

**MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE**  
**Havering Town Hall, Main Road, Romford**  
**12 August 2005 (10.30am – 12.30pm)**

**Present:**

**COUNCILLORS:**

|                           |  |
|---------------------------|--|
| <b>Conservative Group</b> | Peter Gardner (in the Chair)<br>Barry Oddy |
| <b>Residents Group</b>    | Harry Webb                                 |

Mr Walsh (the applicant's legal representative), Mr Crawford Scott, Senior Area Manager JJ Moons (appearing as a witness), PC Dave Leonard (Havering Police), PC Philip Price (Havering Police), Councillor John Mylod and 4 members of the public present to make representations, Graham Hopkins, Licensing Officer, Derron Jarell (Legal advisor to the Sub-Committee), Alison Maybin (Clerk), and fourteen additional members of the public were also present.

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

The Chairman acknowledged the large number of residents present and asked the Legal Advisor to the Sub-Committee address the Hearing. The Legal Advisor explained that only parties whose representations had been ruled as being valid by the Chairman at the preliminary Hearing would be entitled to speak. He apologised that a letter had been sent in error to interested parties whose representations had been ruled as being invalid at the Preliminary Hearing informing them of a right to "appeal" to the full Committee. Immediately the error had been identified they had been sent a second letter correcting the mistake. In view of the number of invalid representations, the committee would be considering how the public could be given clearer information on the criteria used to decide whether a representation was valid.

**JJ MOONS, UNIT 2 & 3, 46 HIGH STREET, HORNCHURCH, ESSEX –  
OPPOSED VARIATION TO A PREMISES LICENCE**

The Council's licensing officer presented the report. He stated that the public house was located close to residential properties. High Street was on a bus route but there was no public transport at night. The premises were within a Controlled Parking Zone but there was ample free car parking nearby.

He stated that an agreement had been made with the applicant prior to the Hearing for the number of non-standard days applied for to be limited to a maximum of 12 per annum, with a minimum of 10 working days notice being given to the police and Licensing Authority. The prior written consent of the police would need to be obtained, with the police having an absolute veto over any occasion. Nine valid representations had been

received from members of the public and two from the police. Eighteen representations had been ruled to be invalid, either because they did not address the licensing objectives or were from residents living outside the vicinity of the premises.

The Licensing Officer informed the Sub-Committee that no variation had been applied for in relation to recorded music, so the existing permitted hours would apply under the conversion. The applicant had applied for the removal of embedded restrictions on the Justices licence.

The Chairman then invited the police to speak to their representations. PC Leonard acknowledged that the police had a good working relationship with the company. Agreement had been reached, in advance of the hearing, that the company would restrict the number of requests for non-standard timings to a maximum of 12.

The police had initially been concerned that the company had submitted a generic application which did not address the individual premises and its location. The premises were located in the centre of Hornchurch, which was a vibrant lively drinking and entertainment centre until 11pm, when all the facilities closed, and became a 'ghost town' by 11.45pm. By that time there were very few police officers on duty in Hornchurch and police resources were concentrated in Romford. Current crime figures indicated that crime was not occurring after midnight in Hornchurch.

PC Leonard then indicated that he wished to circulate a document to the applicant's representative and the Sub-Committee. The Chairman asked the applicant's representative to comment on this. The applicant's legal representative stated that he had only seen the document that morning and would not be able to analyse it, nevertheless he indicated that it was acceptable for the Sub-Committee to view it.

Pc Leonard then referred to the document, which included national figures. He pointed out a rising trend in incidents of alcohol related violence between June 2002 and May 2005. Taking the Borough as a whole, Romford had the highest number of incidents of alcohol related violence, with Hornchurch the second highest. Currently, all public houses in Hornchurch closed at 11pm and drinkers moved on to Romford, where the permitted drinking hours were later. There was a 'marked drop off' in assaults in the Hornchurch area after 11pm. At present, Hornchurch lacked both on-street CCTV and public transport infrastructure at night although a CCTV system was to be installed early in the new year. Assaults tended to take place in street locations rather than venues and the police were concerned about the possible impact on all the emergency services of large numbers of drinkers remaining in the area after 11pm. Experience at Romford indicated that the 'flash points' occurred after drinkers left the premises

PC Leonard commented that door staff at JJ Moons had been removed and he had observed that the venue had worked better without them.

The Chairman then invited PC Price of St Andrews ward team to make a statement on behalf of Sergeant Fish. PC Price then read out a statement from Sergeant Fish.

Sergeant Fish had stated that currently Hornchurch suffered very low levels of assaults and public order offences. Both Hornchurch and Romford had high numbers of public houses and busy night time economies. The difference was that Romford had nightclubs with extended licensing hours. In his view, extended hours would inevitably increase the level of intoxication. If extended hours were permitted, the premises would be open after public transport had ceased. Hornchurch had a traditional High Street running through a residential area. There were numerous alleyways, no CCTV and poor lighting. As a result of the proposed extended hours, residents might be expected to tolerate behaviour beyond what they consider reasonable, with a loss of quality of life. In Romford late night drinkers were breaking bottles, vomiting and urinating in the street. Five public houses in Hornchurch were requesting additional hours and the cumulative impact of this, if allowed, would be a significant increase in disturbance along Hornchurch High Street during the night. Families were living in the flats and the disturbance could be expected to impact upon their sleep patterns. In Sergeant Fish's view, the impact on families could amount to a breach of the Human Rights Act.

The Chairman then invited others who had made valid representations to speak, including Councillor Mylod and three residents, one of whom was also representing a fourth person. The residents expressed their concern that the extended hours might result in an increase in anti-social behaviour in residential neighbourhoods and in particular along footpaths. They expressed concerns about the impact of noise late at night on the sleep patterns of residents of all ages and concern about public safety and the ability of the emergency services to cope. Residents stressed that Hornchurch was a quiet and peaceful town where people could relax. They had chosen the area for this reason. Concern was expressed about the large number of premises in the town requesting extended hours for licensable activities.

Councillor Mylod acknowledged that JJ Moons was well run but he had a problem with the extension of hours. He was concerned about the implications for crime and disorder. Currently the area went quiet after 11.30pm. He considered that the proposal would result in an increase in noise late at night which would have an impact on children living in the flats above shops in the High Street.

Councillor Mylod and other residents expressed their concern that there was a possibility that a number of representations could have been ruled as invalid because of a too tight interpretation of 'vicinity'. He expressed the view that, if a '100 metre' distance limit had been applied, this would have been too restrictive. A large number of residents had submitted representations and had been prevented from having these considered by

the Sub-Committee. He also considered it to be unfair that those whose representations had been ruled as being 'invalid' had initially been informed that they could speak at the hearing. The Legal Advisor to the Sub-Committee repeated the apology previously offered and stressed that the issue was being looked at and would be addressed.

The Chairman then invited the applicant's legal representative to address the Sub-Committee. The representative first acknowledged the large number of residents present at the hearing and stated that the people of Hornchurch had every right to make representations. He considered that the representations of those not able to speak might largely reflect the representations of those who had been heard.

The J D Wetherspoons Group played no music at their public houses and operated along very tight lines. He acknowledged the need to operate a quiet premises in Hornchurch, and this was how JJ Moons operated at present, and would operate in future.

The representative commented on Sergeant Fish's representation. In his view, Sergeant Fish was asking the Sub-Committee to 'zone' the applications for extended hours in Hornchurch, a cumulative impact approach which was not part of the Council's Licensing Policy.

The representative acknowledged that there had been problems with alcohol related crime in some areas. The Licensing Act 2003 had addressed the issue of problems of dispersal when all drinkers departed from a public house at the same time. More flexible hours was supposed to be the solution and not the problem. It would not be the case that an increase in hours would lead to an increase in problems.

The new regime would enable pubs such as JJ Moons to offer people a drink or a meal over a longer period. At JJ Moons the full menu would be available 7 days a week, all day. It would become a completely non-smoking pub by May 2006. There was a higher ratio of management to staff than was the norm to ensure that customers were well monitored.

The application was asking only for a modest increase in hours to allow for more gradual dispersal and the full hours requested in the application were sought. However, the applicant was conscious of the strength of feeling from local residents and, if the Sub-Committee was not minded to agree the full extent of the hours sought, the applicant sought to put forward the following proposal:

That licensable activities should be permitted until 12.00 midnight from Monday to Thursday (with 30 minutes drinking up time); Friday and Saturday (for a trial period) until 12.30am and on Sunday until 11.30pm. In response to questions from the Sub-Committee, the applicant's representative gave his legal opinion that the Children's Certificate, issued on 4 March 2005, would continue as a 'grandfather right'.

In response to a question put by the legal advisor to the Sub-Committee, the applicant's representative clarified that a variation was not being sought to enable the playing of recorded music and at present the applicant had no intention of applying for any form of licensable entertainment at the venue.

The applicant's representative clarified that the premises would possibly open from 7.00am to enable a breakfast service to be offered, but this was unlikely to occur in the short term.

He also clarified that the measures outlined in Section Q paragraph e) of the application related to company policy on the protection of children from harm. Children would be present in the bar area before 21:30 hours whilst eating meals with their parents. The company policy determined that they were required to vacate the bar by 21:30hours.

At this point the Chairman adjourned the hearing to allow the Sub-Committee to make its decision.

On reconvening, the Chairman explained that in making its decision the Sub-Committee took into account the relevant written and oral representations. In reaching its decision, the Sub-Committee took account of the report from the licensing officer, submissions from objectors and the applicant.

The Sub Committee is 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 National Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Licensing Policy.

In addition the Sub Committee followed its obligations under Section 17 of the Crime and Disorder Act 1998, and Article 1 of the First Protocol of the Human Rights Act 1998, and Article 8.

Section 17 of the Crime and Disorder Act 1998 requires local authorities as a responsible body to routinely consider the crime and disorder implications of its policy and service delivery. The Act states:

“Without prejudice to any other obligations imposed upon it, it shall

be the duty of each authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent crime and disorder in its area.”

The Sub Committee has a duty to act in a manner, which is compatible with the Human Rights Act 1998.

A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

The Sub Committee also took into account the effect on local Residents as required by Article 1 above and Article 8 of the Human Rights Act 1998, which states:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Three stage test to be applied:

1. Is the interference in accordance with the law?
2. Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?
3. Is the decision proportionate i.e. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual’s fundamental rights.

The Sub-Committee

## **RESOLVED**

To grant the application to vary in part as follows:

1. That the premises may open for the following licensable activities;

(a) Supply of alcohol:

Monday to Thursday: 09:00 hours until 00:00 hours  
Friday and Saturday: 09:00 hours until 00:30 hours  
Sunday: 9:00 hours until 23:30 hours

(b) Late night refreshment:

Monday to Thursday: 23:00 hours until 00:00 hours  
Friday and Saturday: 23:00 hours until 00:30 hours  
Sunday: 23:00 hours until 23:30 hours

2. Non-standard timings

In addition to the use of Temporary Event Notices allowed under the Licensing Act 2003, the premises may open on 12 non-standard occasions, in line with the Association of Chief Police Officers guidelines; subject to a minimum of 10 working days' notice being given to licensing authority and the Police for each occasion. The prior written consent of the Police to be obtained and the police to have absolute right to refuse any occasion. A register to be kept at the premises available for inspection by the police or an Authorised Office of the Licensing Authority and details of each occasion to be recorded in it including the written consent of the police.

3. The Protection of Children from Harm

Children will be required to vacate the Bar by 21:00 hours unless they are eating in which case they will be required to vacate the Bar by 21:30 hours. Children must always be accompanied by an adult who will be required to maintain constant supervision of them.

The Sub-Committee agreed to remove the following restrictions currently imposed on the converted licence:

1. The restrictions and effects of Section 168, 168A and Section 171 Licensing Act 1964 so as to allow the provisions under the Licensing Act 2003 to apply in relation to children.
2. The restrictions relating to permitted hours as set out in Section 60 Licensing Act 1964 with the exception of New Years Eve.
3. The restriction on consumption of alcohol as set out in Section 63 (1) Licensing Act 1964 (i.e. drinking up time)
4. The restrictions on credit sales imposed by Section 166 Licensing Act

5. All existing conditions attached to the existing Justice's Licence.

In making its decision the Sub-Committee took into account the relevant written and oral representations. In particular the representations of the Police and the local residents present at the hearing. The Sub-Committee took notice of the residential nature of the neighbourhood in which premises is situated and these were important factors in declining to grant the full trading hours sought by the applicant. The Sub-Committee considered that to allow the application in its entirety would lead to a high risk of public nuisance.

In making its decision the Sub-Committee took account of the licensing objectives and in particular the prevention of public nuisance of which it must promote in carrying out its functions. The Sub-Committee was of the view that the application has been granted to the greatest extent possible whilst promoting the prevention of public nuisance.

---

**Chairman**