

### **Licensing Act 2003 – responsible authority representation**

This representation is made by a responsible authority for the London Borough of Havering concerning a premises licence application for the premises as detailed below.

**Applicant:** Ace Coffee and Bagel (Upminster) Limited  
**Premises:** 1 Station Road Upminster RM14 2SJ

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**Name:** Kasey Conway  
**Organisation:** London Borough of Havering Licensing Authority  
**Address:** c/o Town Hall Main Road Romford RM1 3BD  
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**Objection summary:** The application describes the premises as a café/pizzeria but does not include a proposed condition restricting alcohol supplies to be ancillary to a table meal. If the application is granted as submitted the premises would be able to operate as a vertical drinking establishment. This raises concern further to each of the licensing objectives.

#### **Policy considerations**

##### **Licensing Policy 9**

The Licensing Authority seeks to promote mixed use premises with alcohol sales being offered to customers alongside entertainment and food. Applications for premises providing a seated environment for customers are encouraged. Applications for premises whose predominant offer is vertical drinking are not encouraged and the operating schedule for such applications will be expected to demonstrate robust arrangements for promoting the licensing objectives.

##### **Licensing Policy 12**

The Licensing Authority seeks to encourage the use of toughened glassware and polycarbonate on a risk based approach in licensed premises.

The Licensing Authority will consider imposing a condition prohibiting the sale of alcohol in annealed glass containers (glasses and bottles) and require the use of polycarbonate or other safer alternatives where:

- Local needs dictate
- A relevant representation is received
- The premises is operating beyond midnight
- The licence permits drinking outside.

##### **Licensing Policy 15**

Licence holders and applicants are encouraged to consider whether early morning

deliveries and collections at their premises could potentially result in public nuisance and to introduce measures to minimise the impact where appropriate. The Licensing Authority recognises that refuse collection times can sometimes be outside the control of the premises licence holder. When representations have been received from residents in the vicinity of licensed premises stating that they are being disturbed by early morning collections and deliveries, the applicant or premises licence holder is encouraged whenever possible to renegotiate different times with the relevant contractor and to liaise with local residents where appropriate to seek agreement on acceptable hours.

### **Licensing Policy 16**

The Licensing Authority recognises that where gardens and tables and chairs are provided for smoking, eating and drinking outside users can cause nuisance. Where smoking, eating and drinking take place outside the Licensing Authority expects applicants to provide comprehensive details in their operating schedule on:

- The location of outside areas to be available for use
- How the outside areas will be managed to prevent noise, smell and pavement obstructions.

Where the Licensing Authority receives representations or a review application regarding the use of an outside area it will impose restrictions or conditions that are appropriate for preventing a public nuisance.

### **Licensing Policy 19**

The Licensing Authority will require consideration of measures to protect children from harm to be reflected in the operating schedule where applicants identify the need, having regard to their type of premises or licensable activities. Applicants for premises licences and club premises certificates authorising the admission of children without accompanying responsible adults will be required to submit a safeguarding children protection policy detailing the steps to be taken to ensure that children in their charge will be protected from harm when on licensed premises or engaged in activities relating to the licence.

### **Representation**

Contact was attempted with the applicant's agent at the start of the consultation period. A message was left with the receptionist of the agent but at the time of writing this representation no response has been received.

Section 5 of the application describes the premises as a café/pizzeria. This implies that the premises intends to operate as a restaurant so we would expect that alcohol supplies made in a restaurant environment should be restricted to being ancillary to a table meal. The inclusion of a condition making alcohol supplies ancillary to a table meal ensures that the premises may operate only as a restaurant rather than operate as a bar or a pub. Licensing policy 9 addresses this matter.

Section 18 (c) of the application includes the following proposal.

- Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served on the premises.

This proposed condition states that soft drinks will be served as an ancillary to a meal but the condition does not include alcohol. Alcohol would therefore be able to be served on its own as it is in a public house.

Section 15 of the application details the requirements further to alcohol supplies. The terminal hour for alcohol supplies is not unreasonable but it is not made clear why a café/pizzeria would wish to sell alcohol from 08:00. We would normally anticipate that a restaurant would commence alcohol supplies from 11:00 at the earliest so would have hoped to have been given some reasoning why an earlier start has been proposed.

In addition, the application requests alcohol on and off sales. No explanation has been provided for the request for alcohol off sales, such as the taking away of part consumed bottles of wine. The alcohol sale start hour of 08:00 and the application for off sales in combination with the location of two secondary schools within walking distance of this premises raises some concerns further to the protection of children from harm. We acknowledge the application's inclusion of a Challenge 25 policy.

Licensing policy 12 – if the premises is to operate in the manner of a vertical drinking establishment the premises should provide safety glass vessels to aid the promotion of the public safety licensing objective.

Licensing policy 15 – section 18(d) of the application places a conditional requirement that its customers must be reminded to respect the neighbours but the application includes no requirement that the staff members must take steps to prevent public nuisance during deliveries and similar. This premises is a ground floor commercial premises but the upper storeys appear to be residential. The applicant has a duty to ensure the neighbours are not disturbed by activity at the premises, including deliveries and waste disposal.

Licensing policy 16 – the application makes no reference to how smokers might be monitored and controlled outside the premises. There is also no proposal which would prevent a customer from taking alcohol outside the premises to consume it. The application is to permit alcohol sales for consumption off the premises so the customers would be able to consume alcohol directly outside the premises.

Licensing policy 19 – this policy addresses the safety of children. The application has proposed no restriction upon children attending the premises unsupervised which might not be a cause for concern for a café/pizzeria. The absence of a proposal restricting alcohol supplies to be ancillary to a table meal means that if the application is granted as submitted and the premises chooses to operate as a bar there would be no restriction upon unsupervised children attending the premises.

We would be happy to support an application for a premises licence which supports a restaurant operation. The application as submitted would permit a bar/public house operation so we are unable to support it in its current form.

**Complaint and inspection history (if applicable)**

Not applicable.

**Other documents attached**

None.

**Signed** *Kasey Conway*

**Dated** 22/05/20