

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
6 October 2011 (10.30 am - 12.00 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and Lynden Thorpe

Residents' Group Brian Eagling

Labour Group

**Independent Residents
Group**

The Chairman reminded Members of the action to be taken in an emergency.

1 REPORT OF THE LICENSING OFFICER

Mr Mehmet Coktas (the applicant), was represented by Mr Kenon Karo (agent). The Police were represented by PC Dave Leonard. The LB Havering Licensing Officer, Mr Paul Jones, the legal advisor and the clerk to the Sub-Committee were also in attendance along with 28 members of the public and Councillors John Wood and John Mylod.

PREMISES

Elm Park Food & Wine
4 Elm Parade
St Nicholas Avenue
Hornchurch, Essex
RM12 4RH

DETAILS OF APPLICATION

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

APPLICANT

Mr M Coktas
325 Porters Avenue
Dagenham
RM6 4LX

1. Details of the application

Supply of alcohol (Off Supplies Only)		
Day	Start	Finish
Monday to Saturday	08:00hrs	23:00hrs
Sunday	08:00hrs	22:30hrs

2. Promotion of the Licensing Objectives

The applicant completed the operating schedule, which formed part of the application to promote the four licensing objectives.

The applicant acted in accordance with regulations 25 and 26 of The Licensing Act 2003 (Premises Licences and Club Certificates) Regulations 2005 relating to the advertising of the application. The required public notice was installed in the 31 August 2011 edition of the Havering Yellow Advertiser.

3. Details of Representations

Valid representations may only address the four licensing objectives

There was one valid representation against this application which was from a responsible authority. The representation from the Metropolitan Police related to Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the prevention of children from harm.

Responsible Authorities

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

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

Decision

Consequent upon the hearing held on 6 October 2011, the Sub-Committee's decision regarding the application for a Premises Licence for Elm Park Food & Wine 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.

The Committee had to consider whether the granting of the premises licence would undermine the four licensing objectives.

PC Leonard advised that the main areas of concern regarding the application were to do with the crime & disorder and protection of children from harm objectives.

PC Leonard advised that the applicant's business was situated in the Elm Park town centre at the point where three ward boundaries met. PC Leonard had contacted all three Safer neighbourhood Teams who had shared concerns over local policing needs, and thought that the opening of another off-licence in the area would certainly not ease those concerns. There were currently anti-social behaviour issues in the area, and underage drinking was a concern, which could be caused not only by irresponsible sales, but also by proxy sales and theft of alcohol.

The sub-committee was advised that Elm Park already had several off-licences in the town centre including another one called Elm Park Food & Wine which had raised concerns as to how much research of the area had been carried out by the applicant.

PC Leonard also advised that the applicant had been the subject of violent threats from another off-licence proprietor in the area, however this situation had now been resolved.

PC Leonard advised that the Police were concerned that with so many off-licences in the area there was the possibility of irresponsible drinks promotions being advertised to beat off the competition.

Additional concerns were raised regarding the applicant's premises and the location of the nearby Harrow Lodge Park and a local school.

PC Leonard advised that with the park so close by this automatically made the premises a potential source for young people to obtain alcohol to consume in the park. It was therefore essential that the applicant demonstrated that he intended to supply alcohol responsibly

PC Leonard also advised that experience had shown that the off-licence premises that struggled to comply with promoting the four licensing objectives in Havering were often those staffed with untrained or incompetent people who had little or no knowledge or understanding of their responsibilities to the local community. With this in mind the licensing condition CD1 (dealing with staff training programmes) ought to appear on any licence issued.

PC Leonard advised that the St Andrews Ward (within which these premises are located) is the subject of a saturation policy put in place by the Council due to the cumulative effect of licensed premises in the area.

PC Leonard advised the sub-committee that the applicant needed to put a very compelling case forward as the application on paper was not sufficient to warrant departing from the saturation policy. He stated that the application had been weak in some areas suggesting that the use of a template application had been used which often led to licence holders failing test purchase initiatives at a later date due to applicants lack of knowledge of the licensing objectives.

PC Leonard concluded by reminding members that the area already had seven off-licences and asked that the sub-committee refuse the application.

In response, the applicant and his representative sought to address the concerns raised by PC Leonard.

Mr Coktas advised that he had made the application and since doing so had received no complaints from residents in the area surrounding his premises.

Mr Coktas advised that without an alcohol licence his business would struggle to make a profit from just being a convenience store as he would not be able to compete with the other off-licence premises in the area.

Mr Coktas advised Members that he would be the Designated Premises Supervisor and that a personal licence holder would be on the premises at all times.

Mr Coktas advised the sub-committee that he understood the concerns that the Police had but he would run the premises in line with the rules and would accept any conditions that may be placed on the licence.

The applicant's representative advised that he had suggested to his client that there was the possibility of two personal licence holders being on the premises at all times and that his applicant would enforce a Challenge 25 policy.

The sub-committee was also advised that the applicant had a good knowledge of operating a business premises and that all staff employed would be local residents and not family members.

Mr Coktas advised that he could close the premises earlier than the stipulated time but this would leave him at a disadvantage as all the other local licensed premises traded until 23.00hrs.

Mr Coktas advised that as soon as the premises licence was granted then he would begin looking for staff and training them to obtain personal licences (at the time of the hearing the shop was not open, it required shop-fitting).

In reply to the applicant's response PC Leonard advised that he still had concerns with the application and had hoped that the applicant's representative would have gone into more detail regarding the application and the steps his client would take to address the four licensing objectives.

PC Leonard also advised that he still had concerns regarding drinks promotions and would like to see clear windows at the premise not advertising drinks promotions and also allowing staff a clear view of what was happening outside of the premises.

PC Leonard's view was that the applicant had failed to address the concerns, and that the application was not sufficient to warrant a departure from the saturation policy in place in the area.

Mr Coktas replied that there would be a minimum of three members of staff on the premises at all times and this number could increase to as many as five if needed and would always include a personal licence holder. This was not currently in place as he needed to know the outcome of the Licence application first.

Mr Coktas also advised that he agreed to comply with any conditions relating to CCTV installation and its operation.

Having considered the written representations and oral responses, the Sub-Committee agreed to **refuse** the application on the following grounds.

The application concerned St Andrew's Ward which was the subject of a Saturation Policy which was imposed by the Local Licensing Authority.

The saturation policy creates a rebuttable presumption that application for new premises licences that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless applicants can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Police had referred to the cumulative impact of licensed premises in the area and with this in mind any application would have to be exceptional.

The sub-committee did not feel that this application met these requirements and the presumption of refusal had not been satisfactorily rebutted in this case. There were concerns in the area of anti-social behaviour and underage drinking, and, given the large number of off-licences in the area, competition would be fierce, which could lead to irresponsible drinks promotions and the pressure to sell.

The four licensing objectives appeared not to have been properly considered and the applicant was vague with regards to staffing, training and proposed conditions. With this in mind the sub-committee refused the granting of a licence.

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.

Chairman