

MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
8 June 2009 (2.35pm – 3.50pm)

Present:**COUNCILLORS:****Conservative**

Georgina Galpin (Chairman)

Labour

Tom Binding

Residents'

John Mylod

Mr F White, Director of Estates, representing the applicant (the College) and Mr B Young, the objector were present. Also present was the LB Havering Licensing Officer, Mr Paul Campbell. The legal advisor and the clerk to the Sub-Committee were also in attendance. Three members of the public were also present.

The Chairman advised those present of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

There were no declarations of interest.

PREMISES

Havering College of Further & Higher Education
 Ardleigh Green Road
 Hornchurch
 RM11 2LL

DETAILS OF APPLICATION

Application for a premises licence under the Licensing Act 2003 ("the Act").

APPLICANT

Havering College of Further & Higher Education
 Ardleigh Green Road
 Hornchurch
 RM11 2LL

1. Details of requested licensable activities**Provision of Regulated Entertainment**

Plays, Films, Live Music, Recorded Music, Performance of Dance, Things of a similar description to Music and Dance

Provision of Entertainment Facilities for

Making Music, Dancing and entertainment of a similar description

Day	Start	Finish
Monday to Saturday	09:00hrs	23:00hrs

There were no seasonal variations or non-standard timings applied for with this application

2. Promotion of the Licensing Objectives

The applicant has completed an operating schedule which forms part of his application, that he will take the steps set down to promote the four licensing objectives:

3. Details of Representations

Representations Objecting to the Application from “Interested Parties”

There was one representation from a resident.

Responsible Authorities

Chief Officer of Metropolitan Police (“the Police”): None

London Fire & Emergency Planning Authority (“LFEPA”): None.

Health & Safety Enforcing Authority: None.

Planning Control & Enforcement: None.

Public Health: None

Children & Families Service: None

Trading Standards Service: None

The Magistrates Court: None

4. Determination of Application

The Licensing Officer presented his case. He drew to the Sub-Committee’s attention the fact that he had had extensive discussions with a representative of the college to persuade it to apply for a licence instead of continuing to apply for Temporary Event Notices (TENs) on an ad-hoc basis as this would be beneficial to the college from the perspective of administration and also cost.

He explained that the college was anxious to reassure neighbouring residents that it was not applying for anything more than it asked for on its TENs. These events were principally arranged to support courses, provided for the college, in performing arts and as such, were assessable and were part of the students’ qualifications. He added that the college did host a few corporate events, but they were few in number and had hitherto not attracted negative comment from residents nearby. There were charges made for some of these events, but any money received was used to purchase materials for the next production. There was no profit being made.

The LO then informed the Sub-Committee that the college had properly applied for the licence and had correctly advertised it in the local paper as well as by notices on the premises – which were correctly displayed throughout the notice period and verified by himself from time to time.

In conclusion, the LO stated that the “premises” in this instance referred to the whole site, which consisted of a number of buildings set within its own grounds, the perimeter of which formed the shared boundary with a number of residential properties, largely within the Russetts and Birch Crescent.

At the conclusion of his evidence, the LO was asked questions by members of the Sub-Committee concerning the purpose of the application and whether there had been any complaints or any planning restrictions – notably on opening times. On being assured that there was nothing on file from the Environmental Health Services, nor were there any planning restrictions and that the purpose was administrative and that there was no profit motive in the application, the Chairman invited Mr Young, the sole objector, to present his case.

Mr Young reiterated the concerns he had expressed in his letter of objection, namely that the granting of a licence – in its current form – would not be the same as the previous ad-hoc request for TENs which could be objected to as they arose. He wondered why the college needed to have live and recorded music outdoors, or why it should need a licence to perform to 11pm from Monday to Saturday, or why they needed Bank Holidays. He informed the Sub-Committee that there was genuine concern about the outdoor element of the application, especially as there was no indication of any intention to limit the volume of any performance and added that once the college had its licence, it would be giving it carte-blanche to allow rock concerts, which would be tantamount to residents having a “band in their back gardens” and this would be an infringement of their civil rights.

In addition he claimed that neighbouring properties – principally Birch Crescent, which he felt ought to be informed by the Council – had received no notification at all and he said that he had only seen the advert, by chance. In addition, he stated that the college may well have advertised the application on the property, but it had not done so in a manner that he thought was open – there were no notices in Birch Crescent and none of his neighbours appeared to be aware of the application. He claimed that if they had known, there would be a stronger representation against the granting of the licence.

The Chairman then invited Mr White to put the case for the college. The Sub-Committee was informed that the application had been made at the suggestion of and with the advice of Havering Council’s Licensing Service. The college had, for many years, provided the facilities for those on its Performing Arts courses to complete their curriculum requirements by producing performances. In the past, this had been catered for by the application for individual TENs – which involved the college administration in repeated work and cost the college every time. The licence was to remove the need to administer an application and to save the college money.

Mr White explained that entrance fees were charged for performances, but this income was returned to the department in order to fund future student work. The college made no profit. In addition to the work of students, the college provided facilities for a number of other events. Apart from the summer Arts Festival, the college hosted award ceremonies for local and national charities, sports organisations and even a national disability organisation. He accepted that there were a few events that would be held outside in the grounds, but assured the Sub-Committee that the majority were indoor events and that the venues where they were held were properly sound-proofed. He added that the college had absolutely no intention to do anything different with the licence that it had been doing with the TENs.

The Chairman asked about music outdoors, to which Mr White replied that in the past the college had facilitated music in the grounds and that, in the event of the Sub-Committee refusing the licence, the college would continue to apply for TENs. The Chairman then asked why the college needed to have a licence to 11pm or Saturdays and Bank Holidays. Mr White explained that the college was not a school and did not keep school "terms". He stated that the college closed at 11pm and was open on Saturdays. With respect to Bank Holidays, he pointed out that some of the college's popular events were held then – although the St George's Day event was not a Bank Holiday as such. He further stated that the productions by students, as part of their course, would be during "term" time as they were assessed and that was how the exam boards worked.

The Chairman asked about the request for the provision for making music. Mr White replied that many productions required music, either recorded or live and this was to ensure that this requirement could continue.

Councillor Binding asked how many external events took place that would require this facility and was informed there would only be two or three. He asked whether it would make sense to limit a licence to this number and the Licensing Officer replied that it would be better for the college to continue to apply for TENs

Mr Young interjected at this point and reminded the Sub-Committee of his earlier claim that the granting of a licence as it stood was tantamount to giving the college carte-blanc to hold outdoor events as often as it wished to, that there were no controls and the end result would be unfair to the neighbourhood.

The Chairman replied that the Sub-Committee would give careful consideration to the application and would seek to balance the needs of both sides. She asked the LO how many letters had been sent out and was informed that 63 letters of notification had been sent in a 50 metre radius and only one response had been received. This answer was challenged by Mr Young and others who asserted that those who stood to suffer most (residents living in Birch Crescent backing onto the college) for example, had received no notification whatsoever and he felt that the college had been under-hand and deceitful. He also claimed that the Council had colluded in this and was deliberately depriving residents of their rights. He had personally checked with five neighbours and all were completely unaware of the application. He added that had they known, the opposition would have been significantly higher.

The Chairman asked the LO why residents living so close to the college perimeter had not been notified. Was it in the legislation? The LO replied that the Licensing Act said nothing about notification other than the advert in the press and a notice on the premises. Notification by letter was a local (Havering) policy and was followed as a matter of courtesy, not right. As long as an applicant had displayed a notice on his property and had correctly advertised his application, there was no imperative to do any more. He added that the granting of a licence was dependent on the applicant showing that the four licensing objectives had been properly addressed. In this case, the college had properly advertised its application and shown it had addressed the licensing objectives to his (the Licensing Officer's) satisfaction. The matter now rested with the Sub-Committee.

The Chairman announced that the Sub-Committee would retire to consider the matter and Mr Young made the point that he was only objecting to the outside element of the application.

Decision

Consequent upon the hearing held on 8 June 2009, the Sub-Committee's decision regarding the application for a Premises Licence for Havering College of Further & Higher Education is as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

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

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Agreed Facts	
<u>Facts/Issues</u>	
Issue 1	Whether the granting of the premises licence would undermine the prevention of public nuisance objective.
Decision	
Issue 1	<p>Prevention of public nuisance</p> <p>The Licensing Officer explained that the application came about because he had approached the College authorities and suggested that it would be administratively easier – as well as less costly – for the College to stop applying for temporary event notices (TENs) and place it all under a single licence.</p> <p>The Sub-Committee noted that the representation from the sole objector placed emphasis on the <i>potential</i> the licence – as requested – for future abuse by giving “carte blanche” to the College to hold external events without benefit of any control over the volume of music at the end of neighbouring gardens.</p> <p>The Sub-Committee was also aware that there was some doubt as to whether residents had been fully apprised of the application.</p> <p>In addition, the Sub-Committee noted the objection to the granting of a licence which would permit the College to hold events to 11pm.</p> <p>In conclusion, the objection raised were speculative in</p>

	<p>nature as no evidence had been provided to demonstrate that the College had shown any previous disregard for public concern when it organised events and applied for TENs on an ad-hoc basis.</p> <p>The College argued that the only use of the licence would be as part of the performing arts curriculum – along with one or two other events, such as the Arts Festival, and the provision of facilities for organisations such as a national disability organisation, some charities and award ceremonies. The holding of the St George’s Day celebration was one which the interested party agreed was well organised and presented no problems.</p> <p>The Sub-Committee closely questioned the Licensing Officer, the Applicant and the Objector.</p>
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Having considered the oral and written submissions on behalf of the applicant, objector and the licensing officer, the Sub-Committee **granted** the application, with the following conditions:

1. The finishing times for any event (whether internal or external) would be **10.00pm**.
2. The premises would be vacated by **11.00pm** and the car-park gates locked.
3. The College was limited to a maximum of TEN outside events per year. (events which include live music, recorded music and other excessive noise) but there are no restrictions to the number of indoor events which may be held.
4. The College would leaflet all properties around the perimeter of the College and provide the contact details of a named person in case of need.
5. External events needed to be advertised by the college in a manner which could be easily seen. Possibly a banner at the main entrance.
6. Where outside events were amplified, all amplification equipment to be arranged in such a manner as to direct sound away from near-by properties and towards the centre of the College grounds.

The Sub-Committee stated that in arriving at this decision, it took into consideration the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council’s Licensing Policy.

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CHAIRMAN

Date: 2009