

WELWYN HATFIELD COUNCIL
LICENSING SUB COMMITTEE
REPORT OF THE LICENSING OFFICER
REPORT TO LICENSING SUB COMMITTEE

HATFIELD CENTRALWARD

GRANT OF A PREMISES LICENCE FOR POINT ONE AFRICAN RESTAURANT 11-13 THE ARCADE HATFIELD AL100JY

1 Summary of the Application

Premises Licence Holder(s)
CHIDOZIE ONWUMECHILI
Address of Premises
POINT ONE AFRICAN RESTAURANT 11-13 THE ARCADE HATFIELD AL10 0JY

This committee report contains an application for the grant of a licence for Point One African Restaurant. A copy of the premises plan is shown in Appendix A.

The application is contained in Appendix B to this report

Summary of Application Received

An application has been received from the Applicant under the Licensing Act 2003 for a licence to, sell alcohol, have late night refreshment and recorded music. The hours applied for are 13.00- 23.30 Sunday-Wednesday and 13.00-03.00 Thursday to Saturday. It is a two unit restaurant situated in the town centre previously a coffee shop and then Incognito African restaurant prior to this application.

Schedule of Hours at Appendix C

1.1 Unresolved representations

There are two representations from responsible authorities.

One from the Police who feel that the application undermines the licensing objectives of Preventing Crime and Disorder and Public Safety. They are not satisfied that the operating schedule demonstrates control measures that will support the licensing objectives above. The proposed opening times are not appropriate for the use of a premises as a restaurant or the support of the licensing objectives. Their full concerns will be elaborated upon at the hearing and the main points are covered in their representation at Appendix D.

The second representation was from Environmental Health due to concerns relating to Public nuisance. This included the unsociable opening hours until 03.00, previous problems of noise disturbance under the previous owner. The full representation is at Appendix E.

There has been no response by the applicant to either of these representations to date.

Resolved representations

The representations have not been successfully mediated prior to this hearing.

No observations have been received from any other responsible authority or any other person regarding this application.

2 Background

The application submitted is for the grant of a premise licence by Chidozie Onwumechili for 11-13 The Arcade Hatfield. Mr Onwumechili applied for a premises licence originally in October 2019 but due to irregularities in the advertising requirement this application had to be rejected. A further application was made on 11th November 2019 which is the application before you. Mr Onwumechili was also granted his personal licence in September 2019 which means he is also able to be the Designated Premises Supervisor for this premises and therefore has day to day responsibility.

The application applied for is for a licence to run from grant until 11th November 2026.

3 Explanation

3.1 The committee is obliged to determine this application for the grant of a premises licence for 11-13 The Arcade Hatfield. In determining the application the subcommittee must take account of the councils duty to promote the statutory licensing objectives namely:

- A) The prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

4 Licensing Policy

4.1 The sub committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

Guidance 9.37

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on

their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

Guidance 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

Guidance 9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Guidance 9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Guidance 10.10

The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Guidance 10.13

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

- 4.2 The sub committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes

Licensing Hours

- 27.1 Licensing hours should not inhibit the development of a thriving safe night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists. We will expect applicants to consider whether conditions are necessary for applications in areas which have denser residential accommodation.
- 27.2 We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.
- 27.3 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.
- 27.6 The Council operates an out of hours noise service based on the assessment of need. The nature and number of complaints are recorded and may be used when compiling reports for our licensing committee and sub committees.
- 27.7 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

5 Recommendation

- 5.1 The committee must have regard to the application made and the evidence it hears. The sub-committee is therefore asked to determine the application.
- 5.2 In determining the application, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- a) To grant the licence as proposed.

- b) To modify the conditions of the licence by altering or omitting or adding to them (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
- c) To exclude any of the licensable activities to which the application relates.
- d) To refuse to specify a person in the licence as the designated premises supervisor.
- b) To reject the whole of the application or part of it.

7 **Appendices**

- a. Plan
- b. Premises Licence Application,
- c. Schedule of times and activities
- d. Police Representation
- e. Environmental Health representation

Kate Payne, Licensing Team Leader
Date –27th November 2019