

DECISION NOTE
RUNNYMEDE BOROUGH COUNCIL
THE LICENSING ACT 2003
LICENSING SUB-COMMITTEE

Applicant:

Mr Mohammed Sutok Ahmed

Premises:

Blue Ocean, Unit 2, Phoenix Plaza, Guildford Street, Chertsey, Surrey, KT16 9GU

Hearing Date:

Monday 4 June 2007

Licensing Sub-Committee:

Councillors Mrs P I Broadhead, Mr C Knight and Mrs R Haylor

RBC Officers Present:

Mrs R Pugh (Assistant Solicitor): Legal Adviser

Mr D Seekings (Senior Licensing Officer): Proper Officer

Application:

Premises Licence Application

Licensable Activities Applied for:

- 1) Recorded music: Sunday until Thursday 11.30 until 0030 and 11.30 until 0100 on Fridays and Saturdays. Indoor only. Exceptions Christmas Eve and New Years Eve when the applicant requests an extension of hours until 02.00.
- 2) Late Night Refreshment: Every day 23.00 until 00.00.
- 3) Supply of Alcohol: Sunday until Thursday 11.30 until 0030 and 11.30 until 0100 on Fridays and Saturdays. On the premises only. Exceptions Christmas Eve and New Years Eve when the applicant requests an extension

of hours until 02.00. Fifteen minutes 'drinking up' time allowed for in application.

Appearances:

The Applicant was represented by Mr S Sole of Kenwright Walker Wylie Solicitors, East Molesey

Objectors present at Hearing:

Mr T Freeborn, Mr D Shill, Ms S Ward, Mr T Smoker, Mr R Boyce and Ms E Shanks

Representations:

Thirty three representations in the form of letters or emails were received from interested parties living in the neighbourhood of the Premises. The objections were in the main from neighbouring residents expressing a number of concerns principally, in the context of the licensing objectives, concerning noise nuisance arising from the playing of recorded music at the premises, late opening hours and the arrival and departure of customers.

Brief Note of the Hearing:

It was noted that this application is for a premises licence relating to a new commercial development which has planning permission for Class A3 uses. The Applicant was informed incidentally that further details relating to hours of operation and ventilation provisions needed to be submitted to the Planning Authority. Councillor Broadhead (Chairing the Sub-Committee) made it clear to the Applicant that should the Planning Authority determine different hours of operation for example, requiring earlier hours of closure than those determined by the Licensing Sub-Committee, he and his delegates would be bound by those earlier times.

As a point of clarification the Applicant confirmed that the closing times on page 10 of his application under Section F should read 1.00pm for Friday and Saturday.

The Proper Officer presented his report to the Sub-Committee. The Sub-Committee noted that there were no representations received from any of the seven Responsible Authorities relating to this application.

Mr Sole for the Applicant made opening submissions. The Licensing Sub-Committee was informed that Mr Ahmed was determined to allay the fears of local residents regarding the application. He stated that his client was intending to use the establishment as a high class restaurant and not a late night bar or public house. He pointed out that residents were aware of the mixed use of the development when they purchased their properties and would have been aware that Unit 2 was designated for commercial use. Mr Sole emphasised Mr Ahmed's concern to work with the community on the application in consultation with local residents.

The matter of noise relating to the disposal or recycling of waste and in particular bottles was discussed. The Sub-Committee were pleased to note that Mr Ahmed was prepared to deal with the disposal or transfer of bottles and waste in the morning.

Following a discussion regarding the nature of recorded music envisaged by Mr Ahmed for his restaurant he agreed that in the circumstances he need not have applied for a recorded music licence as 'incidental' music would be sufficient for the restaurant. He agreed for this to be imposed as a condition of the licence.

The Applicant agreed to clear cigarette butts dropped by his customers and litter emanating from the premises in the outdoor areas of the Phoenix Plaza adjacent to their Premises.

The Sub-Committee noted that the Applicant had failed to indicate whether they were proposing to serve late night refreshment both inside and outside the Premises. The Applicant indicated that they wanted tables and chairs outside the premises. The Sub-Committee determined that the application would be need to be considered as an 'Indoors' application to be consistent with other aspects of the application, for example, the supply of alcohol on the premises (as defined by the Applicant's plan). The reasoning behind this decision was to be fair to existing and potential objectors who may wish to make representations in respect of noise nuisance emanating from an outdoor

area which would be likely to have more of an impact on local residents. The Applicant was advised that outdoor licensable activities would need to be the subject of a variation application once the premises licence application was granted.

The Applicant agreed to a sign on the premises (near or on the exits) requesting that patrons leave the premises quietly to avoid the disturbance of neighbours.

Mr Freeborn made representations on behalf of local residents expressing concerns about the Applicant proposing to open the restaurant so late in the evening and its potential (under the licence application) to become a late night drinking establishment which would be likely to result in noise nuisance, anti-social behaviour and other matters set out in the written representations. Other objectors present made similar comments about their concerns.

The Applicant indicated that he would be happy to attend Residents Association meetings from time to time to discuss any problems arising. Mr T Smoker the Chairman of the Residents Association agreed to invite Mr Ahmed to the meetings.

Members of the Sub-Committee made it clear to residents that if, following the granting of the premises licence, nuisance problems were occurring, they had the right to submit an application for a review of the premises licence to express their concerns. Members of the committee expressed the view that the restaurant should be afforded a chance to establish itself.

Susan Ward addressed concerns about light pollution and nuisance from the ventilation system. The Sub-Committee considered the Borough's licensing policy which states that loss of amenity in the context of prevention of nuisance should be construed in the widest sense having regard to issues such as noise, light and odour. In this instance, however, particularly with regard to the ventilation system (which has yet to be agreed with planning officers) the Sub-Committee felt that the issues were a matter for the planning authority.

Mr Sole reiterated the fact that the development was for A3 use in a mixed use development and the objectors made further representations.

Decision

Having considered the application, the submission by the Applicant, relevant representations, the licensing objectives, the Council's policy and relevant guidelines, the Sub-Committee's determined that the application for the premises licence be approved subject to the Conditions set out below:

Condition 1

That the application for recorded music be withdrawn and that the music played at the premises be incidental music as defined under Schedule 1, Part 2, Paragraph 7 of the Licensing Act 2003. All music to cease at the same times that alcohol may not longer be served (set out in Condition 2 below).

Condition 2

The hours for supply of alcohol and for the premises to be opened to the public to be as follows:

Sunday – supply of alcohol to cease at 22.30 and closing to the public at 23.00.

Monday to Thursday – supply of alcohol to cease 23.45 and closing to the public at 00.15.

Friday and Saturday – supply of alcohol to cease at 00.30 and closing to the public at 01.00.

Condition 3

The hours for the provision of late night refreshment are as follows:

Sunday – not applicable (closing time 23.00)

Monday to Thursday – 23.00 until 23.30

Friday and Saturday – 23.00 until 00.00

with the exception of tea, coffee or other hot beverages which may be served up to 15 minutes before closing to the public.

Condition 4

Bottles and other consumables likely to make a noise on disposal are to be disposed of at reasonable times during the day no earlier than 08.00 and not after closing time so as not to cause a nuisance to neighbours.

Condition 5

That the Applicant or his delegate ensures the restaurant remains clear of litter emanating from the premises or from customers of the premises, (including for the avoidance of doubt cigarette butts), in the outdoor areas of the Phoenix Plaza adjacent to the Premises and to clean the area not less than once a day ensuring that such activity does not cause a nuisance to local residents. Furthermore, to provide, maintain and empty as required, fixed receptacles outside the restaurant for smoking litter and debris to discourage smokers litter.

Reasons for the imposition of the conditions:

The conditions are imposed for the prevention of public nuisance.

Appeals

If the Applicant or any person who made a relevant representation wishes to appeal against this Decision an appeal must be made to the North West Surrey Magistrates Court at Woking within 21 days of the date of receipt of this Notice.

Dated: 14 June 2007