

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	12 October 2010	Unclassified	LSC 39/011	

Report of Colin Perrins Head of Trading Standards and Commercial	Title Licensing Act 2003 Application for new Premises Licence for Halal PFC, 400 Hackney Road, London E2 7AP
Originating Officer: Kathy Driver Acting Principal Licensing Officer	Ward affected Bethnal Green North

1.0 Summary

Applicant: **Saydikur Rahman**
Name and Address of Premises: **Halal PFC**
400 Hackney Road

Licence sought: **Licensing Act 2003**
Late Night Refreshment

Objectors: **Metropolitan Police**
Planning
Environmental Health
Local Residents

2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Kathy Driver
020 7364 5171

3.0 **Background**

3.1 This is an application for a premises licence for Halal PFC, 400 Hackney Road, London E2 7AP.

3.2 A copy of the application is enclosed as **Appendix 1**.

3.3 Historically the premises has not been licensed, the premises first applied for a licence in January 2010 to open until 5am, effectively 24 hour opening. Representations were made by Police, Environmental Health, Planning and local residents at that time, Members decided to refuse the application. The premises have been under investigation for unlicensed late night refreshment.

3.4 The hours that have been applied for are as follows:-

The Provision of Late Night Refreshment:

Monday to Sunday until 03:00 hours

Hours premises is open to the public:

Monday to Sunday from 11:00 hours to 03:00 hours

3.5 A map showing the relevant premises is included as **Appendix 2**.

4.0 **Licensing Policy and Government Advice**

4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 7th January 2008.

4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

4.3 The Government Minister, the Secretary of State for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.

4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

- | | |
|-------------------------|--|
| The Metropolitan Police | (See Appendix 3) |
| Environmental Health | (See Appendix 4) |
| Planning Enforcement | (See Appendix 5) |
| Local Residents | (See Appendix 6 for list and Appendix 7- 12 for representations) |

5.2 All of the responsible authorities have been consulted about this application. They are as follows:

- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection

5.3 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

5.4 The objections cover allegations of:

- Anti social behaviour from patrons leaving the premises
- Acting as a magnet attracting the young who then engage in anti-social behaviour
- Disturbance from patrons leaving the premises on foot
- Disturbance from patrons leaving the premises by car
- Close proximity to residential properties

5.5 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.0 Licensing Officer Comments

6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State,

legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

6.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided for licensing authorities carrying out their functions.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.6).
Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.7).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.10)
- ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
- ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
- ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
- ❖ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.20)
- ❖ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).

6.3 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

6.4 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence

conditions when the circumstances in their view are not already adequately covered elsewhere.

- 6.5 The Government has advised that “In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives.” (2.38)
- 6.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In **Appendices 13-17** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.

7.0 **Legal Comments**

- 7.1 The Council’s legal officer will give advice at the hearing.

8.0 **Finance Comments**

- 8.1 There are no financial implications in this report.

9.0 **Appendices**

Appendix 1	A copy of the application
Appendix 2	Maps of the area
Appendix 3	Representations of Metropolitan Police
Appendix 4	Representations of Environmental Health
Appendix 5	Representations of Planning
Appendix 6	List of representations
Appendix 7- 12	Representations of Local residents
Appendix 13	Licensing Officer comments on antisocial behaviour from patrons leaving the premises.
Appendix 14	Licensing Officer comments on attraction of young who then engage in antisocial behaviour
Appendix 15	Licensing Officer comments on Access and Egress Problems
Appendix 16	Licensing Officer comments on Planning
Appendix 17	Licensing Policy relating to hours of trading