


Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 28 September 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 - RISING SUN PH 64-68 HIGH STREET, HORNCHURCH, RM12 4UW	<div>Havering L O N D O N B O R O U G H</div> <p>Licensing Act 2003 Notice of Decision</p> <p><u>DETAILS OF APPLICATION</u></p> <p>PREMISES</p> <p>The Rising Sun PH 64-68 High Street Hornchurch Essex RM12 4UW</p> <p>Details of the application</p> <p>The application was to:</p> <p>Submit an additional plan to reflect a change in the layout of the ground floor of the premises. (The applicant would add the bar in the rear lounge, the rear lounge, outside toilets and rear outside smoking area to the premises licence.)</p>
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		<p>And to:</p> <p>Offer conditions in respect of the rear lounge bar and room etc.</p> <p>SUMMARY</p> <p>There was one representation against this application from a ward councillor.</p> <p>There were no representations against this application from residents or businesses.</p> <p>There were no representations against this application from responsible authorities</p> <p>DECISION</p> <p><u>Decision:</u></p> <p>The Sub-Committee considered an application to vary a premises licence for The Rising Sun situated at 64-68 High Street, Hornchurch, RM12 4UW. The applicant sought to vary the existing premises licence by modifying the premises plans and adding further conditions to the licence.</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. The premises is situated within a Cumulative Impact Zone (CIZ) as set out in in the Council's policy. Where representations were received against an application in the CIZ zone, there was a rebuttable presumption to refuse the application unless the applicant could demonstrate that the granting of the variation would not</p>

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		<p>add to existing problems in the area.</p> <p>Where relevant representations were made, the authority must hold a hearing, having regard to the representations, and take such of the steps mentioned as follows, as it considered appropriate for the promotion of the licensing objectives;</p> <ul style="list-style-type: none"> (a) to modify the conditions of the licence; (b) to reject the whole or part of the application <p>Representations against the application had been received from</p> <ul style="list-style-type: none"> - Councillor Paul Middleton on the grounds of the Prevention of Crime and Disorder & the Prevention of Public Nuisance. <p><u>The application for a variation of the licence was refused</u></p> <p>The premises was situated in a Cumulative Impact Zone. In considering whether to adopt such a Policy for the area, the council took the following steps as recommended by the Guidance:</p> <ul style="list-style-type: none"> • Gathered crime and disorder statistics, ambulance service statistics and such other relevant statistics • Identified serious concern from a responsible authority or from residents or local businesses (or their representatives) concerning nuisance and/or disorder; • Identified the area in which problems were arising and the boundaries of that area. <p>The statistics gathered had resulted in 64-68 High Street, Hornchurch, RM12 4UW to be part of the Cumulative Impact Zone. The members were aware of issues of crime and disorder and public nuisance the area faced as identified in the council's statement of licensing policy. Therefore it remained imperative that there was a rebuttal presumption to not to grant the</p>

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		<p>application to vary the premises licence unless the applicant could demonstrate that granting the variation would not have an adverse effect to the area and to the existing pressures the area currently faced.</p> <p>The members noted that there were no representations from any Responsible Authorities against the application, in particular from the Police and the Council's Environmental Health team. The members also noted that pursuant to the s182 guidance, Licensing Authorities should look to the Responsible Authorities as the main source of advice in their respective fields of work, for example the police in regard to crime and disorder. Although there were no representations by the Responsible Authorities, during the hearing, both the applicant and Cllr Middleton, relied on hearsay evidence arisen from their respective discussions with the Police. The members were aware that they could attach whatever weight they deemed fit with such evidence, however, as both parties presented hearsay evidence that directly conflicted with the other's evidence; the members concluded not to consider any hearsay evidence presented to them. The members acknowledged they had no representations against the application and therefore no Representative Authority has an objection to the variation being granted.</p> <p>The members turned to Cllr Middleton's submission. The members accepted that neighbouring residents would suffer from public nuisance and would result in the undermining of licensing objection of prevention of public nuisance. The members were told by Cllr Middleton that allowing patrons to enter and exit the premises from the rear of the premises, allowing residents to smoke at the rear of the premises and providing toilet facilities in the rear of the premises would cause noise pollution to residents in the early hours of the morning, especially as sound travelled further late night and in the early hours of the morning. Other submissions made by Cllr Middleton were not considered, as the hearing was an opportunity for parties to expand on their written submissions made.</p> <p>Turning to the applicant, the members noted that applicant had experience of the night-time</p>

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		<p>economy for over 15 years. The members also noted that the applicant sought the variation to offer a venue for group booking parties such as Birthday parties, Christmas Parties, Funeral Wakes etc., predominantly targeting families and work place parties. The members accepted that no representative authorities have made representation against the application and no residents had directly made representations against the application. The members further appreciated that in addition to the conditions offered by the applicant in the application form, the applicant stated they would agree to a condition limiting the capacity to 90 customers only in order to alleviate concerns that the members may have. However, the members were not satisfied the applicant rebutted the presumption to allow the variation as the conditions offered did not address the issues of public nuisance.</p> <p>The only means of entrance and exit to the premises is from the rear of the premises, on to a residential area, as opposed from the High street. The members felt that having up to 90 patrons, leaving a party in the early hours of the morning, whether all 90 patrons left the venue at the same time or a staggered exit, would cause noise nuisance to the neighbouring residents. The members considered that SIA staff would be employed to direct patrons out and away from the premises; however, the members believed it was extremely likely that the SIA staff would not be able to prevent noise nuisance emanating from the the patrons following the conclusion of the party, in the early hours of the morning. The members find it very credible that this would cause noise pollution to the nearby residents, as residential buildings neighboured the premises and were situated on the route from the rear of the premises to the high street. The members considered conditions such as notices at the exit of the building, reminding customers to respect residents and imposing a condition of regular observations in the vicinity of the premises by staff, however they found no condition could be imposed to prevent public nuisance due to the unusual exit route from the premises. The members were extremely conscious that for the patrons to access public transport, the patrons would to need walk through residential streets to make their way to the High street.</p>

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		<p>The members also felt that the area directly to the rear of the premises was a quiet and not well lit service road. The members were concerned for the safety of the patrons. Appendix 7 of the Council's statement of licensing policy stated that violent crime in Havering occurred disproportionately during the 10pm-2am; the hours where patrons would be exiting the premises. The heat map in the appendix, covering the area directly around the premises, gave evidence that there was a high intensity of reported crime. The members recognised the statement of licensing policy was published in 2016 and was under review, however, the members still attached weight to the heat map in the policy, as the policy was still in effect and were concerned that the rear of the premises and surrounding areas would act as a magnet for patrons to congregate after a party. Further, appendix 7 stated that a third of incidents (crime/anti-social behaviour) were recorded as taking place on the street (where the premises lay) whilst a further 40% took place within on-licence premises. The members were aware this data was not directly attributed to any establishment, but the heat map did show issues directly around the premises.</p> <p>The members did reconcile that beyond the immediate area surrounding the premises were matters for the personal responsibility of individuals under the law and that an individual who engaged in anti-social behaviour was accountable in their own right. However residents were very likely to suffer from noise nuisance and alcohol fuelled related crime directly as a result of the premises entrance and exit route and as a result of patrons using rear toilets and smoking areas so therefore on balance the variation would undermine the licensing objectives of prevention of crime and disorder and the prevention of public nuisance.</p> <p>Further, the members accepted Cllr Middleton's representations of his visits to the area and found his findings regarding noise nuisance from revellers corresponded with their own local knowledge of these issues in their own personal experience. The members applied the case of Thwaite's and had challenged their own anxieties of public nuisance and crime and disorder, due to there being no objections from any responsible authorities, however still endorsed some</p>

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		<p>weight to their local knowledge as the guidance was that drawing on local knowledge, was an important feature of the Act's approach in determining applications.</p> <p>The members overriding concern was that applicant had failed to demonstrate an understanding of what a Cumulative Impact Zone (CIZ). Upon question the applicant of their understanding of a CIZ, the applicant initially provided no response. An explanation was then provided but the applicant was unable to identify what a CIZ is, why a CIZ existed and failed to demonstrate how the variation would not add to the current the challenges the area faced. The s182 guidance stated where specific policies applied in the area, applicants were also expected to demonstrate an understanding of how the policy impacted on their application; any measures they would take to mitigate the impact; and why they considered the application should be an exception to the policy. The members took the view that the applicant could not promote the licensing objectives without understanding what Cumulative Impact the current challenges the area was facing. The members found that the applicant was not familiar with the council's statement licensing policy, which was crucial for any applicant when attempting to rebut the presumption against granting a variation as it identified the challenges the area was facing. The members appreciated that the applicant had proposed a number of conditions, as part of the application, however the members took the view that the applicant cannot not truly understand the relevance of conditions offered when not being familiar with the statement of licensing policy and more vitally, why the CIZ was established for. Therefore, the only step to promote the licensing objectives was to reject the application in full.</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>

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		<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. <p>Richard Cursons Clerk to the Sub-Committee</p>
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