

**MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
4 January 2010 (10.30am – 11.30am)**

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

Georgina Galpin (Chairman)
Pam Light

Residents'

Linda Van den Hende

Mr Yiannis Christou Tsiorbatzudis the Applicant, Mr Paul Gurnham his legal representative, Mr Harpal Singh Brar, the Designated Premises Supervisor, PC D Leonard representing the Metropolitan Police were present. The LB Havering Licensing Officer, Mr Paul Jones, the legal advisor and the clerk to the Sub-Committee were also in attendance. A member of the press and an observer 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

Crest Wines
8 Elmer Gardens
Rainham
RM13 7BS

DETAILS OF APPLICATION

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

APPLICANT

Mr Yiannis Christou Tsiorbatzudis
28 Victoria Crescent
Chelmsford
CM1 1QF

1. Details of requested licensable activities

Hours premises open to the public:		
Day	Start	Finish
Monday to Sunday	08:30hrs	23:00hrs

Supply of alcohol (off-sales only):		
Day	Start	Finish
Monday to Sunday	08:30hrs	23:00hrs

Seasonal variations and : Non-standard timings

There were no seasonal variations and no non-standard timings:

2. Promotion of the Licensing Objectives

The applicant had completed an operating schedule which formed part of the application, that he would take the steps set down to promote the four licensing objectives:

3. Comments and observations on the application

The applicant acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement appeared in the Romford Recorder on 27 November 2009.

4. Summary and representations

There was 1 valid representation against this application from an interested party.

The interested party's representations fell mainly under the heading of the prevention of public nuisance.

There was one representation against this application from a responsible authority: the Metropolitan Police which stated that it was considered that the applicant had not satisfactorily addressed the steps he intended to take to promote the four licensing objectives

There were no representations from the following responsible authorities:

Public Health
The London Fire and Emergency Planning Authority
The Health & Safety Enforcing Authority
The Trading Standards Service
Planning Control & Enforcement
Children & Families Service

5. Details of representations

Valid representations could only address the following licensing objectives:

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

6. Determination of Application

The Licensing Officer presented his report and concluded that the objections received in this instance related to concerns from a single resident about public nuisance issues.

The Police representative informed the Sub-Committee that his concerns were that the Applicant had not satisfied him that any of the licensing objectives had been satisfactorily addressed. He added that he had received an e-mail on behalf of the Applicant accepting the recommendations in his submission. He was concerned about the nature of the venue and whether additional staff were to be employed on the premises and if so, what sort of training they would receive. He had consulted with the local Safer Neighbourhood Teams (SNTs) and they shared similar concerns as there was another off-licence in close proximity.

He stated that he would need to be sure that there was adequate CCTV cover and that the Applicant accepted and applied the "Challenge 21" code of practice. He added that although Mr Tsiorbatzudis had experience in retail he lived a long way from the premises and did not, as yet, have a personal licence. Because of the nature of the business, the Police would prefer to have a Personal Licence holder on the premises at times when any alcohol sale was being transacted. With the requested hours of trading, this might prove rather difficult for one person.

As the one interested party was not present at the hearing, the Chairman then invited statements from the Applicant's legal representative.

The Applicant's case:

The Applicant's legal representative spoke to confirm that his client had accepted the recommendations made by the Police in full and explained that although his client had 8 CCTV cameras and a complete system ready to be installed, it was dependent on his obtaining the premises licence. He enlarged upon the intentions of his client, that he had three years trading experience and that Mr Brar (the Designated Premises Supervisor) had 17 years experience. In response to a question from the Chairman, he confirmed that Mr Brar did live in North London and Mr Brar himself confirmed that he had the responsibility for another premises in Doddinghurst.

With regard to the long hours, Mr Tsiorbatzudis informed the Sub-Committee that it was unlikely that the premises would be open until around mid-day, a bit earlier at week-ends. He himself would be living in the flat above the shop and although there was an intention to employ someone, that person would not be making sales, but would be concerned with stock. He added that they would receive training, but would not be expected to have a personal licence.

The Police representative observed that Mr Tsiorbatzudis was still without a Personal Licence, and received assurances that he had passed his test and had applied for the licence. He would have a Personal Licence by the time the property had been purchased and was ready to commence trading.

At the conclusion of the Applicant's case, the Chairman enquired whether there were any schools nearby. In response, the Sub-Committee was informed that Whybridge Infant School and Brittons Senior School were within close proximity of the premises. It was also confirmed by the Applicant that the premises was to trade as a specialist off-licence, not as a convenience store which also sold alcohol.

The Chairman finally enquired about security at the premises, noting that there were three doors: one into the shop, via a lobby but two serving the store-room. The Applicant confirmed that both doors to the store were metal and further protected by an iron fence. They were very secure. It was also accepted that the Applicant would work with the Police when considering where to place the CCTV cameras.

7. Decision

Decision

Consequent upon the hearing held on 4 January 2010, the Sub-Committee's decision regarding the application for a Premises Licence for Crest Wines, 8 Elmer Gardens, Rainham, was as set out below, for the reasons shown:

Having considered the oral and written submissions on behalf of the applicant and his legal representative, the written submission of the interested party, Police and the licensing officer, the Sub-Committee **granted** the application with variation as set out below.

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	<p>Whether the granting of the premises licence would undermine the prevention of public nuisance objective. Raised by interested parties and by the police:</p> <ul style="list-style-type: none"> • Concerns that staff training might not be adequate – although there was no evidence to demonstrate that this was likely to be the case.

	<ul style="list-style-type: none"> Concerns expressed by an interested party living near-by that the granting of a licence would increase the likelihood of public nuisance (noise nuisance, increased litter, anti-social behaviour were cited).
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Issue 2	<p>Whether the granting of the premises licence would undermine the protection of children from harm objective</p> <p>Raised by the interested party and the police:</p> <ul style="list-style-type: none"> As the venue was specifically to sell alcohol this would provide a further outlet for teenagers to exploit (whether or not they were under-age) as there was another outlet nearby. There were also schools in close proximity (one being a senior school). The police also expressed concerns about the exposure of children and young people to alcohol, although the police representative confirmed that Mr Tsiorbatzudis had agreed to adopt Challenge 21. The police also expressed concerns about the adequacy of training which would be provided to staff and whether a Personal Licence holder would be on the premises to supervise the sale of alcohol.
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Issue 3	<p>Whether the granting of the premises licence would undermine the crime and disorder objective</p> <p>Raised by the police:</p> <ul style="list-style-type: none"> Because the premises was located within a predominantly residential area, the presence of alcohol could be seen as a potential target for criminal activity. This being a major concern, the police wished to ensure that the property was adequately protected by CCTV cover.
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Decision	
Issues 1 - 3	<p>Prevention of public nuisance, the protection of children from harm and crime and disorder</p> <p>The Sub-Committee was persuaded by the arguments presented in chief by the representative of the Police, that the granting of the licence as applied for would be detrimental to the maintaining of these licensing objectives. It accordingly granted variations to the license and applied conditions as set out below.</p>

Hours premises open to the public:		
Day	Start	Finish
Monday to Sunday	10:00hrs	23:00hrs

The following licensable activity is permitted within the following hours:

Supply of alcohol (off-sales only):		
Day	Start	Finish
Monday to Sunday	10:00hrs	23:00hrs

The underlying rationale for this decision was that the police had expressed concerns about the lack of detail provided by the Applicant as to how he intended to ensure that the property was adequately protected; that staff were adequately trained and that a Personal Licence holder would be available during the time alcohol was being sold. The premises was situated within a predominantly residential area with flats above the shop units in the parade and within close proximity to a large senior school.

When asked about the length of time the premises was to be open daily, the applicant and the Designated Premises Supervisor asserted that it was unlikely that the premises would be open until around midday and possibly a bit earlier at the weekend and that the sale of alcohol was the principal element of trade. It therefore appeared reasonable and proportionate to the Sub-Committee to amend the opening times for the sale of alcohol to 10am (at which time children would be in school) and to keep it at 10am at the weekend thereby addressing the protection of children from harm objective and contributing to combating anti-social behaviour in the area.

The Sub-Committee was pleased to note that the applicant, was intending to live above the premises and that he had applied for a personal license. It was also pleased to note that he had agreed not to engage in irresponsible alcohol promotions, to have clear signs within the premises, to operate Challenge 21, to work with the police concerning the positioning and operation of CCTV and to seek advice and training assistance from the Havering Drug and Alcohol Abuse Team (DAAT).

Conditions to be added to the licence were:

MANDATORY CONDITIONS

It is a requirement of the 2003 Act that certain mandatory conditions must be included on Premises Licences where the licence authorises the sale of alcohol, authorises the exhibition of films or where there is a condition requiring the use of security staff.

Section 19 Licensing Act 2003, Mandatory conditions: where the licence authorises the sale of alcohol

- M1 No supply of alcohol may be made under the Premises Licence;
- (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
 - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
- M2 Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

NON-MANDATORY CONDITIONS

CD1 All staff shall be suitably trained for their job function for the premise. The training shall be written into a programme, ongoing and under constant review, and must be available to a relevant Responsible Authority when called upon.

CCTV

CD15 A properly specified and fully operational CCTV system shall be installed or the existing system maintained to a satisfactory standard. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises. All other areas of risk identified in the Operational Requirement shall have coverage appropriate to the risk.

CD16 The installation or upgrading of any CCTV system shall comply with current best practice. In addition the documentation listed below shall be included in a 'System File' which should be readily available for inspection by the relevant authority;

- Site plan showing position of cameras and their field of view.
- Code of Practice.
- Performance specification e.g. storage capacity, image file size, IPS for each camera and purpose of each camera position
- Operational requirement.
- Incident log.
- Maintenance records including weekly visual checks.

CD17 To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.

CD18 The CCTV system shall incorporate a recording facility and all recordings shall be securely stored for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. For premises using a video recording system, the cassette tapes shall be used on no more than 12 occasions to maintain the quality of the recorded image.

CD19 The positions of all CCTV cameras shall be clearly shown on a set of plans which should form part of the 'System File'. Any alteration to the system should only be carried out after

consultation with and written approval of Havering Police and the Licensing Authority.

The CCTV system shall be fully operational before the premises may open for licensable activities.

The Sub-Committee was pleased to accept the applicant’s assurance that Police advice and assistance would be sought and that the CCTV system would comply to their recommendation.

CDGPG3 Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

Off sales

CDGPG11 All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 21 years and who is seeking to purchase alcohol. Such credible evidence, which shall include a photograph of the customer, will be a passport or photographic driving licence.

CDGPG12 All occasions when persons have been refused service shall be recorded in writing and kept at the premises for six months.

CDGPG13 Prominent, clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved and that Challenge 21 be adopted.

No sale of alcohol shall take place when there is no personal licence holder on the premises.

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CHAIRMAN

Date: 2009