

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
9 February 2012 (10.30 am - 12.50 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and Frederick Thompson

Labour Group Denis Breading

Present at the hearing were Mr Lee Hoddinott (Applicant), Mr Colin Siddle (Applicant's Solicitor), Mr Mike Fish and Mr David Hook (Applicant's Agents), PC David Fern (Metropolitan Police), Mr Marc Gasson (Havering Council Environmental Health Service), and three 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

OJ's
64-68 High Street
Hornchurch
RM12 4UW

DETAILS OF APPLICATION

Application to vary a premises licence made under section 34 of the Licensing Act 2003 ("the Act").

APPLICANT

Mr Colin Siddle
65a Gordon Avenue
Hornchurch
Essex
RM12 4EA

1. Details of existing licensable activities

Current premises licence hours

Plays, Films, indoor sporting events, live music, recorded music, performances of dance, anything of a similar description to live music, recorded music or performances of dance, provision of entertainment facilities for making music, dancing and anything similar to making music or dancing, supply of alcohol		
Day	Start	Finish
Monday to Wednesday	10:00hrs	23:00hrs
Thursday to Saturday	10:00hrs	01:00hrs
Sunday	12:00hrs	01:00hrs

Late night refreshment		
Day	Start	Finish
Thursday to Sunday	23:00hrs	01:30hrs

2. Details of requested licensable activities

The application was amended by the applicant at the Hearing to the following:

Plays, Films, indoor sporting events, live music, recorded music, performances of dance, anything of a similar description to live music, recorded music or performances of dance, provision of entertainment facilities for making music, dancing and anything similar to making music or dancing, supply of alcohol		
Day	Start	Finish
Friday & Saturday	10:00hrs	02:00hrs

Late night refreshment		
Day	Start	Finish
Friday & Saturday	23:00hrs	02:00hrs

Hours open to the public: (non-licensable activity)		
Day	Start	Finish
Monday to Wednesday	10:00hrs	23:30hrs
Thursday & Sunday	10:00hrs	02:00hrs

Friday & Saturday	10:00hrs	02:30hrs
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The application for the extension of licensable activities to the hours as detailed above would be applicable to the premises known as 'Olivers' only, and not as a joint operation of the licence between 'Olivers' and 'OJ's'.

The applicant applied to modify/remove the following conditions:

- Annex 2 Condition 7 and Annex 3 Condition 3 to be removed and replaced with:
"No person under 18 shall be on the premises during hours of permitted licensable activity unless by residential qualification or attending a pre-booked event and accompanies by a responsible person."
- Annex 3 Condition 13 to be removed.
- Annex 2 Condition 9 add the following the following:
"Within 'Olivers' venue polycarbonates will be used at all times during times of permitted licensable activities."
- A new condition to be added:
"The designated premises supervisor or premises licence holder shall supply an appropriate number of SIA registered door supervisors for the maximum occupancy figure state. There shall be a minimum of one female supervisor included in this figure."
- A new condition to be added:
"A drugs log book shall be at the premises and monitored by the designated premises supervisor. All drugs seized during searches shall be recorded in a book by the appropriate SIA door supervisor. Police shall be notified when a collection is required."

The applicant applied to modify the premises plan. Plan A (attached as Appendix A to this decision notice) is the current premises plan for the first floor area of the premises which appears on the current version of the premises licence. Plan C (attached as Appendix B to this decision notice) is the version the applicant sought to modify.

Seasonal variations

There were no seasonal variations in the application.

Non-standard timings

There were no non-standard timings in the application

3. Promotion of the Licensing Objectives

The applicant acted in accordance with premises licence regulations 25 and 26 of the Licensing Act 2003 Regulations 2005 relating to the advertising of the application. The required public notice was installed in the December 2011 edition of the Yellow Advertiser.

OJ's is located in the St Andrews ward. The ward is the subject of a cumulative impact policy with regard to licensed premises. Policy 017 states:

"It is the LLA's policy to refuse applications in the St Andrews ward area for pubs and bars; late night refreshment premises offering hot food and drink to take away; off licences; and premises offering facilities for music and dancing other than applications to vary hours with regard to Licensing policy 012."

Policy 012 states:

"The LLA is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Applications for hours set out below in this policy will generally be granted subject to not being contrary to other policies in the statement of licensing policy. Applications for hours outside the hours listed will be considered on their merits."

Regulated Activities will normally be permitted:

- until 11.30 pm in residential areas
- until 00.30 am in mixed use areas
- no limits in leisure areas

4. Details of Representations

Valid representations may only address the four licensing objectives.

Seven letters of representation against the application, signed by eleven individuals, were received from interested parties. The representations made reference to the prevention of public nuisance with specific mention to the noise emanating from the premises into the early hours of the morning.

Two ward councillors submitted representations against the application. Their objection made reference to the prevention of crime and disorder, public safety and public nuisance objectives. It was contended that the extension of the hours of licensable activities would likely result in an increase in anti social behaviour, noise and general disorder in an around the premises which would be harmful to the amenity of nearby residents.

Councillor John Mylod, St. Andrew's Ward Councillor, raised similar concerns to those mentioned by PC Fern. Councillor Mylod was particularly concerned at the prospect of up to 600 people (should a planning permission at the premises be granted) congregating in the centre of Hornchurch as the premises closed and without any public transport being available at that time, patrons would disperse into neighbouring residential streets and cause a public nuisance.

There were two representations against this application from responsible authorities, namely from the Metropolitan Police and Public Health.

Responsible Authorities

Chief Officer of Metropolitan Police (“the Police”): The Police made a representation against the application on the basis that the proposed increase in the hours of operation of licensable activities was likely to result in an increase in instances of public nuisance and crime and disorder within the vicinity of the premises.

The Police representation detailed crime figures for both OJ's and Oliver's for a period covering the previous 24 months. For Oliver's, there were 18 offences, 12 of which were for assault. For OJ's, there were 6 offences, 5 of which were for assault.

Reference was made to the location of the premises in the Hornchurch saturation zone. It was contended that the later opening hours would have a cumulative impact on the mixed residential/commercial area as up to 494 customers, upon leaving the premises, would loiter in and around Hornchurch town centre thereby contributing to anti-social behaviour and public nuisance, which in-turns leads to a rise in crime and disorder. The vertical drinking nature of establishment and the absence of any food sales on the premises increased the potential for alcohol-fuelled instances of public nuisance and crime and disorder.

The representation made reference to the possible supply and consumption of drugs on the premises. Following a sample test, results suggested that drugs had been present on the premises. The premises licence holder was working with the Police to address the drugs issue. A number of conditions were suggested in the representation which would tackle the drugs issues.

With regards to the variation of the conditions requested as part of the application, a number of these had been agreed with the applicant however there were a small number which the Police objected to. The Police objected to the removal of Condition 7 of Annex 2 and Condition 3 of Annex 3 concerning the admission of persons under the age of 18 as their removal would undermine the licensing objective of protecting children from harm.

PC David Fern of the Metropolitan Police addressed the Sub-Committee. PC Fern commented that increased hours of licensable activities was linked to an increase in instances of violent crime and alcohol-related anti-social behaviour. The premises was situated in a mixed residential/commercial area and was located within the Hornchurch Saturation Zone; the policy which was designed to provide residents with the highest quality of life. The granting of the application would undermine that objective.

It was suggested that the vertical drinking nature of the premises and the absence of food provision, combined with extended hours for the sale and consumption of alcohol would increase the likelihood of crime and disorder both inside the premises and outside after the dispersal of patrons at closing time.

PC Fern remarked that should the application be granted, the premises would be the only licensed venue in the centre of Hornchurch with such late operating hours. PC Fern was concerned that other licensed premises would also be minded to apply for later operating hours which would further undermine the objective of the Saturation Zone and increase the likelihood of instances of public nuisance and crime and disorder.

With regard to the dispersal of patrons after the premises closes, PC Fern commented that the location of the premises in a small town centre such as Hornchurch, would be difficult to manage as there could be up to 494 persons spilling onto the streets with no means of getting home at such a late hour other than by taxi or walking. He suggested there would be insufficient taxi coverage to cope with such numbers and as a result large numbers of people under the influence by alcohol would congregate in the town centre thereby increasing the likelihood of violent crime or disperse into neighbouring residential streets thereby disrupting the sleep of local residents and causing a public nuisance.

London Fire & Emergency Planning Authority (“LFEPA”): None.

Health & Safety Enforcing Authority: None.

Planning Control & Enforcement: None.

Children & Families Service: None

Trading Standards Service: None

The Licensing Authority: None

The Magistrates Court: None

Public Health: The Council’s Public Protection Service made a representation against the application. The representation was based upon the prevention of public nuisance licensing objective. The Service objected to any extension of licensable activities beyond the hours

currently permitted as there was an ongoing history of noise complaints from the premises, principally music emanating through open windows and doors and noise from patrons using the beer garden to the rear of the premises. An Abatement Notice in respect of noise nuisance had been served on the premise on 4 August 2011. The Service considered that an extension to the licensable activities would likely result in an increase in public nuisance.

Marc Gasson of the Council's Public Protection Service stated there had been complaints from local residents concerning noise emanating from the premises including noise from patrons using the beer garden to the rear of the premises.

In response, the applicant's representative, Mr Hook, made the following comments. In his view, the application had been well thought out and had been proposed following a lengthy period of scrutiny. The suggestion had been put to Police a year previously, and Police advised that the premises should operate Temporary Event Notices ("TENs") and non standard timings to show such hours could be operated without cause for concern. Should that be done Police would be in a better position to support (or object to) such an application. Mr Hook informed the Sub-Committee that the variation in hours requested had been operated as non-standard timings and TENs on 36 separate weekends over the course of the 2011; 35 of which the Police did not raise an objection to. The only objection to a TEN application had been due to that particular weekend being the same weekend as the Notting Hill Carnival and Police resources had been redirected from Havering to manage that event. The applicant had gained considerable experience from managing the requested hours during those weekends and was now in a position to submit an application for the operating hours to be extended on a more permanent basis. Further, none of the issues currently anticipated by the Police in their representation had arisen while these times were being operated.

With regards to the noise complaints from local residents, Mr Hook commented that the residential block where the representations had come from was some considerable distance from the premises. Furthermore, no objections had been received residential premises nearer by.

With respect to the crime-related incidents referred to in the Police representation, Mr Hook remarked that there was no evidence produced which detailed the exact nature of each individual incident and as such the applicant was unable to comment. Without such detailed evidence there was no way to analyse whether the incidents had occurred during the hours which the application was the subject of (while operating non-standard timings and TENs) or whether they had occurred at some other time. The applicant also cast doubt as to accuracy of the figure for the number of incidents which the Police suggested had occurred at the premises. Mr Hook emphasized that on any of the 36 occasions, Police could have objected, had there been any trouble. No such objection was forthcoming, nor does there appear to be any proof of the anticipated problems.

Mr Hook suggested that the clientele who visited the premises would be unlikely to use public transport as a means to getting home after the premises had closed; the suggestion being that patrons would use a local taxi service and as such large numbers of people would not congregate in the town centre after the premises had closed and thus would not cause a public nuisance to local residents or increase the likelihood of instances of crime and disorder occurring in the early hours of the morning.

In response to the suggestion that other licensed premises would submit applications for extended hours of operation should permission be granted for this application, Mr Hook remarked that this was not a matter for the Sub-Committee to consider. However, should other premises make similar application; they would need to speculate on what might arise. In this application, there is practical application of it to the tune of 36 occasions, which did not give rise to police objection, or any further problems.

Mr Hook acknowledged that there had been an issue with noise emanating from the premises. Management had addressed the issue by securing windows which staff had been accustomed to opening during the warm summer months, and by installing a new air conditioning unit. To overcome the noise created by patrons using the beer garden to the rear of the premises, the applicant had amended the requested licensable hours of operation to a reduced time. If the issue of noise persisted, the Public Protection Service had powers of enforcement under alternative legislation which would be a more appropriate course of action.

To address the concerns raised by the Police and Ward Councillors in respect of the dispersal of patrons at closing time, the applicant's representative agreed to the suggested conditions proposed by the Police. In addition, the operation of the proposed variation to the licence, which is currently a single licence for dual premises (OJs and Olivers) would be to Oliver's only; this would restrict the capacity for the requested hours of operation to a total of 322 persons and the premises would close 30 minutes earlier than the time listed in the initial application.

5. Determination of Application

Decision

Consequent upon the hearing held on 9 February 2012, the Sub-Committee's decision regarding the application to vary a Premises Licence for OJ's 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.

Having considered the written and oral representations and responses, the Sub-Committee was not satisfied that any evidence of cumulative impact upon any of the licensing objectives had been produced, particularly in light of the fact that the premises had operated at the proposed hours applied for on 36 weekends during 2011 without objection by the Police, and with no evidence of these operated extensions having causing any problems in terms of the objectives. Given those facts, the reduction in hours from what was originally applied for, and assurances with regard to patrons not being outside the premises, and it being limited to part of the premises (and therefore a limited number of patrons) only, the Sub-Committee stated that they were **prepared** to grant the amended application as follows:

Plays, Films, indoor sporting events, live music, recorded music, performances of dance, anything of a similar description to live music, recorded music or performances of dance, provision of entertainment facilities for making music, dancing and anything similar to making music or dancing, supply of alcohol		
Day	Start	Finish
Friday & Saturday	10:00hrs	02:00hrs

Late night refreshment		
Day	Start	Finish
Friday & Saturday	23:00hrs	02:00hrs

Hours open to the public: (non-licensable activity)		
Day	Start	Finish
Monday to Wednesday	10:00hrs	23:30hrs
Thursday & Sunday	10:00hrs	02:00hrs
Friday & Saturday	10:00hrs	02:30hrs

The extension of licensable activities to the hours as detailed above would be applicable to the premises known as 'Olivers' only, and not as a joint operation of the licence between 'Olivers' and 'OJ's'.

Premises Plan:

The modification of the premises plan (attached as Appendix B to this decision notice) is granted.

Amendment/removal of conditions:

Annex 2 Condition 7 and Annex 3 Condition 3 to be removed and replaced with:

“No person under 18 shall be on the premises during hours of permitted licensable activity unless by residential qualification or attending a pre-booked event and accompanies by a responsible person.”

Annex 3 Condition 13 be removed.

Annex 2 Condition 9 add the following the following:

“Within ‘Olivers’ venue polycarbonates will be used at all times during times of permitted licensable activities.”

Additional conditions:

1. The designated premises supervisor or premises licence holder shall supply an appropriate number of SIA registered door supervisors for the maximum occupancy figure state. There shall be a minimum of one female supervisor included in this figure.
2. A drugs log book shall be at the premises and monitored by the designated premises supervisor. All drugs seized during searches shall be recorded in a book by the appropriate SIA door supervisor. Police shall be notified when a collection is required.
3. Restriction of the use of the area to the rear and to the front of the premises to 02:00hours on Friday and Saturday.
4. No alcoholic drinks to be taken outside of the premises, either to the front or to the rear, after 23:00hours on any day.
5. Immediately following the cessation of the sale of alcohol, the playing of music is to be wound down with lower tempo music at a decreased volume.
6. In the period between the cessation of the sale of alcohol and the closing of the premises, the lighting inside the premises is gradually increased.
7. Once all music ceases, an announcement will be made asking all patrons to leave in an orderly manner and to have consideration for local residents.

8. Door staff will observe leaving patrons and remove all drinking vessels from them.
9. Door staff and management will ensure that patrons do not cause any disturbance or nuisance within the vicinity of the premises. Any patrons causing a nuisance or disturbance will be moved on.
10. Door staff will remain outside until all patrons have left the vicinity of the premises.

Chairman