premises. This shall be made available to the Police and the Licensing Authority as soon as is reasonably practicable on request. f. Cameras on the entrance shall capture full frame shots of the head and shoulders of all people entering the premises, of evidential quality in any light condition. g. There shall be signs displayed that CCTV is in operation. h. CCTV shall monitor all areas used by the premises' patrons including the area immediately outside the front and the rear alley to the premises. i. The CCTV system shall be checked on a weekly basis to ensure that it is working/recording. A record of this shall be recorded in the CCTV log book with the premises licence holder/DPS recording the date and time of the check. The record shall be recorded in a bound and numbered page book. This register shall be kept on the premises at all times and made available to the Police and authorised council officers as soon as is reasonably practicable upon request. Full books shall be retained at the premises for a period of 12 months.

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		<ul style="list-style-type: none"> j. Should the CCTV become non-functional the premises licence holder / DPS shall take immediate steps to rectify the situation as soon as possible and inform the Licensing Authority as soon as is reasonably practicable. <p>2. Challenge 25 shall be implemented.</p> <ul style="list-style-type: none"> a. Where customers appear under the age of 25 and attempt to purchase alcohol or other age restricted products, they shall be asked for proof of age. b. The following proofs of age are the only ones to be accepted:- A Proof of Age Card bearing the “PASS” hologram symbol; a UK photo driving licence; a passport. c. Challenge 25 notices shall be displayed. d. No Proof, No Sale signage shall be displayed at the window and inside the shop. e. Signage shall be displayed reminding customers that no alcohol shall be sold to customers aged under 18 as it is a criminal offence. f. A refusal / incident book shall be maintained and kept on the premises at all times. This shall be retained for 12 months and made available to the police or the Licensing Authority immediately upon request. These books shall be examined at least weekly by the DPS with the date/time of examination endorsed on the book. g. A till prompt system shall be installed to assist staff by reminding them to

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		<p style="text-align: center;">challenge for ID when an alcohol or age limited sale is made.</p> <p style="text-align: center;">h. A maximum of 2 children shall be allowed in the premises at one time.</p> <p>3. Training:</p> <p style="padding-left: 40px;">a. Staff shall be trained in the responsible sale of alcohol, including all new staff members. Details of all training shall be recorded and provided to the Police or the Licensing Authority immediately on request.</p> <p style="padding-left: 40px;">b. All staff shall have a refresher training every 3 months for the sale of alcohol.</p> <p>4. Alcohol:</p> <p style="padding-left: 40px;">a. There shall be no sales of bottles of spirits of less than 70cl capacity.</p> <p style="padding-left: 40px;">b. Alcohol shall be purchased from approved suppliers only. Receipts shall be retained at the premises for 12 months and disclosed to Police or the licensing authority immediately upon request.</p> <p style="padding-left: 40px;">c. Beers, Ciders, Stout and Lagers on sale shall not exceed 6% ABV.</p> <p style="padding-left: 40px;">d. There shall be no single item sales for:</p> <p style="padding-left: 80px;">i. Cans of alcohol</p> <p style="padding-left: 80px;">ii. Bottles of beer</p> <p style="padding-left: 80px;">iii. Ready to buy bottles.</p>

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		<p>e. Outside the permitted hours ALL ALCOHOL shall be screened off from sale and display by a physical and lockable shutter to which the premises licence holder / designated premises supervisor shall hold the keys.</p> <p>5. Clear and legible notices shall be displayed in a prominent position near the exit door(s) requesting that customers leave quietly to avoid disturbing local residents.</p> <p>6. The area immediately outside the premises shall be regularly inspected and any litter, food containers, bottles or cans emanating from the premises shall be removed and properly disposed of as trade waste.</p> <p>A notice shall be displayed with a contact number and email address for the DPS or manager for local residents to register and resolve any complaints.</p> <p>Right of Appeal</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"> 1. Dismiss the appeal; or 2. Substitute the decision for another decision which could have been made by the Sub Committee; or 3. 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.

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