

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
30 April 2012 (10.30 - 11.30 am)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman), Robert Benham and Frederick Thompson

Residents' Group

Labour Group

**Independent Residents
Group**

Present at the hearing were the applicant Mr Ajmar Dhesi, his representative Mr Stephen Thomas and a supporter Mr Peter Scrafton.

Objectors present were PC David Fern (Havering Police) and Mr M Gasson (Environmental Health Noise Team) and Councillor John Wood.

Also present were Paul Jones (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 - HOT & TENDER

PREMISES

Hot & Tender
1 Billet Lane
Hornchurch
RM11 1TS

DETAILS OF APPLICATION

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

APPLICANT

Mr Ajmar Singh Dhesi
Hot & Tender
1 Billet Lane
Hornchurch
RM11 1TS

1. Details of the application

The premises is a take-away food shop.

Late night refreshment		
Day	Start	Finish
Monday to Thursday	23:00	23:30
Friday to Saturday	23:00	01:00

Variations applied for:

Late night refreshment		
Day	Start	Finish
Monday to Thursday	23:00	23:30
Friday to Saturday	23:00	02:30

Hours premises open to the public		
Day	Start	Finish
Monday to Thursday	11:00	23:30
Friday to Saturday	11:00	02:30

Non-standard timings

Late night refreshment		
Day	Start	Finish
Bank holiday Sundays, Christmas Eve, New Year Eve	23:00	02:30

Hours premises open to the public		
Day	Start	Finish
Bank holiday Sundays, Christmas Eve, New Year Eve	11:00	02:30

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 28 March 2012 edition of the Yellow Advertiser. 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 against this application from responsible authorities and two others from interested parties, both of whom are ward councillors.

There were six representations in support of this application submitted by interested parties.

Responsible Authorities

The Metropolitan Police were represented at the hearing by PC Fern who made the following representation against the application:

- That the premises is located within the saturation area of St Andrews Ward, this area is highlighted as being under stress.
- The cumulative impact of being open until 02:30 hours in a mixed use area will cause further crime and disorder. This will be the only premises in the area open and is likely to be magnet for crime and disorder, along with public nuisance.
- The shop would attract predominately those who have been out drinking and enjoying the night time economy, many under the influence of alcohol and drugs.
- Police have conducted drugs test in licensed establishments within the vicinity and high readings have been reported of cocaine in these premises.
- There are likely to be fights at the location which is associated with alcohol fueled customers, especially given the hours requested.

- On 21 April there had been an incident either in or around the premises which resulted in the police attending the premises at the request of the licensee

The subcommittee was informed that Romford town centre which operates a late night economy in comparison suffers hugely from violence at the weekend predominately between 0100 - 0300 hours.

- There is no public transport from Hornchurch at this time of night therefore members of the public will be loitering, waiting for taxi's or people to pick them up.
- The area becomes an area that illegal mini cabs target and this will increase the risk of public safety at the location.
- That there will no doubt be disorder caused by the customers who have ordered food at the location and remain outside the premises to consume it, along with litter and urination which tend to go hand in hand with those out at this hour.

The area is at present a fairly quiet street, the accumulation of individuals emerging into the street will wake neighbours through no more than cheery good byes, shutting of car doors, loud voices and gathering of groups. This will impact on the licensing objective prevention of Public nuisance.

The Police stated that granting this licence would have a negative impact on the licensing objectives, in particular Prevention of Crime and Disorder, Public Nuisance and Public Safety.

The Police also stated that they could not support this application given the overall impact on the licensing objectives. The Police licensing officer added that if the subcommittee were to grant a variation to the license against this representation, Police would seek to impose further conditions. This would include CCTV, employment of SIA door staff, restrictions on loitering outside the premises and consumption of food.

Public Health: - Mr Gasson, the Havering Noise Specialist officer, appeared and reiterated his written objection against the variation for an extension in the hours of the licensable activities being granted due to the close proximity of residential properties above the commercial properties in Billet Lane. The subcommittee was informed that any extension will give rise to an increase in public nuisance experienced by nearby residents to a later time which he deemed as unacceptable.

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

Planning Control & Enforcement: None.

Children & Families Service: None

Trading Standards Service: None

The Magistrates Court: None

Councillor John Wood, a ward councillor, appeared to support his written representation. He stated that at present Oliver's night club which is directly opposite Hot & Tender has a licence to stay open until 02:00 hours Thursday and Sunday and 02:30 hours on Friday and Saturday. He was of the opinion that there is a potential for more than 500 patrons to spill out around the Hot & Tender vicinity seeking to purchase a hot takeaway instead of making their way directly home which he viewed a safer alternative. Councillor Woods considered that there is a potential of a volatile situation in the area where in recent months there have already been a number of physical assaults.

Cllr Wood also submitted that there is a potential for litter in the area. Noise in the area will be ongoing until well past 2.30 am which has the potential to be disruptive to residents living nearby.

The objective of Prevention of Public Disorder would be adversely affected by more noise being caused to businesses and residents, shouting, swearing and boisterousness, more litter including cans and food wrappers. The Public Safety objective would be adversely affected by the increase in drunken people staggering across the road, gathering in groups, intimidating passers by and problems at bus stops and at the train station with people causing a nuisance and possibly falling under trains. Finally he submitted that the popularity of Romford might be damaged as people would feel discouraged from taking their children to restaurants and children may be frightened by drunks loitering and staggering around.

The other representations raised similar issues and additionally raised concerns at the hours originally applied for which they felt would impact on crime and anti-social behaviour at the peak time in the town centre. Both ward councillors made reference to the saturation policy and the fact that there were good grounds for refusal. They felt the applicant had not demonstrated any exceptional grounds for granting this application.

In support of this application four businesses that operate during normal working hours made written representations, and also a fifth business (a takeaway) that ceases operation at 23:00 hours made written representations.

An interested party, Mr Peter Scrafton attended the hearing and made submissions in support of the application stating that the premises served as a refuge for young ladies in particular late at night while waiting for their taxi. That he regularly visited the premises late at night and noticed how clean and well run the business is. That he witnessed staff clearing and

undertaking litter picking after closure. Mr Scrafton disagreed that the area was a quiet area, he was of the opinion that there was always traffic movement and people in the area. He stated that there was no evidence of drug usage or any alcohol related issues with this premises. He submitted that noise from Hot & Tender was negligible in contrast to noise from the Sainsbury yard.

4. Applicant's response.

Mr Thomas on behalf of the applicant spoke in response to the representations from responsible authorities and interested parties.

The subcommittee was informed that the application for variation only covered Friday and Saturday 23:00 to 02:30 hours. That the cumulative impact policy did allow variations to existing hours.

Mr Thomas submitted:

- That the premises had trialled the extended hours on a total of (8 applications) 24 days using Temporary Events Notices (TENS) successfully without any problems. That they had met with the Police prior to processing this application and had agreed the appointment of a SIA door supervisor to monitor the premises between 01:00 and 02:30 hours Friday and Saturday, Christmas Eve and New Years Eve.
- That the applicant had a good track record.
- That the applicant had agreed to become a member of the Hornchurch Safe and Sound Night Time Economy Network.
- That in order to mitigate existing problems the last order for food at the premises on Friday and Saturday would be set at 02:00 hours
- That CCTV coverage would be enhanced to cover the frontage of the premises
- That the necessary signage would be put in place to indicate the time for last food orders, and separately a sign with the contact number of the Designated Premises Supervisor for local resident to call if they have any concerns;
- that the SIA registered door supervisor would control any queues that formed
- That the hot food and drink supplied by the premises was to mitigate the effect of alcohol the client had taken from the premises directly opposite Hot and Tender
- That they were not looking to exceed the hours of any other premises
- That they were happy to agree to a condition to maintain an incident book

- That the premises was also a safe environment for people going home, most especially young ladies, who will be able to get a hot coffee while awaiting their taxi;
- That the premise is able to gain the support of neighbouring businesses because it undertook a clearing up after its operation;
- That the road closure in the area had an adverse effect on the business and resulted in the laying off of two staff members.
- In terms of the proposed conditions recommended by the police the applicant had no problems with CD 6 and CD7 except for the 3rd, 4th and 5th bullet pointed items. The 3rd bullet was inappropriate but would accept it. The 4th bullet was disproportionate and unfair. Insofar as the 5th bullet was concerned they would accept a requirement for SIA staff from 1am. No problem with CD 17 or CD 17-21. PNGPG4 was something they already did although they did not distribute flyers.

4. Determination of Application

Decision

Following the hearing held on 30 April 2012, the Sub-Committee's decision regarding the application for a variation of a Premises Licence for Hot & Tender, 1 Billet Lane, Hornchurch, RM11 1TS 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. The Committee accepted the applicants submission that Para 4.15 and Licensing Policy 017 specifically excluded applications to vary hours from the cumulative impact policy for St Andrews Ward, Hornchurch.

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.

Crime and Disorder

The Police considered that there was a potential for an increase in crime and disorder if the hours of operation increased.

However, the Sub-Committee were of the opinion that the imposition of the conditions offered by the applicants, namely the installation of a CCTV system combined with the presence of a SIA door supervisor to monitor the premises between 01:00 and 02:30 hours Friday and Saturday, Christmas Eve and New Year Eve would reduce this risk to an acceptable level.

The Sub Committee also accepted that the nightclub in the vicinity also had a closure time of 2:30am so the imposition of a condition requiring last food orders to be made by 2:00am would ensure that the applicant's premises would not be an attraction for patrons of the nightclub to stay in the area after the club had closed.

Public Nuisance

The Environmental Health Service and the local ward councillors considered that there would be a greater risk of public nuisance if the hours were increased.

The Sub Committee did not consider that the extra hours would appreciably increase the noise in the vicinity or affect the amenity of local residents.

The Sub Committee accepted the representations of those in support of the application that this was a well run premises and that cleanliness and litter picking outside the premises were undertaken regularly. Therefore there was not likely to be any appreciable increase in litter, or other public nuisances.

The Sub-Committee therefore **granted** the application to vary a premises licence in full subject to the conditions set out below:

CD6 A Premises Daily Register shall be kept at the premise. This register will be maintained and kept for a minimum of 12 months. This register should record the name of the person responsible for the premise on each given day. The Premises Daily Register shall record all calls made to the premises where there is a complaint made by a resident or neighbour of noise, nuisance or anti social behaviour by persons attending or leaving the premises. This shall record the details of the caller, the time and date of the call and the time and date of the incident about which the call is made and any actions taken to deal with the call. The Premises Daily Register will be readily available for inspection by an authorised person throughout the trading hours of the premise. The Premises Daily Register will also record all incidents in relation to the use of any force by staff or Door Supervisors in the removal of persons from the premises. It shall record the time and date of the occurrence, name or brief description of the person removed, and details of the staff involved.

CD7 All Door Supervisors shall enter their full details in the Premises Daily Register at the commencement of work. This shall record their full name,

home address and contact telephone number, the Door Supervisor's SIA registration number and the time they commenced and concluded working. If the Door Supervisor was supplied by an agency, details of that agency will also be recorded including the name of the agency, the registered business address and a contact telephone number.

- All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
- The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- No person carrying any form of alcoholic drink, whether open or sealed, will be admitted to the premises after 23:00 hours.
- SIA staff will be employed when licensable activity is after 01:00-02:30 on Friday and Saturday, Christmas Eve and New Year Eve. SIA staff will be provided with a written policy of the requirements by the premises; this must be approved by Havering police.

CD17 The installation or upgrading of any CCTV system shall comply with current best practice. In addition the documentation listed below shall be included in a 'System File' which should be readily available for inspection by the relevant authority;

Site plan showing position of cameras and their field of view.

Code of Practice.

Performance specification e.g. storage capacity, image file size, IPS for each camera and purpose of each camera position

Operational requirement.

Incident log.

Maintenance records including weekly visual checks.

CD18 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.

CD19 The CCTV system shall incorporate a recording facility and all recordings shall be securely stored 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.

CD20 The positions of all CCTV cameras shall be clearly shown on a set of plans which should form part of the 'System File'. Any alteration to the system should only be carried out after consultation with and written approval of Havering Police and the Licensing Authority.

CD21 A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premise is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

PNGPG4 After close of business a rubbish patrol should pick up any flyers or rubbish which has been left in the close vicinity of the premises by customers including any bottles, cans and take way waste packaging.

- The premises will install signage to inform customers:
- that CCTV is in operation for the prevention of crime and disorder.
- That last food orders will be taken at 02:00am on the days when extended hours are in operation.
- informing customers to leave the area quietly.

Chairman