

**MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE  
14 September 2007 (10.35am – 10.50am)**

**Present:**

**COUNCILLORS:**

<b>Conservative</b>	Melvin Wallace (Chairman) Peter Gardner
<b>Rainham &amp; Wennington Residents'</b>	Coral Jeffrey

Mr T Uthayakumar the applicant and Mr G Harris, his Agent were present. Also present was the LB Havering Licensing Officer. The legal advisor to the Panel and the clerk to the Panel were also in attendance.

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.

**APPLICATION TO VARY A PREMISES LICENCE IN RESPECT OF LONDIS, 211 CHERRY TREE LANE, RAINHAM RM13 8TU.**

The Sub-Committee considered the application to vary a licence for the above premises as follows.

**1. DETAILS OF APPLICATION**

**APPLICANT**

Thambirajah Uthayakumar  
25 Miriam Road  
Plumstead  
LONDON  
SE18 1RF

**1. Details of existing licensable activities**

**Sale of alcohol (off premises)**

<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Saturday	08:00 hours	21:00 hours
Sunday	10:00 hours	21:00 hours
Good Friday	08:00hrs	21:00hrs
Christmas Day	12:00hrs 19:00hrs	15:00hrs and 21:00hrs

## 2. Details of requested licensable activities

<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	07:00 hours	22:00 hours
Good Friday	08:00hrs	21:00hrs
Christmas Day	10:00hrs	17:00hrs

There has been no application for either seasonal variation or non-standard timings other than Good Friday and Christmas Day.

### **Licensable Activities:**

- Sale of alcohol (off sales)

#### Supply of alcohol:

<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	07:00 hours	21:00 hours
Good Friday	08:00hrs	21:00hrs
Christmas Day	10:00hrs	17:00hrs

## 3. Promotion of the Licensing Objectives

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

## 4. Details of Representations

### Representations Objecting to the Application from "Interested Parties"

one valid representation was received from the following member of the public:

Mr W Sparrow, 203, Cherry Tree Lane, Rainham RM13 8TU.

The written representation related to an alleged witnessing of the sale of alcohol to an underage person. This incident was uncorroborated and did not specify when it was alleged to have happened. The objection was accepted on the grounds of the prevention of crime and disorder and the protection of children from harm.

## 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:**

**Trading Standards Service:**

An objection was submitted on the grounds of the prevention of crime and disorder and the protection of children from harm. This objection was formally withdrawn prior to the Hearing on the grounds that a number of visits had produced no evidence of poor management, the applicant had accepted Conditions CD38, 39, 41 and 42 concerning CCTV and had agreed to have them included in his Operating Schedule. In addition, the application had been voluntarily amended from a closing time of 22:00hrs back to its present 21:00hrs.

**The Magistrates Court:** None

## 5. **Determination of Application**

The member of the public who had submitted a valid written objection was not present.

The Licensing Officer presented his report and during the course of it, advised the Sub-Committee that the applicant had only requested the earlier licensing time because it would coincide with his opening hours. He further pointed out that although a previous licensee had failed an under-age alcohol test purchase (2005), but there was no evidence of any similar practice with the current applicant. He welcomed the applicant’s decision not to increase the opening time beyond its current 21.00hrs.

Members of the Sub-Committee invited the applicant to respond and Mr Harris explained why his client had amended his application and also confirmed that although the premises already possessed CCTV, his client was more than willing to work with the local police to ensure that the equipment was up to their standard.

In addition, he informed the Sub-Committee that there had been three trading standards checks, all of which had been clear and that to be certain there was an appropriate level of management control, both his client and another member of staff would have personal licences.

## **Decision**

**Consequent upon the hearing held on 14 September 2007, the Sub-Committee's decision regarding the application to vary a Premises Licence for Londis was 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.

## **Decision**

### **Agreed Facts**

#### **Facts/Issues**

##### **Issue 1**

Whether the granting of the premise licence would undermine the prevention of crime and disorder objective.

##### **Issue 2**

Whether the granting of the premise licence would undermine the protection of children from harm objective.

### **Decision**

#### **Issue 1**

##### **Crime and disorder**

The Sub-Committee noted that no evidence had been provided to demonstrate that there were current problems at that location (Members found the statement from Trading Standards that it had made a number of visits to the premises and had found no fault in the conduct of the business very helpful). The Sub-Committee observed that the applicant had addressed this licensing objective in the application and had already agreed to the conditions proposed by the police (CD38, 39, 41 and 42 relating to CCTV) and it accepted that the conditions imposed and that the CCTV would be of a sufficiently high enough quality to satisfy the police requirements.

### **Decision**

#### **Issue 2**

##### **Protecting Children from harm**

The Sub-Committee noted that the representation from the neighbour who expressed concern that children had been

sold alcohol had contained no substantive evidence – nor did it indicate whether the alleged incident took place prior to the applicant taking over the management of the store, or pre-dated this.

In the absence of any corroboration – and with the evidence from Trading Standards that the premises was well managed - the Sub-Committee observed that in its opinion, it could not penalise the applicant.

The Sub-Committee was asked by the Applicant to remove from the conditions already on his licence, that which stated that: “Children whilst on the premises shall be supervised by parent/guardian” on the grounds that the store was essentially a convenience store and that this condition was unduly harsh.

Having considered the oral and written submissions on behalf of the applicant, objector and the licensing officer, the Sub-Committee granted the application as follows:

Licensable Activities:

Sale of Alcohol (Off Sales)

<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	07:00 hours	21:00 hours
Good Friday	08:00hrs	21:00hrs
Christmas Day	10:00hrs	17:00hrs

**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, 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.

The Sub-Committee noted that the Applicant had already accepted the following Conditions relating to CCTV:

CD38 At the time of installation or upgrading of any CCTV system it shall comply with the current and relevant Havering Police guidelines for Standard Minimum Closed Circuit Television Requirements (Issue 1, July 2004).

CD39 A CCTV system shall be installed or the existing system maintained. 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.'

CD41 The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner 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 tape shall be used on no more than 12 occasions to maintain the quality of the recorded image.

The positions of all CCTV cameras shall be clearly shown on a set of plans and any alteration to the system should only be carried out after consultation with and written approval of, Havering Police and the Licensing Authority.

CD42 The positions of all CCTV cameras shall be clearly shown on a set of plans and any alteration to the system should only be carried out after consultation with and written approval of, Havering Police and the Licensing Authority.

The Sub-Committee accepted the Applicant's contention that in the circumstances, the condition to restrict children on the premises to those who were accompanied by a parent or guardian was unreasonable and **Agreed** to its removal

The Sub-Committee further acknowledged that the Applicant had already confirmed his willingness to implement "Challenge 21".