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Your reference:
Our reference: A61/hb/spicebox

21st November 2006

APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT THE SPICE BOX, 152 HIGH STREET, BOSTON SPA, WETHERBY, LS23 6BW

On 6th November 2006 the Licensing Sub Committee heard an application by Mr Khaled Al-Usta, 52 Newport View, Leeds, LS6 3BX for the grant of a premises licence at the above premises.

The applicant sought the following:

Supply of alcohol and late night refreshment:

Monday to Sunday 12:00 hours until 01:00 hours

Recorded music:

Monday to Sunday 12:00 hours until 00:00 hours

Hours premises to be open to the public:

Monday to Sunday 12:00 hours until 01:30 hours

This letter represents the formal decision of the Sub Committee in respect of the application.

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

The Sub Committee then decided that the procedure for the hearing would not be varied. The Sub Committee also considered if the public should be excluded from any parts of the hearing.



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The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report and the written representations received from local residents (as detailed at appendix A,)

The Sub Committee permitted each party 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

The Hearing

The Sub Committee considered the verbal submissions of the applicant Mr Al-Usta, which addressed the application and the comments of the interested parties.

In determining the application the Sub Committee took into account written submissions from the above responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the Parties prior to the hearing.

After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives.

In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 7 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application.

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

Reasons for the decision

The Sub Committee noted that the following agreement had been reached between the applicant and West Yorkshire Police regarding their suggested conditions:

- That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his / her meal;
- That suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the restaurant.

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These conditions would be included in the applicant's Operating Schedule, and eventually the licence, should the application be granted.

The Sub Committee noted that the following agreement had been reached between the applicant and Environmental Health regarding their suggested conditions:

- That opening hours be restricted to 12:00 hours until 00:00 hours, Monday to Sunday;
- Ensure that no nuisance is caused by noise or vibration emanating from the premises;
- Noise from the premises shall be inaudible at the nearest noise sensitive premises (i) after 23:00 hours and (ii) at any time when entertainment, as defined by paragraph 2 of schedule 1 of the Licensing Act 2003, takes place on more than 30 occasions per year;
- Ensure that all licensable activities are conducted 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;
- No bottles shall be placed in the external receptacle after 23:00 hours to minimise noise disturbance to adjoining properties;
- Ensure that the rating level of noise from plant and machinery is no higher than 5dB below the lowest background level at the most affected noise sensitive premises during the operation of the plant. Plant and machinery shall be regularly serviced and maintained to continue to meet the rating level;
- Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises 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 vehicle stereos and anti-social behaviour. The activity of persons leaving the premises shall be monitored and they shall be reminded to leave quietly where necessary;
- A facility shall be provided for customers to order taxis and telephone numbers for taxi firms shall be displayed in a prominent location. Where possible there should be a liaison with a local taxi firm to ensure a ready supply of transport and thereby reduce disturbance. To prevent disturbance a waiting area within the premises shall be provided;
- Ensure that lighting provided for the purpose of customer and staff safety, for the security of the premises, and lighting associated with activities of entertainment and advertising is of such an intensity, suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining properties;
- Ensure that the premises are operated so as to prevent the emission of odours which are a nuisance at nearby premises or to persons in the immediate area;
- Ensure that business waste is stored inside closed containers awaiting collection; that litter arising from people using the premises is cleared away regularly; that promotional materials such as flyers do not create litter; and that other street advertising is carried out lawfully.

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These conditions would be included in the applicant's Operating Schedule, and eventually the licence, should the application be granted.

The Sub Committee noted that the following agreement had been reached between the applicant and the Health and Safety Team regarding their suggested conditions:

- Before opening to the public, checks will be undertaken to ensure all access to the premises are clear for emergency vehicles. Regular checks will be undertaken when the premises is open;
- Written records of all accidents and safety incidents involving members of the public will be kept. These will be made available at the request of an authorised officer;
- A suitably trained and competent person must ensure regular safety checks of the premises including decorative and functional fixtures, floor surfaces and equipment (including electrical appliances) to which the public may come into contact are undertaken. Records of these safety checks must be kept and made available for inspection by an authorised officer;
- Electrical installations will be inspected on a periodic basis (at least every 3 years or at a frequency specified in writing) by a suitably qualified and competent person. If used, any temporary electrical wiring and distributions will also be inspected. Inspection records / certificates will be kept. These will be made available at the request of an authorised officer;
- A written spillage policy will be kept to ensure spillages are dealt with in a timely and safe manner;
- Adequate and appropriate First Aid equipment and materials will be available on the premises.

These conditions would be included in the applicant's Operating Schedule, and eventually the licence, should the application be granted.

The Sub Committee began by considering the verbal representations made by Mr Chappell, a local resident who had objected to the application. Mr Chappell began by drawing Members attention to the letter of representation he had submitted in objection, which outlined his key concerns. Although the restaurant had been a successful business for many years, Mr Chappell believed that it had recently suffered a downturn, hence the application for extended hours. Mr Chappell stated that he was at a loss to see how increasing the hours allowed for alcohol would improve the fortunes of the restaurant. Local people were concerned that this alteration would attract binge-drinkers to the area.

Mr Chappell explained that he felt no animosity towards the applicant about the current operation of the premises but he did have concerns surrounding the outside appearance of the premises, the disposal of refuse and parking problems. Mr Chappell concluded by stating that he would like to see a successful restaurant in the area, but did object to the premises turning into a wine bar.

The Sub Committee then turned to consider the representation made by Mr Al-Usta in support of the application. Mr Al-Usta began by assuring Members that he had no intention of operating the restaurant as a wine bar, hence the condition agreed with West Yorkshire Police that alcohol only be served when ordering a table meal. The Sub Committee heard that a letter had been sent from the local Ward Councillors to local residents regarding the

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application. Mr Al-Usta stated that he believed that this letter had been confusing for local people, as many were under the misapprehension that new premises were opening on the site. This was not the case, Mr Al-Usta reiterated.

Responding to a point made by Mr Chappell, Mr Al-Usta informed the meeting that he had recently made investment in the premises to improve its appearance. As a listed building this was not always easy, but Mr Al-Usta acknowledged that it was much needed. The upper floors of the restaurant had been converted to accommodation to allow members of staff to live above the restaurant, although there was no intention to turn the premises into Bed & Breakfast, Members were assured. It was this recent work that had caused there to be extra refuse at the premises, Mr Al-Usta stated. For all food waste, Biffa bins were used.

The Sub Committee heard that profits were currently down at the restaurant and it was Mr Al-Usta's aim to introduce fine dining to tackle this. The additional hours were only ever to be used by diners not drinkers, he continued. The premises attracted a respectable clientele and it was not Mr Al-Usta's intention to alter this as it would be to the detriment of the local community, he concluded.

The decision

The Sub Committee had regard to the verbal and written submissions made by local residents opposed to the application. Members also carefully considered the representations made by the applicant in support of the application. The Sub Committee noted that the applicant had made several agreements with the various responsible authorities, including conditions to limit the requested hours and that alcohol only ever be served as ancillary to a table meal. However, given the concerns of local residents regarding potential noise nuisance, the Sub Committee resolved to grant the following amended hours:

Sunday to Thursday	12:00 hours until 23:00 hours (premises to close 30 minutes thereafter.)
Friday to Saturday	12:00 hours until 00:00 hours (premises to close 30 minutes thereafter.)

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:
Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £75.00.

Yours faithfully,

Hannah Bailey
Clerk to the Licensing Sub Committee

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Appendix A
R Byfield
R McHenry
A Grimes
A Chappell
G Cottam
G Cooper
P Cooper
V McNicholas
N Ellerby
M Ragaliauskas
R Curtis
E Stevenson
Mr & Mrs Holliday
J Hall
M Snell
R Hirst
A Richardson
3 further objectors who wished to remain anonymous