

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
20 March 2012 (10.40 am - 12.50 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and +Robert Benham

Residents' Group Brian Eagling

An apology was received for the absence of Councillor Lynden Thorpe.

+(Substitute Member): Councillor Robert Benham (for Lynden Thorpe).

Present at the hearing were Mr David Dadds (Applicant's Counsel), Ms Hatice Sapkur (the Applicant), PC David Fern (Metropolitan Police), and 37 members of the public.

Also present were Paul Jones (Havering Licensing Officer), the Legal Advisor to the Sub-Committee and the clerk to the Licensing sub-committee.

All decisions were taken with no votes against.

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

1 REPORT OF THE LICENSING OFFICER

PREMISES

Park Lane Food Centre
77 Park Lane
Romford
Essex
RM11 1BH

DETAILS OF APPLICATION

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

APPLICANT

Ms Hatice Sapkur
C/O 77 Park Lane
Hornchurch
Essex

RM11 1BH

1. Details of requested licensable activities

Supply of alcohol: (off sales)		
Monday to Sunday	08:00hrs	23:00hrs

Seasonal variations & non-standard timings:

From 08:00 to 00:00 on St Patrick's Day, Easter Sunday, Sunday before May Day Bank Holiday, Sunday before Spring Bank Holiday, Friday of August Bank Holiday, Saturday of August Bank Holiday, Sunday of August Bank Holiday, Christmas Eve, Boxing Day, New Year's Eve to the start of permitted hours on New Year's Day.

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 Premises Certificates) Regulations 2005 relating to the advertising of the application. The required public notice was installed in the 16 December 2011 edition of the Romford Recorder.

3. Details of Representations

There were 29 representations against the application from interested parties. There were 38 representations in support of this application submitted by interested parties. 4 of the representations in support of the application were written individually while the remaining 34 were a signed pro-forma letter.

There was one representation against this application from a responsible authority, the Metropolitan Police.

Responsible Authorities

Chief Officer of Metropolitan Police ("the Police"): One

The Police made a representation against the application on the basis that the applicant had not satisfactorily addressed the additional steps they intended to take to prevent noise nuisance and anti-social behaviour if they were to be granted the extended hours to supply alcohol. This would likely result in further instances of crime and disorder and public nuisance.

The representation explained that the area close to where the premises was located experienced problems with anti social behaviour and youth disorder. Underage drinking and smoking in the two local parks, Hylands and Maygreen,

was highlighted as a particular problem. Reference was made to 10 recorded reports over a period of 4 months associated with or near to the premises. It also referred to numerous objections raised by local residents against the application to vary the licence.

The Police were concerned with the management and compliance of the operators of the premises. When the licence was initially granted, the applicant agreed to develop a positive business reputation which would overcome the concerns of interested parties. Having demonstrated a positive approach to operating the licence the applicant could then seek an extension of hours for licensable activities. However, the representation made reference to two sales of alcohol by staff at the premises outside of the licensable hours within a 12 month period, and an incident where an employee at the premises was arrested for an assault on a child which resulted in a detected crime under guidelines issued by the Home Office.

The representation also raised concern that the premises was not being operated in accordance with the conditions attached to the licence. PC Fern advised that he had visited the premises on 29 December 2011 and identified the following:

- A landline integrated security system had not been installed
- The refusals book had not been kept up-to-date and was not available in English.
- Staff training records had not been maintained and were not available for inspection
- Alcohol had not been labelled.

When PC Fern raised his concerns with the DPS, Mr Tubay, he was informed that there had been a recent change of DPS to Mr Coban who had worked there for a number of months. PC Fern advised that he was disappointed to learn that the new DPS was not operating the licence in accordance with its conditions.

PC Fern wrote to the applicant on 27 January 2012 after a further visit on 26 January to raise his concerns with the repeated failure of the applicant to conform to the conditions of the premises licence.

In addition, the Police were not satisfied that the applicant had satisfactorily addressed the additional steps they intended to take in order to promote the licensing objectives.

With regards to the prevention of crime and disorder, CCTV was already available on the premises so the offer to install CCTV was not required.

With public nuisance, whilst installing a sign advising customers to leave quietly and respect the neighbours was useful, there was no suggestion as to how that could be monitored.

In respect of protecting children from harm, the applicant had failed to comply with the existing condition concerning the maintenance of a refusals log.

It was for the reasons above that the Police did not consider that it could support the applicant in her request for a variation of the premises licence. Finally, PC Fern expressed his disappointment that the applicant had not contacted the Police in advance of the application being submitted.

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 20 March 2012, the Sub-Committee’s decision regarding the application for a Premises Licence for Park Lane Food Centre 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.

Agreed Facts Facts/Issues

Whether the granting of the premises licence would undermine the four licensing objectives.

At the hearing, PC Fern reiterated many of the points raised in his

written representation. PC Fern informed the sub-committee that he had visited the premises on several occasions and took note of the presence of youths congregating in the vicinity of the premises. PC Fern made reference to the supporting information he supplied in the documentation concerning the reporting to the Police of incidents connected to the premises, and a witness statement provided by the Safer Neighbourhood Sergeant for the Romford Town Ward who indicated a concern about public nuisance and anti-social behaviour. PC Fern remarked that the issue of proxy sales was of concern to him and had been raised by numerous local residents in their objections to the application. PC Fern commented that it was difficult to see out of the shop due to the number of signs and posters on the windows.

In response to a question from the Chairman, PC Fern informed the sub-committee that following his visit to the premises in December 2011, the applicant had undertaken to address some of the concerns with regard to the failure to adhere to the conditions of the licence but not all to the satisfaction of the Police. A refusal log was now in place and being used correctly, although there were very few dates in it, and PC Fern was not convinced it was being filled in. A UV pen was available for the labelling of alcohol. However, the Police would prefer the use of labels to the UV pen as the labels could readily identify the premises where the alcohol had been purchased. There had been sales outside licensable hours, and failures to adhere to the conditions on the licence.

In summary, PC Fern commented that the Police objected to the application to vary the premises licence as the applicant had not satisfactorily addressed the additional steps they intended to take to prevent nuisance and anti-social behaviour, which would likely result in further instances of crime and disorder and public nuisance.

A number of residents spoken in objection to the application:

Tracey Allan, 114 Park Lane

Mrs Allan suggested that the applicant had misled those persons who had submitted representations in support of the application as there was no suggestion that the shop was going to be closed. In addition, she suggested that some of the names identified on the petition submitted by the applicant in support of the application to vary the hours for the supply of alcohol were those of minors. Mrs Allan then made reference to the numerous incidents of anti-social behaviour associated with the premises which undermined the crime and disorder licensing objective.

Janet Haworth, 6 Hillcrest Road

Mrs Haworth commented that the area suffered from instances of anti-social behaviour and youth disorder to the detriment of the local

community, and that much of this had begun when the premises began selling alcohol. She made reference to harassment from local youths who approached adults to purchase alcohol from the shops on their behalf. Mrs Haworth commented that the applicant had not sufficiently demonstrated compliance with the operation of the current licence, and an extension should therefore not be granted. She referred to the assault on a minor by an employee of the shop, and added that the poor attitude of the applicant alongside existing anti-social behaviour arising in the area would only get worse if the extended hours were granted, to the extent that it would be dangerous. She urged the sub-committee to refuse the application.

David Goldstone, 33 Hillcrest Road

Mr Goldstone informed the sub-committee that he had been approached by youths for the proxy purchase of alcohol. The premises attracted groups of youths who intimidated passers-by. Mr Goldstone commented that the area was blighted by broken glass, litter and late night disturbance by youths.

Gemma Brooks, 116 Park Lane

Miss Brooks commented that the applicant had failed to operate in accordance with the existing licence and as a result, should not be granted permission to extend the hours for the supply of alcohol. Miss Brooks made reference to the 2 sales of alcohol identified by the Licensing Authority which took place after the permitted hours of operation, and raised a concern that a poorly managed premises would lead to further trouble if it were to sell alcohol to a later hour. Miss Brooks also stated that the area suffered from anti-social behaviour which was linked to alcohol purchased from the premises. She also questioned the validity of the petition submitted by the applicant in support of the application.

Councillor Frederick Thompson (on behalf of Mrs Atkins, 8 Hillcrest Road and Mrs Screech, 3 Hillcrest Road)

Councillor Thompson commented that the area suffered from instances of anti-social behaviour which undermined the crime and disorder objective. He requested the application be refused.

In support of the application:

Mrs Bittern, 13 Clifton Road

Mrs Bittern supported the application, commenting that the premises offered a friendly service to the community. Mrs Bittern stated that she had not witnessed any anti-social behaviour occurring in the vicinity of the premises and suggested that it was the responsibility of parents to know where their children were.

Mr Weston, 67A Park Lane

Mr Weston informed members that he had been visiting the premises for the past 3 years and had not witnessed any anti-social behaviour. Mrs Weston supported the application as it would be convenient for him to purchase alcohol from the shop after 9pm when he returned home from work.

Mrs Haag, MG Hairdressin, 75 Park Lane

Mrs Haag commented that the anti-social behaviour referred to by the objectors pre-dated the opening of the premises. She acknowledged that youths do congregate in the area but their presence could not be attributed directly to the premises in question. Indeed, she suggested that some of the other premises on the parade of shops had been responsible for the disorder.

Applicant's response:

The applicant, represented by Mr Dadds, sought to address the concerns raised by PC Fern and local residents.

Mr Dadds commented that the allegations referred to the by the Police and by local residents do not undermine the licensing objectives. There had been no suggestion of any underage sales occurring at the premises so it was unlikely that there would be many refusals logged in the refusals book.

Turning to the reported incidents at the premises referred to by the Police in their representation, Mr Dadds stated that there were 10 incidents reported over the course of the year; however, when those reports were analysed it became apparent that three of those reports came from the applicant who required assistance; this demonstrated a responsible approach. Mr Dadds reminded the sub-committee that the reports were only allegations and that the Police had chosen not to follow-up the majority of the reports. Indeed, the Police crime statistics available on-line did not tally with the information provided by the Police to the sub-committee which paint a misleading picture. Also, there were a number of other commercial premises in close proximity to the applicant's premises which attracted attention from groups of youths.

Mr Dadds reinforced his view that there was little in the way of evidence to support the allegations made by local residents and the Police against the applicant. The applicant could not be held responsible for the actions of every customer who visited her shop or for the behaviour of groups of youths who congregated in the area near to her premises. He submitted that things would happen at or near a premises regardless of the licence; and that anti-social

behaviour already occurred, a licence extension would not add to it.

With reference to the incident where a member of staff assaulted a minor, Mr Dadds advised that this had been a “one-off” and had no bearing on the outcome of the application to vary the licence.

Mr Dadds pointed out that there were no representations submitted by other responsible authorities such as the Council’s Environmental Health Services or the Safeguarding Children Service. He suggested that with the concern expressed by the Police and local residents at the disturbance caused by groups of youths there would have been representations submitted by at least one of the services.

With a Tesco superstore in close proximity to the applicant’s premises, Mr Dadds suggested that it would be reasonable for the sub-committee to grant the variation to match the licensable hours of operation for Tesco which was until 10pm each evening.

In response to the suggestion from the Police that the conditions had not been complied with; he remarked that the Police suggestions that the refusals log must be written in English was incorrect; Mr Dadds stated that it was entirely acceptable for notes to be produced in another language and then reproduced in English at a later date. Mr Dadds was not aware of any child protection training course available for his clients to attend. Labels had been purchased for alcohol and staff training records were in place. Mr Dadds agreed that he would meet with the Police outside of the hearing to discuss their concerns.

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.

It was a decision which had not been arrived at lightly and which took full account of the application, all representations, both oral and written, and all additional documentation which had been submitted.

There were a large number of representations from interested parties detailing issues and concerns relating to anti-social behaviour and public nuisance in the area and in their view relating to the premises. Those persons who spoke at the hearing demonstrated a genuine concern for public safety, which they believed would only be compromised further by the premises offering alcohol for sale to a later hour. The Police also detailed significant concern with public nuisance and crime and disorder in the area, along with concerns as to the premises management, which led to their being unable to support any extension to licensable hours.

The representations in support all related to the premises offering a good, or friendly, service, and did not relate to an extension of hours for selling alcohol. In fact many of the representations indicated they did not wish to see the premises

closed, which the current application did not relate to. It was noted that there were local people who took no issue with the shop itself, and Mr Weston had stated that it would be convenient to be able to purchase alcohol later in the evening.

A number of the written representations in support, which were a pro forma letter, stated that the writers had not witnessed anti-social behaviour caused by the existence of the off licence, yet it was accepted by the Sub-Committee that anti-social behaviour existed in the vicinity, and numerous objectors, some of whom addressed the hearing, attributed an increase in the instances of anti-social behaviour directly to the applicant's premises. Mrs Allan, Mrs Haworth and Ms Brooks all stated that the presence of the premises had led to an increased number of youths congregating and engaging in intimidating behaviour. The Police also indicated a concern with the premises having any extended hours to serve alcohol.

The sub-committee took note of Mr Dadds' comments that there had been no proven cases of underage sales at the premises. It also noted the comments of PC Fern and local residents with regards to incidents of anti-social behaviour, and noted Mr Dadds' assertion that much of the police evidence which had been supplied failed to necessarily link the anti-social behaviour to the premises.

However, there had been evidence of repeated non-compliance by the licence holder with the conditions attached to the premises licence. These had been placed on the licence in the interests of the promotion of the licensing objectives when the licence was originally granted, and had required immediate compliance. The Police had approached the applicant to register their concerns relating to the issues of non-compliance to which they had received no response; nor did the applicant consult with the Police before submitting the application.

With the existing concerns raised as to anti social behaviour, public nuisance and crime and disorder, the non-compliance with the existing licence caused considerable concern to the Sub-Committee as to the applicant's willingness or ability to promote the licensing objectives which would be exacerbated by any extension of hours of licensable activity. The sub-committee therefore refused the application.

Chairman