

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
1 May 2012 (10.30 am - 12.25 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and Linda Trew

Residents' Group Linda Van den Hende

Labour Group

**Independent Residents
Group**

Present at the hearing were the applicant Mr Terry Phillips, Mr Robert Benham a friend to the applicant and his legal representatives Mr Alan Aylott.

Objectors present were Councillor Andrew Curtin, Mr Donald Lane, Mohammed Saleem, PC David Fern (Havering Police) and Mr M Gasson (Environmental Health Noise Team).

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

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

No interest was declared at this meeting.

1 APPLICATION TO VARY A PREMISES LICENCE - THE BRICKYARD

PREMISES

The Brickyard
222 South Street,
Romford,
RM1 2AD

DETAILS OF APPLICATION

Application for a variation of a premises licence under section 34 of the Licensing Act 2003 ("the Act").

APPLICANT

JRL & Co
222 South Street,
Romford,
RM1 2AD

1. Details of the application

The premises is a detached building with a ground floor and basement level.

Supply of Alcohol to frontage area of premises		
Day	Start	Finish
Sunday to Wednesday	11:00hrs	22:00hrs
Thursday to Saturday	11:00hrs	23:00hrs

Also the applicant is requesting for duplicate conditions on its licence to be to be removed, replaced or changed as detailed on the application.

Seasonal variations & Non-standard timings

No seasonal variation or non standard timing was applied for in this application.

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 complied with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the Romford Recorder on Friday 16 March 2012. Public notices were displayed on the premises.

3. Details of Representations

Valid representations may only address the four licensing objectives

- The prevention of crime and disorder;
- The prevention of public nuisance;
- The protection of children from harm; and
- Public Safety.

There were two representations from Responsible Authorities, the Metropolitan Police and the Environmental Health Department and eight valid representations against this application from interested parties. Some of the representations were signed by more than one person.

Responsible Authorities

Metropolitan Police: - had made a representation against the application on the ground of public nuisance and crime and disorder but for the hours requested only.

PC Fern addressed the subcommittee orally reiterating his written representations stating that the granting of a license for the terrace to remain open until 23:00 hours, Thursday through to Sunday would impact on the licensing objective of prevention of public Nuisance, which in turn often leads to disorder.

He explained that this can be from disgruntled neighbours who often called the police to deal with nuisance issues. The local authority can not guarantee the complainant's concerns are addressed outside office hours. This in turn often leads to further calls to the police or disorder at the location.

Nuisance could be caused by no more than large groups' gathering causing disturbance through loud talking, laughing, cheery goodbyes, the prevention of noise nuisance is essential to the quality of life to residents and a human right.

The licensing act is designed around prevention of crime and disorder and public nuisance, allowing this terrace area to be open to be open until 2300 hours would not promote that.

The subcommittee was informed that the police had been in consultation with the applicant and if the Sub Committee were minded to grant the application the following conditions have been agreed, along with duplicated conditions to be removed.

ANNEX 2

Reference to under 21 years old to be removed see new conditions.

The following are duplicate conditions:

CCTV to be operation - remove this is covered in Annex 3

First aid facilities to be on site - removed see Annex 3

An incident book - covered in annex 3.

ANNEX 3

There shall be no outside consumption of alcohol removed.

The Police representation also noted the following proposed conditions by the applicant:

- The supply of alcohol within the terrace shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.

- Polycarbonate glasses shall be used outside at all times, except when champagne is served, glass flutes will be permitted.
- The cellar area will operate a strictly over 21's policy.
- The cellar shall operate with polycarbonate drinking vessels at all times.
- The Bar, Restaurant and Terrace located on the ground floor will be for over 18's after 20:00 hours, unless the person is accompanied by and adult over 18 and taking a table meal.

Public Health: - Mr Gasson, the Havering Noise Specialist officer, appeared and reiterated his written objection against the application to vary the premises licence. He stated his objection unless the use of the external seating area be restricted to the following times:

11:00 to 21:00 hours – Monday – Sunday inclusive

The subcommittee was informed that in his professional judgement the suggested hours were to protect the amenity of nearby residents.

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

Planning Control & Enforcement: None.

Children & Families Service: None

Trading Standards Service: None

The Magistrates Court: None

Mr Donald Lane, an objector addressed the subcommittee stating that his objection was based on the ground of noise nuisance, that local residents and children would suffer if this application is granted. He outlined that the premises was situated in an area with properties with children, he explained that their sleep pattern would be affected with consequences to their attainment and behaviour in school. Mr Lane added that this was a residential area where most properties were family houses with gardens. That the increase in traffic would cause public nuisance from the noise of people entering and leaving the premises. Mr Lane was of the view that outdoor consumption of alcohol and food was inappropriate and would be detrimental to his and others residential environment.

Councillor Andrew Curtin addressed the subcommittee detailing his objection to the application. He stated that when an operating licence was granted to this premises in November 2009, it was agreed that there would be no outside consumption of alcohol. That the subcommittee resolved to make the decision because of the mixed character of the area with a number of residents who had children, the elderly and vulnerable. That

consumption of alcohol outside this premise would lead to late night noise nuisance and general disturbance that would lead to public nuisance and place children at risk of harm.

Councillor Curtin was of the opinion that the character of the area has not changed since the decision to restrict the outside and as such suggested to the subcommittee to maintain the exclusion of the outside area.

4. Applicant's response.

Mr Alan Aylott on behalf of the applicant responded to representations from Responsible Authorities and interested parties. He enquired of the Noise Specialist officer why he suggested 21:00 hours as an acceptable time. In reply Mr Gasson stated it was a professional judgement because the premises was situated in an area where families with children resided. He asked whether there had been any complaints from neighbours to which Mr Gasson replied that there had been.

Mr Aylott was also granted permission to question PC Fern and asked whether there had been any disorder associated with the premises. PC Fern confirmed that about 1 year before there had been an incident but that this had not been the applicant's fault. PC Fern was concerned for the potential for disorder if the application was granted and that 11pm did seem late.

Mr Aylott enquired of Mr Lane who he had made complaint to in previous instances of noise disturbance from the premise. In reply Mr Lane responded that he had complained to his ward councillor.

Mr Aylott made the following representations on behalf of the applicant to the subcommittee:

- the premises has traded successfully for the last 2 years under new management and name
- that this premises was an upmarket venue with an average price of drinks from £4 per unit
- that this application was not to introduce vertical drinking
- that there was no record of any complaint against the premise
- that case law showed that any public nuisance involved anything which materially affected the comfort of Her Majesty's subjects and that consumption of meals outside the premises would not materially affect the neighbouring residents.
- the premises was located at a very busy road junction
- that the premise was a finalist in a recent Havering Business Award
- that the premises had played host to a number prominent persons and events

- that it was the intention of the premises to take last food orders for the outside area as follows:

Sunday to Thursday at 20:00 hours

Friday to Saturday at 21:00 hours

- the outside area will have a mesh fence constructed to dampen the effect of lighting and any noise from clients talking
- that four staff will be employed to supervise the outside area
- that no music will be played in the outside area
- that no glassware will be used to serve in this area except champagne flutes
- that CCTV will be installed to the police requirement
- that there will be no light pollution in this area to the detriment of local resident
- that no drinks promotion will be undertaken by the premises
- the applicant proposed that any customers in the outside area at 23:00 hours will be transferred inside the premises.
- the applicant informed the sub committee that he personally undertook a review every Friday and Saturday outside the premises to ensure the music was not too loud
- the premises did not have a set noise limiter to control the music system
- as part of developing the outside area, there will be an umbrella type cover in use during the summer months

Mr Gasson responded to the applicant's representative's offer to have a mesh fence constructed to minimise light pollution and noise. He informed the sub committee that in his opinion the mesh fencing will not absorb the sound as proposed, as only solid material could achieve this. He added that he had visited the venue and observed when functions were on going and was of the view that noise emanated from the entrances to the main dining area and in order to address this it would need a lobbied entrance.

The applicant himself gave evidence confirming:

- He carried out his own monitoring of noise levels every Friday and Saturday night by walking outside the premises and that he could not hear the sound of music above the buzzing of an electric street lamp.
- If any complaints were made he would always deal with them as he did not want to upset anyone
- The outside terrace was only likely to be used during the summer months

4. Determination of Application

Decision

Following the hearing held on 1 May 2012, the Sub-Committee's decision regarding the application to vary a Premises Licence for

The Brickyard, 222 South Street, Romford 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.

Facts/Issues

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

- **The prevention of public nuisance**
- **The prevention of crime and disorder**

The police had submitted that the granting a licence to the terrace to remain open until 23:00 hours, Thursday through to Sunday would impact on the licensing objective of prevention of public Nuisance, which in turn often leads to disorder for the reasons set out above.

The Havering Noise Specialist officer, offered in his representation that the fencing proposed will not be effective to dampen noise and light pollution from the premises. He suggested a compromise operating hours up to 9pm for the outside terrace in order to protect the amenity of nearby residents.

The Sub-Committee accepted that there was a potential for the amenity of local residents to be materially affected by the use of the outside of the premises late at night, however, that this could be avoided by imposition of conditions including limiting the hours of operation to 9pm Sunday to Thursday and 10pm on Friday and Saturdays. This was a reasonable time for young families who were likely to have school during the week.

Otherwise the applicant had offered sufficient conditions to satisfactorily address the issues raised by the Metropolitan Police and Noise Specialist.

The Sub Committee therefore determined to **grant** the application to vary the premises licence for the supply of alcohol to the frontage of the premises as follows:

Supply of Alcohol to frontage area of premises		
Day	Start	Finish
Sunday to Thursday	11:00hrs	21:00hrs
Friday to Saturday	11:00hrs	22:00hrs

subject to the conditions set out below:

- The supply of alcohol within the terrace shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
- Polycarbonate glasses shall be used outside at all times, except when champagne is served, glass flutes will be permitted.
- The cellar area will operate a strictly over 21's policy.
- The cellar shall operate with polycarbonate drinking vessels at all times.
- The Bar, Restaurant and Terrace located on the ground floor will be for over 18's after 20:00 hours, unless the person is accompanied by an adult over 18 and taking a table meal.
- That a contact telephone number will be prominently displayed for anyone to report any noise problem.
- That monitoring by staff for nuisance outside the premises to be recorded in a hard cover notebook noting the date, time and person carrying out the monitoring.

Chairman