

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

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 TO VARY A PREMISES LICENCE - DE QUILOX LOUNGE, 6 STATION PARADE, VICTORIA ROAD, ROMFORD, RM1 2JA	Licensing Act 2003 Notice of Decision														
		<p>Premises: DeQuillox Lounge 6 Station Parade Victoria Road Romford RM1 2JA</p> <p>Applicant: Michael Abel</p> <p><u>DETAILS OF APPLICATION</u></p> <p>An application for a variation to a premises licence is made by Michael Abel under section 34 of the Licensing Act 2003. The application was received by Havering’s Licensing Authority on 3rd December 2020.</p> <p>Current premises licence hours:</p> <table border="1"> <thead> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td align="center">Monday</td> <td align="center">11:00</td> <td align="center">00:30</td> </tr> <tr> <td align="center">Tuesday</td> <td align="center">11:00</td> <td align="center">00:30</td> </tr> <tr> <td align="center">Wednesday</td> <td align="center">11:00</td> <td align="center">00:30</td> </tr> <tr> <td align="center">Thursday</td> <td align="center">11:00</td> <td align="center">00:30</td> </tr> </tbody> </table>		Day	Start	Finish	Monday	11:00	00:30	Tuesday	11:00	00:30	Wednesday	11:00	00:30	Thursday
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		<table border="1"> <tr> <td>Friday</td> <td>11:00</td> <td>01:30</td> </tr> <tr> <td>Saturday</td> <td>11:00</td> <td>01:30</td> </tr> <tr> <td>Sunday</td> <td>11:00</td> <td>22:30</td> </tr> </table> <p>Variation applied for:</p> <table border="1"> <thead> <tr> <th align="center" colspan="3">Provision of Live Music</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td>Monday</td> <td>23:00</td> <td>00:30</td> </tr> <tr> <td>Tuesday</td> <td>23:00</td> <td>00:30</td> </tr> <tr> <td>Wednesday</td> <td>23:00</td> <td>00:30</td> </tr> <tr> <td>Thursday</td> <td>23:00</td> <td>00:30</td> </tr> <tr> <td>Friday</td> <td>23:00</td> <td>01:30</td> </tr> <tr> <td>Saturday</td> <td>23:00</td> <td>01:30</td> </tr> <tr> <td>Sunday</td> <td>N/A</td> <td>N/A</td> </tr> </tbody> </table> <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 11th December 2020 edition of the Romford Recorder.</p> <p>The existing conditions are to remain on the licence and the applicant has offered the following conditions:</p> <ul style="list-style-type: none"> • Any amplification that may be used will have noise limiters fixed, and set to an agreed 	Friday	11:00	01:30	Saturday	11:00	01:30	Sunday	11:00	22:30	Provision of Live Music			Day	Start	Finish	Monday	23:00	00:30	Tuesday	23:00	00:30	Wednesday	23:00	00:30	Thursday	23:00	00:30	Friday	23:00	01:30	Saturday	23:00	01:30	Sunday	N/A	N/A
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Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

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		<p>level with Environmental Health.</p> <ul style="list-style-type: none"> • No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device. • All doors and windows will remain closed from 23:00 hours, except for access or egress. • All speakers will be positioned as to face away from doors or windows. • External monitoring of noise levels to be carried out at 30- minute intervals at all events, at all noise sensitive areas of the property. Findings to be recorded and signed for all checks. These checks to be kept for 6 months for inspection by Environmental Health or other officers of the council. <p>There was one representation against this application from responsible authorities 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 and his business partner attended and made representations to the Sub-Committee.</p> <p><u>DELIBERATION</u></p> <p>The Sub-Committee have considered an application for variation of the premises licence for De Quilox Lounge situated at 6 Station Parade, Victoria Road, Romford, RM1 2JA and representations have been received from the London Metropolitan Police on the grounds of Public Nuisance, Crime and Disorder and Public Safety.</p> <p>The applicant seeks to vary licence condition to permit live music as follows:</p> <ul style="list-style-type: none"> - Monday to Thursday 23:00 to 00:30

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

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		<p align="center">- Friday & Saturday 23:00 to 01:30</p> <p>The Sub-Committee must promote the licensing objectives and must have regard to the Secretary of State's National Guidance created under S182 of the Licensing Act and the Council's own Statement of Licensing Policy.</p> <p>The premises is situated within a Cumulative Impact Zone (CIZ) as set out in the Council's policy. Where representations are received against an application in the CIZ zone, 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 area. The onus therefore falls on the applicant to satisfy the Sub-Committee through written and oral presentations that they will not add to the existing problems that exist around where the application premises are situated.</p> <p>The Sub-Committee heard representation from PC Adam Williams on behalf of the London Metropolitan Police. He read to the Sub-Committee the written representation filed within the agenda. PC Williams sought to bring in new evidence and information regarding an incident that took between council officers and the applicant at the premises however the applicant did not consent for such introduction and discussion to take place.</p> <p>In addition to written representation of the London Metropolitan Police, PC Adam Williams stated that if the applicant employs two door security staff from Thursday Nights to Sunday nights, then that condition will alleviate some of their concerns in regard to the prevention of crime and disorder. However it was still maintained the London Metropolitan Police had concerns that the statutory Licencing Objectives, save for the protection of children from harm, will not be promoted if the variation was granted as the conditions in the schedule were not sufficient to promote the statutory objectives. The Sub-Committee were reminded the premises is also situated in a CIZ.</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

Agenda Item No	Topic	Decision
		<p>The Sub-Committee heard from Mr Oludare Onesanya who was representing Mr Michael Abel. The applicant explained to the Sub-Committee that the business, a restaurant, is seeking a variation to allow live music to be played Monday to Thursday up until 00:30 and Friday and Sunday, up until 01:30am. The live music will only consist of one singer on a mic whilst customers consume their food and alcohol. The applicant repeated the conditions proposed in the operating schedule to the Sub-Committee as per the agenda pack. The applicant elaborated to say that by using a noise restrictor in place and having only one singer, he does not envision the current noise levels will increase. The applicant told the Sub-Committee he has no intention of by passing any noise restrictions as his premises could face consequences. He added the premises does not encourage customers to smoke outside the premises or to loiter around. He reminded the Sub-Committee that the premises is a restaurant not a club or a party house so they do not expect customers all to leave the premises at one moment rather a natural slow dispersal when customers conclude their meals. He anticipates that the last meal will be served at 00:30 and if their venue is full capacity prior to then, the customers will be asked to come back another day and not to queue outside the property. Further explanation was given that there is a stand up bar where up to 2 customers can wait for a table and other customers can wait outside.</p> <p>The applicant mentioned, as a response to the Police written objections, that on the 26th of September, the council’s enforcement team did attend the premises at 9.45pm as a compliance check as his business was liable to close at 10:00pm given the Corona Virus Restrictions at the time. The applicant explained that he told the officers that the premises still has 15 minutes before requiring their customers to leave. The officer was invited in to the premises however did not enter the premises and had left. The applicant did not consent for any further discussions to take place in the hearing in regard to the issue on 26 September 2020 and any subsequent issues which the Police seek to raise in the hearing as these not stated in their written representations. However the applicant Mr Abel by his own admission</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

Agenda Item No	Topic	Decision
		<p>disclosed he was issued with a Fixed Penalty Notice in relation to the incident on September 2020, which he later did not dispute or challenge.</p> <p>To address some of the concerns the Police had, the applicant proposed a condition to employ two door staff between Thursdays and Sundays. The Sub-Committee asked in what capacity will there be door staff, the applicant responded with simply there will be 'door staff'.</p> <p>The applicant was asked of his understanding of what a CIZ is and how the locality around his premises can be effected by the proposed variation. He mentioned that with the conditions proposed in the operating schedule, it will address any fears of noise issues.</p> <p>Having considered and hearing all of evidence the Sub-Committee is of the view the applicant has failed to demonstrate that the application will not add to the existing problems in the area.</p> <p><u>DECISION</u></p> <p>The Sub-Committee must promote the licensing objectives and must have regard to the Secretary of State's National Guidance created under S182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.</p> <p>The premises is situated within a Cumulative Impact Zone (CIZ) as set out Council's statement of policy. Where representations are received against an application in the CIZ zone, 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 area. The onus therefore falls on the applicant to satisfy the Sub-Committee through written and oral presentations that they will not add to the existing problems that exist around where the application premises are situated.</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

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		<p>The Subcommittee were of the opinion that proposed conditions in the operating schedule with the new proposed condition of having 2 door staff are not sufficiently robust to prevent Crime and Disorder, Public Safety and Public Nuisance, and that allowing such a variation will only increase the pressures the CIZ currently faces.</p> <p>The Sub-Committee recognised that the applicant did not have a sufficient understanding of what a CIZ zone is and in particular, the relevant issues the area faces where the premise is located. When asked an open question about what the applicant’s understanding of what the CIZ zone is, the applicant failed to mention the four statutory licensing objectives and therefore could not produce stringent conditions to rebut the presumption. The applicant failed to demonstrate he has a good understanding of the issues the area faced and almost all of his conditions proposed were only intended to deal with Public Nuisance in terms of sound. The applicant displayed a lack of understanding of the representations the Police made and the 4 statutory licensing objectives. When asked by the Sub-Committee if the premises will have a designated smoking area, the applicant stated there is no designated smoking area and did not appreciate that therefore it is likely customers will congregate outside the premises situated in a highly pressurised area under a CIZ zone. Further, the applicant stated he will not have a reservation system which can result to customers queuing outside the premises subject to CIZ.</p> <p>The Sub-Committee felt that varying the licence would attract a bigger footfall outside and inside the premises. The variation will attract drinkers to remain longer in the premises which could potentially lead to an increase in crime and disorder and issues with general public safety in an area with extreme pressures. The live music will mean customers will have to speak louder to one another during their meals and drinks or can even result in customers singing along with the singer to amplify the noise from the premises. The footfall will result in customers queuing outside the premises to enter the premises and a larger number customers leaving the premises in the early hours in the morning. As a result, it is extremely likely that local residents above the premises will face further public nuisance.</p>

Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 25 January 2021

Agenda Item No	Topic	Decision
		<p>In addition, the Sub-Committee were also concerned with the proposed condition of having door staff. The applicant could not explain whether the door staff will be his employees or registered and trained door security such as SIA qualified person. The applicant failed to distinguish between a door service and a door attendant.</p> <p>The Sub-Committee are aware of a Fixed Penalty Notice (FPN) issued on the applicant on the 26th September 2020. The applicant, in his own admission, admitted that he didn't appeal the FPN and had paid the fine. The Sub-Committee expressed their concerns and stated they did not feel confident in allowing a variation where an applicant has already been subject of recent covid related enforcement due to noise issues, particularly since the premises is in a CIZ. They considered whether a reduction in the timings for live music was appropriate, however they did not have any confidence or faith the applicant will manage the premises responsibly and have adequate systems in place given the concerns identified above. In addition, the Sub-Committee accepted London Metropolitan's representation that only up until last week, the applicant had not sought to work with the Police when asked to.</p> <p>Lastly, the Sub-Committee stated that the premise is situated in the busiest part in the area of Romford. The area is known for trouble such as drinking and violence as documented in the council's statement of policy and allowing a variation will only amplify the issues faced by the area.</p> <p>Having considered and heard all of the evidence listed above, the Sub-Committee is of the view that the Applicant has not satisfied the Sub-Committee that there will be no negative impact in the CIZ by allowing this variation.</p> <p><u>Therefore, the application is refused.</u></p>

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Agenda Item No	Topic	Decision
		<p><u>RIGHT OF APPEAL</u></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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