

LICENSING SUB-COMMITTEE

14 August 2020

Title: H&Q Café Shop, 242 Bennetts Castle Lane, Dagenham - Application for a Grant of a Premises Licence	
Report of the Service Manager Public Protection, Regulatory Services	
Open Report	For Decision
Wards Affected: Becontree	Key Decision: No
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Accountable Director: Andy Opie, Operational Director, Enforcement Services	
Accountable Strategic Director: Fiona Taylor, Director of Law and Governance	
Summary An application for a new premises licence has been made by H&Q Café Shop LTD in respect of H&Q Café Shop, at 242 Bennetts Castle Lane, Dagenham RM8 3UU. Two representations against the premises licence application have been received. One from the local ward councillors and one from the Licensing Authorities Responsible Authority Officer. The matter is put to the Licensing Sub-Committee for determination at a public hearing, accordingly	
Recommendation That the Sub-Committee considers the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.	
Reason(s) Under the Licensing Act 2003, the Council as Licensing Authority, has a duty to consider and determine each valid application submitted.	

1. Introduction and Background

1.1 The Licensing Act 2003 (the "Act") established the national licensing regime for:

- The sale and supply of alcohol
- Regulated entertainment
- Late night refreshment

- 1.2 Under the Act, any person wishing to use any premises to provide one or more of the above licensable activities must firstly obtain a premises licence from the local licensing authority for the area. If the licence is intended to include the sale and supply of alcohol, then the licence must name a 'Designated Premises Supervisor' (DPS) who holds a personal licence issued by the local licensing authority for the area within which they live.
- 1.3 Applications for premises licences are made subject to public consultation. During the consultation period, it is open to any 'responsible authority' or 'other person' to make representations concerning the application. Representations must relate to one or more of the four licensing objectives. These are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.4 Where representations are received, and are neither conciliated or withdrawn, then the local licensing authority must hold a public hearing to determine the application.

2. Application under consideration

- 2.1 On the 22nd June 2020, H&Q Café Shop Limited applied for a premises licence in respect of the premises known as H&Q Café Shop at 242 Bennetts Castle Lane, Dagenham, RM8 3UU.
- 2.2 The premises are located on the ground floor of 242 Bennetts Castle Lane and incorporate a small rear garden. The application describes the premises as a 'Café'. It seeks consent to
- The supply of alcohol 'on' sales from 10.00 to 23.00 each day of the week
 - The provision of late-night refreshment from 23:00 to midnight seven days a week.
 - The premises itself is intended to open between 06.00 and 00.00.
- 2.3 The application incorporates a plan of the premises showing an indicative layout providing for 36 covers comprising 6 internal, 22 in the rear garden and 8 on the pavement to the front of the premises. This layout is not intended to show the premises under Covid-secure arrangements.
- 2.4 The Designated Premises Supervisor (DPS), intended to hold overall responsibility for authorising alcohol sales made at the premises, is Bekim Hyseni, who holds a personal licence issued by the London Borough of Havering.
- 2.5 A copy of the application is attached as Appendix A to this report. Section 18 of the application sets out the range of measures proposed by the applicant to promote the four licensing objectives and to form the basis of the conditions of any licence granted, together with the mandatory conditions set out within the Act. These include:
- CCTV

- Challenge 25 age verification policy
- No vertical drinking policy
- Incident book
- Restriction on super-strength beers etc above 6.5%
- Restrictions on times for clear up
- Restrictions on admissions of children and young persons

2.6 A map of the local area is provided at Appendix D. The premises is located in a mixed commercial / residential area. There are a significant number of local residents living in close proximity to the premises and there is a care home within 200m of the premises.

3. Representations

3.1 Two representations have been received in respect of this application. One from the ward councillor and one from the Licensing Authority Responsible Authority Officer.

Ward Councillor representation

3.2 The representation received on behalf of the local ward councillor is made under the three licensing objectives – the prevention of crime and disorder; public safety; and the prevention of nuisance. This representation is included as Appendix B to the report.

3.3 The Ward Councillors were made aware of the potential amendments to the application arising from the conciliation meeting held on 27 July 2020 (as referred to in paragraphs 3.6 and 3.7 below). However, the Ward Councillors did not feel that the potential amendments were sufficient to overcome their concerns and put forward their preferred position in relation to licensing hours and other conditions, which is set out in the addendum to Appendix B.. As referred to in paragraph 3.9, the applicant subsequently withdrew the potential amendments referred to in paragraph 3.7 below.

The responsible authority representations

3.4 The representation received from the Licensing Authority Responsible Authority, Officer is also made under three Licensing Objectives being the prevention of crime and disorder; public safety; and the prevention of public nuisance. The representation does not oppose the application outright but is primarily concerned with:

- Ensuring that the premises operate as a 'Café / Restaurant', as intended by the application, remaining food and not alcohol led, in order to prevent the evolution of the premises into a bar.
- Ensuring the potential impacts of the premises upon local residents are controlled.

3.5 This representation is included as Appendix C to the report.

Conciliation

- 3.6 As the public consultation process was conducted during the Covid restrictions it was not possible to arrange the normal conciliation meeting for all parties at the premises. Instead conciliation was conducted by telephone between the applicant's agent and the Licensing Authority Responsible Authority Officer on 27 July 2020.
- 3.7 A number of potential amendments to the application were discussed. These involved changes to the hours of operation of the premises as set out below:
- Opening hours 06.00 – 23.30 7 days a week
 - Alcohol sales 10.00 – 23.00 7 days a week
 - End of use of tables and chairs at the front of the premises 21.00 each night
 - End of use of the rear garden at 22.00 each night.
- 3.8 Following the telephone conciliation, the Licensing Authority Responsible Authority Officer provided a summary of the discussions and potential amendments to the application to the ward councillors for consideration.
- 3.9 It was indicated at this stage that the ward councillors wished to see further adjustment to the proposals (as set out in the addendum to Appendix B). Following this all amendments to the application were withdrawn by the applicant.
- 3.10 The application under consideration therefore stands as on paper (Appendix A).

4. Options Appraisal

- 4.1 The Sub-Committee is advised that the hearing is of a quasi-judicial nature and representations from all parties, both written and verbal, will form part of the matters that are to be considered.
- 4.2 The Sub-Committee is required to consider each application on its own individual merits with all relevant matters taken into account. Findings on issues of fact should be on the balance of probability.
- 4.3 Having considered the application, the representations and all relevant submissions, the Sub-Committee must decide what action is appropriate to promote the licensing objectives.
- 4.4 Any licence granted must be made subject to the mandatory licence conditions established by the Act and to conditions consistent with the measures proposed by the applicant to promote the licensing objectives (as amended by any conciliation process).
- 4.5 Any licence granted may be subject to additional conditions considered appropriate by the Sub-Committee to promote the licensing objectives.
- 4.6 In reaching its decision, the Sub-Committee must have regard to:
- The Act.
 - Secondary regulations.

- The Guidance issued to Local Licensing Authorities by the Home Office (current version April 2018); and
- The Barking and Dagenham Statement of Licensing Policy for 2017-2022.

4.7 The options open to the Committee are:

- To grant the application.
- To refuse to grant the application; or
- To grant the application subject to additional conditions.

4.8 In the event that any party is aggrieved by the decision of the Sub-Committee, they have the right to appeal the decision to the Magistrates Court. Appeals must be made within 21 days of notification of the Sub-Committee's decision.

5. Consultation

5.1 The application has been subject of public consultation in accordance with the statutory provisions. The application has been advertised by way of public notices placed in a local newspaper, displayed at the premises and published on the Council website. Notifications have been provided to all responsible authorities and ward councillors.

6. Legal Implications

Implications completed by: Deirdre Collins, Prosecution Barrister, Law and Governance

6.1 The Council must have regard to:

- The Licensing Act 2003
- Subordinate Legislation
- S.182 Guidance
- Case Law
- LBBD Statement of Licensing Policy

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix A – Premises Licence Application including plan
- Appendix B – Ward councillor representation
- Appendix C – Licensing Responsible Authority Representation.
- Appendix D – Map of the locality