

**MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
27 June 2007 (2.30pm – 3.55pm)**

Present:

COUNCILLORS:

Conservative

Melvin Wallace (Chairman)
Pam Light

Labour

Tom Binding

Mr Manickavasagar Balendran, the applicant was present as were Mr Somasekaram, Mr D Hook, the applicant's legal representative, Mr R Baker the applicant's licensing agent, PC D Leonard the police representative and Paul Jones the LB Havering Licensing Officer. Several objectors as well as a representative of the press were present. 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 FOR A PREMISES LICENCE IN RESPECT OF MR
MANICKAVASAGAR BALENDRAN T/A KINFAUNS CONVENIENCE
STORE, 140 HILLVIEW AVENUE, HORNCHURCH RM11 92DL.**

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

1. DETAILS OF APPLICATION

APPLICANT

Manickavasagar Balendran
122 Collingwood Gardens
Ilford
IG5 0AL

2. DETAILS OF EXISTING LICENSABLE ACTIVITIES

There is no current licence in force authorising any licensable activity at this venue under the Licensing Act 2003.

3. DETAILS OF REQUESTED LICENSABLE ACTIVITIES

Licensable Activities:

- Sale of alcohol (off sales)

Supply of alcohol:

Monday to Sunday: 06:00 hours until 23:00 hours

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”

Thirty seven valid representation were received from the following members of the public, between them all elements of the Licensing Objectives were addressed:

Mr J Pope, 125 Hillview Avenue, Hornchurch RM11 2DL
Mr & Mrs Dowling, 128 Hillview Avenue, Hornchurch RM11 2DL
Mrs P Podger, 132 Hillview Avenue, Hornchurch RM11 2DL
Mrs C Buckley, 138 Hillview Avenue, Hornchurch RM11 2DL
Mr S Harvey, 141 Hillview Avenue, Hornchurch RM11 2DL
Mr B Smith, 143 Hillview Avenue, Hornchurch RM11 2DL
Mrs B Thurston, 145 Hillview Avenue, Hornchurch RM11 2DL
Mr & Mrs Lawrence, 151 Hillview Avenue, Hornchurch RM11 2DL
Mr & Mrs Horton, 155 Hillview Avenue, Hornchurch RM11 2DL
Mrs S Horton, 157 Hillview Avenue, Hornchurch RM11 2DL
Mr & Mrs Robinson, 26 Kinfauns Avenue, Hornchurch RM11 2AN
Mrs P Cheeswright, 30 Kinfauns Avenue, Hornchurch RM11 2BJ
Mr & Mrs Smith, 36 Kinfauns Avenue, Hornchurch RM11 2AN
A E Richer BSc., 8 Percival Road, Hornchurch RM11 2AH
Mrs T Madden, 8 Percival Road, Hornchurch RM11 2AH
C Lammin, 16 Percival Road, Hornchurch RM11 2AH
Mr D Newell, 24 Percival Road, Hornchurch RM11 2AH
Mr & Mrs Rayment, 3 Courage Close, Hornchurch RM11 2BJ
Mrs D Oakley, 4 Courage Close, Hornchurch RM11 2BJ
Mrs E Hellier, 5 Courage Close, Hornchurch RM11 2BJ
Mr & Mrs Martin, 6 Courage Close, Hornchurch RM11 2BJ
Mrs J Acampora, 8 Courage Close, Hornchurch RM11 2BJ
Mr & Mrs Herring, 74 Cranham Road, Hornchurch RM11 2AA

Mr & Mrs Chapman, 108 Cranham Road, Hornchurch RM11 2BH
Mr C Sharp, 114 Cranham Road, Hornchurch RM11 2BH
Mr W Nicholls, 51 Great Gardens Road, Hornchurch RM11 2BB
J Morris, 100 Osborne Road, Hornchurch RM11 1HF
Mrs L Williams, 6a Maybrick Road, Hornchurch RM11 2AN

The written representations related to the potential for a dramatic increase in anti-social behaviour, crime and disorder (a number of representations referred to an armed raid on a post office in the vicinity), a threat to public safety – many of the representations came from residents who were clearly concerned that the sale of alcohol would attract young people to what is a quiet suburban residential area and that this could change its character and create an atmosphere in which they felt intimidated; Public nuisance – instances were given of existing problems of litter, graffiti and misbehaviour on a nearby railway line. Residents close to the store cited problems with a footpath and were concerned that if young people obtained alcohol, problems would increase and there could be a rise of trouble on or around the railway. A number of representations pointed out that the presence of alcohol on the premises would be a temptation to young people and that if they became intoxicated, there could be fights or they could harm themselves on the railway.

Responsible Authorities

Chief Officer of Metropolitan Police (“the Police”):

An objection was submitted concerning a lack of clarity in the original application as to how the applicant was proposing to address the licensing objectives and a request was made that the applicant respond to police concerns about the lack of detail provided about the proposed CCTV system. The police representation did note, however, that there was no current alcohol related disorder attributed to the proposed venue.

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: None

The Magistrates Court: None

5. DETERMINATION OF APPLICATION

At the outset of the hearing, the Chairman enquired of those objectors present who wished to speak and, establishing that a number of individuals had registered their desire to do so, he announced that the Sub-Committee had determined that, in order to ensure the hearing proceeded without undue repetition, one person should speak and those who had also indicated that they wished to address the Sub-Committee, should be able to do so, but only insofar that what they had to say was over and above what had already been orally presented.

To be clear, oral submissions should, in any case, present to the Sub-Committee new or more detailed information and not merely repeat the written representations which had already been considered by the Sub-Committee. The Chairman then announced that whatever the amount of time the objectors took to present their case – in excess of 10 minutes – the applicant would receive an equal amount of time to respond.

The Licensing Officer then presented his report to which there were no questions raised.

The police representative then presented the report of the Metropolitan Police and made reference to the proximity of other outlets (past and present) for alcoholic beverages. He made reference to the applicant's statement that he intended to apply "Challenge 21" and added that, if the applicant chose to apply all the recommendations made by the police (including CCTV) – as set out in his letter – the police would have no objection to the granting of a licence because there was no current evidence of crime, disorder, public nuisance, threat to public safety or to children that would support such an objection.

Those present who had indicated they wished to contribute to the hearing, were then invited to make their representations. The Sub-Committee were reminded that the area in question was, apart from the parade of shops in which the store was located, residential. Fears were expressed that the sale of alcohol would encourage young people to congregate by the store and this would prove intimidating to residents. It was also stated that they might employ tactics to persuade older people to make purchases on their behalf.

Members were informed that an alleyway nearby led to a railway crossing and this area had already witnessed young people risking their lives on railway land. If they were to obtain alcohol, the situation would be exacerbated.

Complaints about the store becoming a magnet attracting crime into the area (armed robbery was alluded to), were also made to the Sub-Committee and there were expressions of anxiety from owners of shops in the same parade who believed that their businesses and the safety of their customers would be threatened if the store were granted a licence to sell alcohol.

The legal representative replied on behalf of the applicant and opened his address by acknowledging the police concerns and informing the Sub-Committee that the applicant fully accepted Challenge 21 and was, moreover, content to accept all the police recommendations. In addition, his client had already had discussions with the borough's crime prevention officer concerning CCTV and had taken his recommendations and sought to install equipment that would not only more than adequately address the police concerns but also ensure that the premises could be monitored on a 24/7 basis with equipment that could even be accessed remotely.

He explained that the applicant had experience in running a similar store for two years and that, during that time, there had been no anti-social problems associated with the premises, there was no evidence of underage selling and the relationship with neighbours was reported to have been very good. He added that he was not seeking to minimise the honestly held fears of the residents, but was asking for an opportunity for the applicant to demonstrate his sincerity in operating a safe, respectable business that would be an asset to the community.

To demonstrate this further, he stated that his client would install, at his own expense and without urging, a "Mosquito" device. He explained how the equipment worked – that it emitted a frequency that could only be "heard" by people below the age of 25. He described its operation and stated that it would be linked to the shop's CCTV equipment and that, because it could be operated remotely, it could be used to dispel any unwanted gathering of young people within a range of 10 to 15 metres.

In answer to questions from the objectors about whether the noise would have an adverse effect on neighbouring businesses, he replied that the equipment could be "tuned" and directed to ensure that it would not do this; besides, it was not designed to be active all the time. Chain stores that made use of "Mosquito" device, found they worked better if they were used in an ad-hoc manner.

Furthermore, the legal representative addressed the issue of the lack of current or recent evidence of problems in the vicinity. He pointed out that there were no reasons for the Licensing authority to refuse the applicant a licence because there were no breaches of the licensing objectives upon which the Sub-Committee could base an objection. He added that the applicant was of good character and, far from introducing an element likely to encourage anti-social behaviour to the area, he would want to enjoy the same amenity as his neighbours because his parents would be occupying the residential element of the premises.

He had also acknowledged the concerns of his neighbours and had sought to address these fears by voluntarily exceeding the recommended conditions (notably in respect of CCTV, where cameras would cover inside and outside the premises and the installation of "Mosquito"). He concluded by reminding the Sub-Committee that in its deliberations, it needed to bear in mind that any restrictions imposed had to be both necessary and proportionate.

Decision

Consequent upon the hearing held on 27 June 2007, the Sub-Committee's decision regarding the application for a Premises Licence for the Kinfauns Convenience Store was as set out below, for the reasons herein 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 public nuisance objective. |
| Issue 2 | Whether the granting of the premise licence would undermine the prevention of crime and disorder objective. |
| Issue 3 | Whether the granting of the premise licence would undermine the public safety objective. |
| Issue 4 | Whether the granting of the premise licence would undermine the protection of children from harm objective. |

Decision

Issue 1

Public Nuisance

The Sub-Committee noted that the representations from a number of residents emphasised *potential* problems and drew its justification for this from observations relating to historical incidents that were unconnected with the present applicants

(there had been problems with an off-licence that had closed some years before). No evidence was provided to demonstrate that there were existing problems at the location. The Sub-Committee observed that the applicant had addressed the licensing objectives in the application and had agreed to the conditions being suggested by the police and it accepted that the conditions imposed and the additional steps proposed by the applicant (the purchasing and setting up of a “Mosquito” deterrent, would address the prevention of public nuisance objective. The Sub-Committee also noted that the applicant had worked with the police with regard to the choice of suitable CCTV recording equipment and had more than met their approved threshold.

**Decision
Issue 2**

Crime and disorder

The Sub-Committee noted that several representations cited *potential* problems and drew justification for this from observations relating to historical incidents that were unconnected with the present applicants (there had been an armed robbery at a nearby post office). No evidence was provided to demonstrate that there were existing problems at that location. The Sub-Committee observed that the applicant had addressed this licensing objective in the application and had agreed to the conditions being suggested by the police and it accepted that the conditions imposed and the additional steps proposed by the applicant, would address the crime and disorder objective. The Sub-Committee accepted the applicants assurance that the CCTV would be programmed to run 24 hours per day and every day and that it had sufficient storage capacity to ensure that any anti-social or criminal activity caught within range of its cameras (mounted outside as well as indoors), would be of a sufficiently high enough quality to provide evidence for the police.

**Decision
Issue 3**

Public Safety

The Sub-Committee noted that a number of representations cited problems that currently existed in the area and which residents felt would be exacerbated if the applicant were to be granted a licence to sell alcohol. The principal claims related to the proximity of a railway line (which was known to attract young people who would imperil not only their own lives, but put others at risk). There also existed a footpath which residents claimed was poorly lit and which was a concern to them now, without the added expectations of alcohol fuelled people loitering in its vicinity whose presence residents would find intimidating at the very least. The Sub-Committee observed that the applicant had

addressed this licensing objective in the application and had agreed to the conditions being suggested by the police and it accepted that the conditions imposed and the additional steps proposed by the applicant, would address the public safety objective.

**Decision
Issue 4**

Protecting Children from harm

The Sub-Committee noted that there were some representations from residents who were concerned that children might be tempted to try to obtain alcohol and this would cited problems that currently existed in the area and which they felt would be exacerbated if the applicant were to be granted a licence to sell alcohol. The principal claims related to the proximity of a railway line (which was known to attract young people who would imperil not only their own lives, but put others at risk). There also existed a footpath which residents claimed was poorly lit and which was a concern to them without the added concerns of alcohol fuelled people loitering in its vicinity whose presence residents would find, at the very least, intimidating. The Sub-Committee observed that the applicant had addressed this licensing objective in the application and had agreed to the conditions being suggested by the police and it accepted that the conditions imposed and the additional steps proposed by the applicant, would address the public safety objective.

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

Licensable Activities:

Sale of Alcohol (Off Sales)

Monday to Sunday: 06:00 hours until 20:00 hours

The Sub-Committee agreed that the following conditions - proposed by the police and accepted by the applicant – be added to the operating schedule of the licence:

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 further agreed to the following conditions being placed on the licence:

- 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.
- CD2 All Personal Licence Holders supervising the sale of alcohol shall hold a nationally recognised licensing qualification.

Relating to Off Sales

- CD49 High strength lagers or ciders or fortified wines or Sherries shall not be stocked or sold from the premises.

Note. High strength implies 8% or higher.

Relating to Identity of consumers

- CD51 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 18 years and who is seeking to purchase alcohol. Such credible evidence, which shall include a photograph of the customer, will include a passport, photographic driving licence, or Proof of Age card carrying a “PASS” logo.
- CD52 All occasions when persons have been refused service shall be recorded in writing and kept at the premises for six months.
- CD53 Prominent, clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved.
- CP16 The premises shall comply with the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and with the Portman Group's Retailer Alert Bulletins.

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.'

CD40 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.

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 further accepted the offer of the applicant to install and operate noise generating equipment known as "Mosquito" to act as a localised, controlled deterrent that was known to be effective against younger people who would register a harmless, but unpleasant sensation and – as demonstrated in other trials and installations – would act to move those young people away from the source of the sound.