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LICENSING SUB COMMITTEE

7TH JULY 2014

APPLICATION TO VARY A PREMISES LICENCE -TURKUAZ RESTAURANT –

APPENDIX F – REPRESENTATION FROM LCC ENVIRONMENTAL PROTECTION
TEAM

New copy provided showing full text of the letter dated 4 June 2014

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Mr Kenan Karaaslan
8 Grasmere Court
Leeds
LS12 1LY

Environmental Protection Team
Leeds City Council
Millshaw Park Way
Leeds
LS11 0LS

Contact: Michael Ward
Tel: 0113 3951414
Fax: 0113 247 6282

Our reference: PREM/02920/006
4 June 2014

Dear Mr Karaaslan

Licensing Act 2003

Name of Premises: Turkuaz Restaurant

Address: 20 - 22 Harrogate Road, Rawdon, Leeds, LS19 6HJ

We refer to your licensing application for the above premises. We believe that your application does not give enough information about how you intend to meet an important aim of the licence, which is to prevent public nuisance. We therefore confirm that we are submitting a formal objection to your application.

You could meet this aim by agreeing to certain measures within your operating schedule that we suggest are reasonable and relevant to your application. The suggested measures are contained in part 1 of the enclosed document.

If you agree with the measures then please complete and sign part 2 of the enclosed form and return it to us as soon as possible. Once we receive the form we will take it that you wish the licensing authority to amend your operating schedule to include those measures as conditions on the licence.

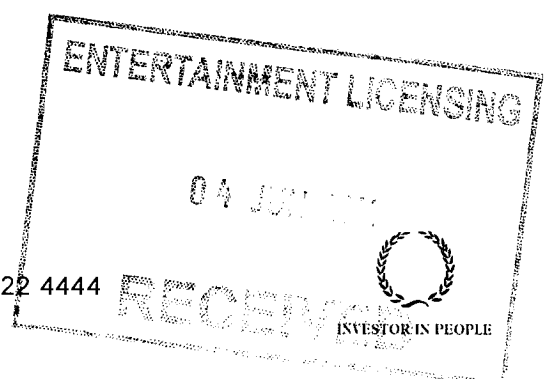
If you disagree with the suggested measures then please complete part 3 and return it to us as soon as possible. If you tell us that you do not agree to the suggested measures that matter will go to a formal hearing, where we will expand on the matters we outline in this letter by providing documented evidence. If you have any questions please do not hesitate to contact us.

If the opening hours you propose under this application are different to those on the current planning approval then you should also apply to Planning Services to vary the hours. If you operate without planning permission you may have not met the relevant planning condition. You can contact Planning Services by phoning the Development Enquiry Centre on 0113 222 4409.

Yours sincerely

Michael Ward
Senior Environmental Health Officer

Encs



PART 1

To be completed by the responsible authority

**Leeds City Council's Environmental Action Service
Proposed Controlled Measures under the Licensing Act 2003**

**Name of Premises: Turkuaz Restaurant
Address: 20 - 22 Harrogate Road, Rawdon, Leeds, LS19 6HJ**

We base our concerns on the following matters:

1. The potential for disturbance from odour arising from cooking and a kitchen extraction system.
2. The potential for noise disturbance associated with licensable activities to break out of the premises or pass through the fabric of the building to cause noise disturbance to nearby residential/business premises.
3. The potential for noise disturbance from the use of outside areas whilst smoking/drinking in the area/s provided/whilst arriving/leaving, including that from vehicles.

We base our concern on experience including that specifically associated with the premises and the area including data relating to complaints received from members of the public.

Having read the matters we describe below if you feel we should consider anything else please do not hesitate to contact us.

Description of the surrounding area

The area around the applicant premises consists of a mix of commercial and residential premises. This includes at least one flat above commercial premises 25 meters away on the other side of Harrogate Road and a hotel, with a residential flat that adjoins the applicant premises.

The area is situated close to a road junction where the Harrogate Road meets New Road Side and Micklefield Lane. The Junction is busy by day but can reasonably be expected to become less so as the evening progresses, where the background noise levels may also reasonably be expected to fall.

There are three other licenced premises in the close vicinity of the applicant premises. Two close many hours before the current and intended hours of opening in the application. The nearby Hotel offers opening hours that may be considered to set a precedent for the application but with due consideration to the concerns we express in this document.

The area 100M radius around the application site is not known for complaints. We have received two complaints concerning the applicant premises since 2011 that involve odour fumes and the kitchen extraction.

Description of the applicant venue and the application:

The applicant premises adjoin the hotel that also has a residential flat. It also faces at least one residential flat above the commercial premises on the opposite side of Harrogate Road (about 25M away).

The applicant premises is a single story building with a seating area available outside the frontage by the pavement / roadside.

The business website states that the business opens Tuesday – Saturday 11:00 – 23:00 and Sunday 10:00 – 23:00. These hours do not meet the current licensing hours or the planning consent. The business offers breakfast, lunch and an a la carte menu with alcohol.

The applicant wishes to alter the licensable hours for the provision of alcohol to 11:00–midnight each day from that currently operated, which is 08:00-22:00. The application also seeks to provide late night refreshment and recorded music for the same times. They also wish to extend the times by one hour, to 01:00 for Christmas and New Year.

The current licence has no conditions concerning the public nuisance objective. The planning consent (10/04934/FU) to vary the opening hours until 22:00 does have several relevant conditions in place. The applicant has stated within their operating schedule (part M of their application) that alcohol will only be sold within licenced times and the applicant points to the existing licensing conditions as how generally they may meet the four licensing objectives. Within part M(d) of their application they state that no alcohol will be sold to any person under the influence of alcohol or 18 years. The offered measures do not show how the applicant will meet the licensing objective, 'the prevention of public nuisance' in regard to noise, odour or other nuisance issues.

The onus is on the applicant to demonstrate such matters (Items 8.33 to 8.41 of the amended guidance issued under Section 182 of the Licensing Act 2003 – June 2013).

The existing planning conditions include (not all quoted):

- The hours of use of the inside of the café shall be 07:00 a.m. to 10:00 p.m. only. The external seating area shall only be used between 08:00 a.m. and 6:00 p.m. and shall not be used at any other time. (condition 3).
- Condition 5. The use of bollards to prevent parking outside may reduce the overall potential for noise from vehicles.
- Condition 6. The limit of the amount of covers (inside 30 and outside 6) may reduce the potential for noise.

Some of the planning conditions may not be wholly effective when considering prevention of public nuisance however:

- The applicant appears not to meet Condition 3 based on the opening hours they have advertised. Even if the business remains open until 23:00 the effect of a further extension until midnight and 01:00 on certain days appears untested and may reasonably be expected to cause complaints concerning noise.
- Condition 3 does not take account of smokers who are still likely to use the area directly outside the venue. This may cause noise issues especially during the later opening hours.
- Condition 4 restricts the use of the premises to that of a cafe within Use Class A3. The business refers to itself on its website as a café, bar and restaurant.
- Condition 5. Taxis, etc may still stop at the roadside to collect patrons and so noise from this source may still be a concern especially during the later hours.
- Condition 6. It should be noted that people will be outside for reasons other than to eat during the opening times. For example smokers.

Complaint and other history specific to the applicant premises

Of the two complaints we have received concerning odour, one is current and the subject of an ongoing investigation. The complainant is the adjoining hotel and it is alleged the odour affects people whilst they wait to be seated at the hotel restaurant. The odour is alleged to include smoke

due to an inadequate extraction system. We consider that the changed hours may not exacerbate the complaint but in any event we must acknowledge that the allegation exists for the purposes of this application. The other complaint in 2011 effected the flat above the applicant premises at the adjoining hotel and was alleged to fill the residence with cooking odours and prevented window/s from being opened.

We have received no complaints relating to noise concerning the applicant premises. As we have no evidence to the contrary we have assumed for the purposes of this application that the opening hours operated go on until 23:00. We consider that there will be greater likelihood for noise disturbance should the opening hours be extended to meet times that local residents may retire to sleep. For example from voices, music break out through the front door whilst in use, vehicles, etc.

Conclusions reached

We consider that the premises has reached its reasonable operating time at 22:00 and that any extension of hours could result in disturbance due to noise whilst people nearby are trying to sleep. We are also currently investigating an alleged odour nuisance.

Having considered the application under the Licensing Act 2003 for the above premises, we consider that the following measures are relevant and reasonable in order to meet the following aim of the licence:

- Prevention of public nuisance

Noise and Vibration

1. Licensable activities shall be conducted and the facilities for licensed activities shall be designed and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.
2. Noise from a licensable activity at the premises will not be audible at the nearest noise sensitive premises, which are at Peasehill House Hotel and the adjoining residential Flat and residential accommodation above commercial premises opposite the premises subject to this licence on Harrogate Road.
3. There shall be no external loudspeakers.
4. Bottles will not be placed in any external receptacle between 11 pm and 7 am the following day to minimise noise disturbance to neighbouring properties.
5. Noise from plant or machinery shall not be audible at the nearest noise sensitive premises during the operation of the plant or machinery. Plant and machinery shall be regularly serviced and maintained to meet this level.
6. The PLH/DPS will ensure patrons use external areas in a manner which does not cause disturbance to nearby residents and business in the vicinity.
7. Seating and tables made available for patrons to use before the outside seating area is closed at 18:00, will be suitably withdrawn and not be available for use by patrons after 18:00.
8. The activities of persons using the external areas to smoke shall be monitored after 11 pm and they shall be reminded to have regard to the needs of local residents and to refrain from shouting and anti social behaviour etc when necessary.

9. The premises shall be operated so as to prevent the emission of unwanted odours to minimise disturbance to neighbouring properties.

Transport / Pedestrian Movement

10. Clear and legible notices will be displayed at exits and other circulatory areas requesting patrons to leave the premises quietly having regard to the needs of local residents, in particular emphasising the need to refrain from shouting, slamming car doors, sounding horns and loud use of vehicle stereos and anti-social behaviour.
11. The designated premises supervisor and any door supervisors will monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
12. A facility will be provided for customers to order hackney taxis/private hire vehicles. Telephone numbers for taxi firms/private hire companies will be displayed in a prominent position on the premises.
13. The premises supervisor will liaise with any local hackney taxis/private hire vehicle company whose details they provide in order to meet condition 11 of this licence in order to request that they operate with due regard to the needs of local residents, in particular emphasising the need to refrain slamming car doors, sounding horns and loud use of vehicle stereos.

Signed:

Dated:

PART 2

To be completed by the applicant or applicant's representative

Consent for Proposed Controlled Measures under the Licensing Act 2003

Name of Premises: Turkuaz Restaurant

Address: 20 - 22 Harrogate Road, Rawdon, Leeds, LS19 6HJ

I / We

confirm that I am / we are the applicant / the applicant's representative (*delete as appropriate*) for the premises as stated above.

In signing this document I / we agree with the measures proposed by Leeds City Council's Environmental Action Service, and we provide our consent for the licensing authority to incorporate the said measures into the operating schedule for the stated premises.

Signed:

Dated:

Please return this document to:

Environmental Protection Team
Leeds City Council
Millshaw Park Way
Leeds
LS11 0LS