

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: GeTurkish Ltd
Premises: GeTurkish 8 Station Road Gidea Park Romford RM2 6DA

Name: Paul Jones
Organisation: London Borough of Havering Licensing Authority
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Objection summary:

This premises wishes to be able to provide takeaway late night refreshment, i.e. the supply of hot food and/or drink, until 02:00 seven days a week from a premises located adjacent to, and directly below, residential properties. This terminal hour is outside those guideline hours defined within Havering's licensing policy.

Policy considerations

11. Development Management

11.1 The Licensing Authority considers it desirable for applicants for a premises licence or a club premises certificate to have in place the relevant planning consent or lawful planning status for the intended use and hours of operation at the point when a premises licence application or a club premises certificate application is made. Each application, however, will be considered on its merits on a case by case basis.

11.2 Where an application made under the Licensing Act 2003 is granted at a variance to the premises' planning consent the Licensing Authority will expect the premises licence holder or club premises certificate holder to apply to align the planning hours with the licensing hours to avoid the potential for offences being committed under planning legislation.

11.3 Licensing and planning controls are two different regimes which operate independently and licensing committees are not bound by decisions made by a planning committee and vice versa.

11.4 However the relationship between the two, especially as seen by the community, can cause confusion and lack of confidence in the fairness of process and outcome. That is particularly so where there results a mis-match between controls with which the operator is obliged to comply within the respective regimes. For example, if there is a variance between the hours given under the licence and those permitted by the planning permission the earlier hours will apply.

11.5 This Policy is simply to promote clarity of process and so complies with the Guidance. Generally, any premises for which a licence is required must also have an appropriate authorised use under planning law.

11.7 Applicants for Premises Licences should include information in respect of planning permission for the subject premises. Where there is no planning permission for the proposed use in place, applicants should include information regarding any planning applications being submitted, or any outstanding appeal or appeals against the refusal of planning consent.

11.9 Applicants should note that the grant of a Premises Licence is not also the grant of Planning Permission. Where premises are being used without the benefit of Planning Permission, the Local Planning Authority will take enforcement action by the service of an Enforcement Notice, Breach of Condition Notice, seeking an Injunction, or the service of a Stop Notice and will consider all other measures available to the Authority to abate the unlawful use without planning consent, including Closure Orders under the Anti-Social Behaviour Act 2014.

12. Licensing Hours

12.1 When dealing with new and variation applications the Licensing Authority may give more favourable consideration to applications with the following closing times:

Public Houses and Bars 23:00 hours Sunday to Thursday

Midnight Friday and Saturday

Nightclubs 01:00 hours Sunday to Thursday

02:00 hours Friday and Saturday

Restaurants and Cafes 23:00 hours Sunday to Thursday

Midnight- Friday and Saturday

Off licences 23:00 Monday to Sundays

Hot food and drink supplied by takeaways, fast food premises

Midnight - Sunday to Thursdays

01:00 Friday and Saturday

Hotel residents only 24 hours sale of alcohol for on sales only

12.2 Consideration will also be given to the type of area that the premises is located in with regulated activities normally being permitted until 23.30 in residential areas and 00.30 in mixed use areas.

17. Noise

17.1 The Licensing Authority is committed to protecting the amenity of residents and businesses in the vicinity of licenced premises, particularly when late hours have been sought. Where relevant representations are received, the Licensing Authority will request appropriate restrictions or controls on the licence to support the prevention of undue noise disturbance from licensed premises.

17.2 The Licensing Authority will seek to balance the protection of residents from undue disturbance against noise and the activity that is the natural by-product of people going about their business, entertainment or leisure.

20. Deliveries

20.1 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.

Representation

This application for a premises licence seeks to authorise the provision of late night refreshment until 02:00 seven days a week. While the Licensing Authority is not, in principle, opposed to a licensed premises being located at this site, we have concerns that the hours sought have the potential to have an adverse impact upon the vicinity.

Given the application's defined terminal hours, the Licensing Authority made contact with the applicant to advise that we would not be able to support such a late terminal hour at this location. This concern is based upon the proximity to the premises of residential properties which are located immediately adjacent and above the venue (please see below). In addition, the proposed terminal hours are beyond our licensing policy guideline hours (paragraph 12.1 as detailed above).



In response to the Licensing Authority's contact the applicant confirmed a preference to proceed with the application's terminal hours as originally submitted, as is an applicant's right.

Licensing and Planning

Paragraph 11.3 of Havering's licensing policy recognises that *licensing and planning controls are two different regimes which operate independently*. While this is the case, paragraph 11.1 confirms that the Licensing Authority *considers it desirable for applicants for a premises licence... to have in place the relevant planning consent* while paragraph 11.5 states that *generally, any premises for which a licence is required must also have an appropriate authorised use under planning law*.

This premises is subject to planning permission P0728.22 which permits its use as a hot food takeaway; however, condition 6 of this permission states:

- The premises shall not be used for the purposes hereby permitted [*i.e. hot food takeaway*] other than between the hours of 9am – 11pm Monday to Saturday and 9am – 11pm Sunday and public/bank holidays without the prior consent in writing of the Local Planning Authority. Reason: to enable the Local Planning Authority to retain control in the interests of amenity.

Further to this, paragraph 11.7 of Havering's licensing policy states that *applicants for premises licences should include information in respect of planning permission for the subject premises*. There appears to be no reference to the premises' planning permission

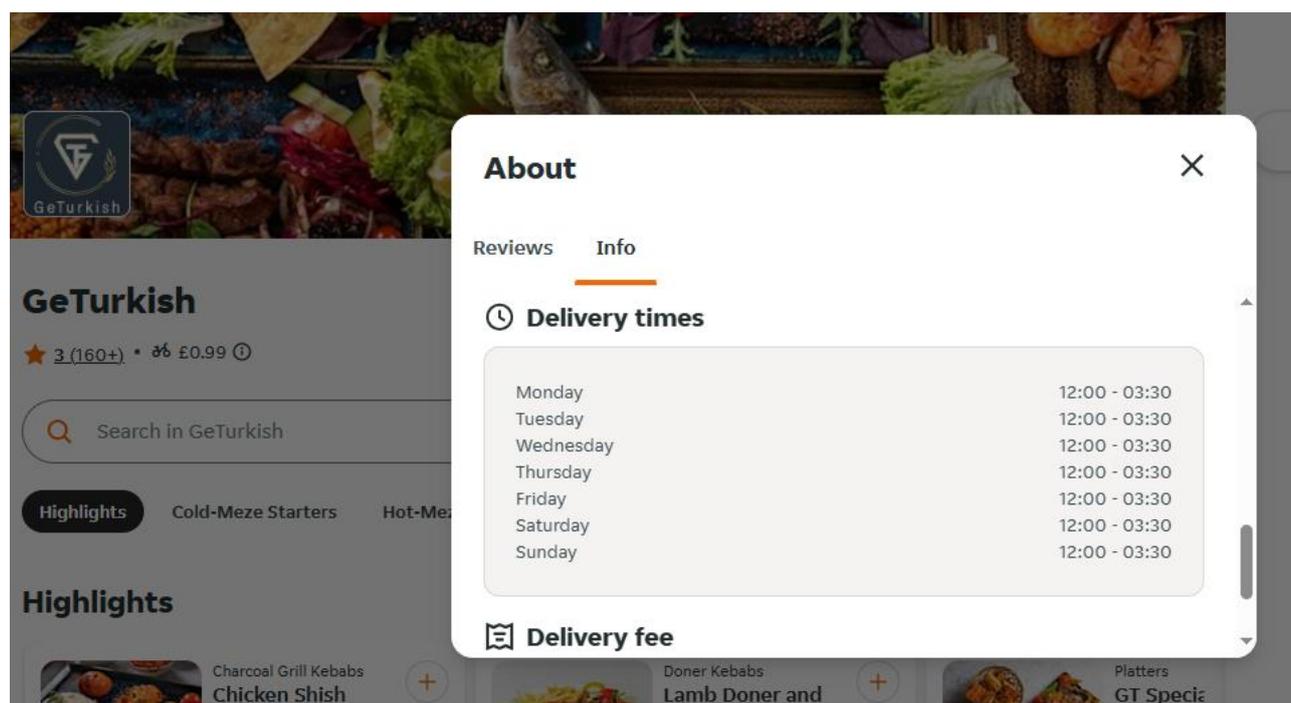
contained in this application. The Licensing Authority recognises that it makes economic sense for a business owner to apply for a premises licence first and to subsequently seek to bring the venue's planning permission in line with its licensing hours; however, the absence of any mention of such matters in the application suggests that the premises might intend to immediately operate to the hours defined on its premises licence. This would, of course, lead to a failure to promote the prevention of crime licensing objective as Planning law offences are likely to be committed if the premises operates outside its Planning hours.

Deliveries of hot food

This application does not make clear its approach to deliveries of late night refreshment. The only mention of deliveries is in section 18(d) which proposes the following condition 6:

- Deliveries... are scheduled during normal daytime hours only, to avoid late-night noise and disturbance.

It is not made clear what might constitute *normal daytime hours*; however, the premises' *Just Eat* online presence permits hot food deliveries to be made currently until 03:30, i.e. four and a half hours beyond the current permissible terminal hour. Any hot food currently supplied after 23:00 would be done so outside the legally permitted hours for such an activity as late night refreshment is yet to be authorised at this premises. Each order of hot food currently supplied after 23:00 would constitute an offence contrary to s.136 of the Licensing Act 2003.



If it is intended that hot food deliveries are to be made until 02:00, rather than the 03:30 terminal hour as indicated above, we might consider whether the method of delivery is via some form of motorised vehicle. If this is so, we might further consider the imperative of paragraph 20.1 of our licensing policy which addresses the potential impact upon the premises' residential neighbours implied by motorised vehicular movements occurring until 02:00 every night.

As previously mentioned, the only reference to hot food deliveries from the premises is restricted to the proposed condition detailed above. The premises' online presence suggests that hot food deliveries occur throughout the duration of the premises' operating hours. It is not clear how the applicant's proposed condition 6 restricting hot food deliveries to *normal daytime hours* might successfully align with its operational hours to 02:00.

Conclusion

The application does not seek to permit the supply of alcohol so we might query why such a premises requires licensing at all under the Licensing Act 2003. The reason that late night refreshment is defined as a licensable activity is because such premises attract late night custom, with all this might imply. We might reasonably accept that a significant proportion of individuals on the street after 23:00 have spent the preceding hours enjoying a night out and therefore are likely to have consumed alcohol to some extent. This customer base is the reason why takeaway food premises are required to be licensed after 23:00.

Premises providing late night refreshment attract customers who may be under the influence of alcohol. This, in turn, has the potential to adversely impact the promotion of the licensing objectives, in particular the prevention of crime and disorder and the prevention of public nuisance.

Gidea Park Station is directly opposite this premises. The last train arrives here at 01:25. Individuals who may have spent the evening consuming alcohol will be likely to see this premises upon exiting the station and would have the opportunity to visit the venue to purchase some hot food instead of going directly home. Premises which provide late night refreshment provide a potential location for anti-social behaviour to initiate. This is the reason Havering's licensing policy provides its guideline hours for the provision of late night refreshment as they are, i.e. Sunday to Thursday 23:00 to 00:00 and Friday and Saturday 23:00 to 01:00.

If the licensing sub-committee is minded to grant this application we would encourage it to do so in accordance with the principles of Havering's licensing policy.

Signed *Paul Jones*

Dated 27th June 2025

Public Protection Officer