

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
23 May 2012 (10.30 - 11.40 am)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and Frederick Thompson

Labour Group Denis Breading

Present at the meeting were Steve Waites (applicant's advocate), Ozlem Ozcan and Ramazan Ganidagli (applicant's agents) and Murat Guler (applicant).

Councillor John Mylod (Local Councillor as observer).

P C David Fern (Metropolitan Police) and Marc Gasson (London Borough of Havering Noise Specialist) – Responsible Authorities.

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.

1 APPLICATION TO VARY A PREMISES LICENCE, MARMARIS, 181 HIGH STREET, HORNCHURCH, RM11 3XS

PREMISES

Marmaris Supermarket,
181 High Street,
Hornchurch,
Essex.
RM11 3XS

DETAILS OF APPLICATION

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

APPLICANT

Anatolian Trader Limited,
17A The Avenue,
London.
N17 6TB

1. Details of the application

The premises was a convenience store located in Hornchurch's town centre. The area is predominantly commercial; however, there were residential properties in the immediate vicinity.

Supply of Alcohol (Off supplies only)		
Day	Start	Finish
Monday to Thursday	08:00	00:30
Friday & Saturday	08:00	01:30
Sunday	08:00	23:00

Hours premises open to the public		
Day	Start	Finish
Monday to Thursday	08:00	00:30
Friday & Saturday	08:00	01:30
Sunday	08:00	23:00

Seasonal variations & Non-standard timings

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

The applicant had indicated in the application that he did not believe any additional conditions were required should the application be approved.

2. Promotion of the Licensing Objectives

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

The applicant had acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the 6th April edition of the Romford Recorder.

The premises were situated in the St Andrews ward and fell within Havering's saturation area for Hornchurch.

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.

Responsible Authorities

Marc Gasson, Havering's Noise Specialist – had made a representation against the extension in opening hours as any extension would encourage people to congregate in the vicinity increasing likelihood of noise disturbance being caused to nearby residents.

The applicant's advocate asked Mr Gasson if he had received any complaints concerning the premises or taken any enforcement action against the premises. Mr Gasson confirmed he had received no complaints and no action had been necessary.

Metropolitan Police: - had made a representation against the application because:

- The premises fell within the saturation area of St Andrews ward;
- The applicant had failed to address the licensing objectives of the prevention of crime and disorder along with public nuisance; and
- The application, if granted, would have a cumulative impact in an area already under stress.

The applicant had offered no additional conditions or any suggestion of staffing levels during these additional hours. There were no additional security measures implied to prevent disorder, the majority of bars and licensed premises within the area close before the times requested in the application. There were no other supermarkets open to such hours in Hornchurch.

The premises had recently been inspected on 18 April 2012 after which the police had raised issues with the DPS due to non compliance with a number of licence conditions, relating to the storage of spirits behind the counter, the CCTV system, and the refusals log.

The police were concerned that these failings and the DPS's apparent lack of awareness of the issues of the Town Centre made the premises a vulnerable target for crime & disorder.

Public Health: - None.

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

Planning Control & Enforcement: None.

Children & Families Service: None

Trading Standards Service: None

The Magistrates Court: None

4. Applicant's response.

Mr Waites, advocate for the applicants, asked the Metropolitan Police representative a number of questions.

1. Had any test purchases been undertaken?

The Police confirmed that there had been no test purchases since the current owner took over. However, he had only taken ownership on 7 March. There had been problems with the previous owner.

2. Had been any drug tests at these premises?

The police confirmed there had been no tests on these premises, but of other facilities in the area, where positive results had been found.

Mr Waite then proceeded to present the case for the applicant.

He advised that his client would ensure there were at least three members of staff on the premises during the extended opening hours. At this time the applicant was the only Personal Licence Holder but he would undertake training of other staff so they could apply.

He referred to the cumulative impact policy and explained, with reference to Guidance issued under Section 182 of the Licensing Act 2003, that this was not usually justified for off-licences. No policy could be absolute and it was not appropriate to apply quotas in a policy. The data and evidence on which the policy was based was 2 years out of date and there was no evidence of current crime levels in the area, or more specifically, against his client. Similarly the Environmental Health objection was general and no evidence of any noise nuisance had been provided.

The application was to extend the opening hours to sell alcohol until the early hours of the morning, thereby providing a service to local residents, such as health professionals and taxi drivers. The applicant had identified an opportunity and need which he could meet. There were no objections from local residents.

The applicant had run a 24 hour premises in Haringey without any problems.

5. Determination of Application

Decision

Consequent upon the hearing held on 23 May 2012, the Sub-Committee's decision regarding the application to vary a Premises

Licence for Marmaris Supermarket, 181 High Street, Hornchurch 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.

In submitting the Metropolitan Police representation P C Fern referred to the issue of street drinking. This often leads to criminal damage, urination, littering and general deterioration of the public realm. He made specific reference to the fact that the shop would predominantly attract those who were out drinking and enjoying the night time economy, many under the influence of alcohol and drugs. He mentioned that one of the local ward councillors John Wood had witnessed this.

On being questioned by the applicant P C Fern confirmed there had been no complaints concerning these premises.

P C Fern confirmed that the police had conducted drugs tests in licensed premises within the vicinity and high readings had been reported of cocaine. In response to a question from the applicant he acknowledged that no drug tests had been undertaken of the application premises.

In response to the police representations the applicants advised that there would be no less than three staff in the premises after 11.00pm. The Personal Licence Holder undertook to train other members of staff so they could become Personal Licence Holders. There were no Crime

and Disorder links to the premises so in the applicant's opinion no additional steps were necessary.

The applicants advised the committee that the cumulative impact policy allowed premises to open until 12:30am and that three premises already operated beyond these hours.

In response to questions from the Sub-Committee the applicant advised that 40% of the store was given over to the sale of alcohol with fruit and vegetables being available outside the store. He acknowledged that he had stretched condition and that spirits were displayed beyond the counter area but maintained they were within the control of staff and not scattered around the store.

In summing up P C Fern informed the Sub-Committee that Crime and Disorder was an issue in Hornchurch. There had been a recent case of an assault in the Vertigo Lounge, and 5 assaults outside other premises. The area still suffers from an unacceptable level of crime and disorder.

P C Fern described the premises as being very much about alcohol, as a large percentage of the store was dedicated to it. At the extra hours applied for the majority of sales were likely to be of alcohol.

The Sub-Committee had considered the various representations, and in light of the saturation policy introduced in this area, as a result of concerns of cumulative impact upon the licensing objectives.

The Sub-Committee heard that most bars in the area close around 12.00 midnight/1.00am meaning that these premises would be open later than those, and given the high proportion of alcohol (40%), it might indeed become a focal point (as suggested by the police) for those leaving the bars, which is precisely what the saturation point is aimed at preventing.

It was accepted that alcohol fuelled crime and disorder was an issue in this area and the hours applied for were likely to add to this situation.

Applicants in this area were required to take into account the issues facing licensed premises in the area and the borough's saturation policy, and realise the necessity for robust management. This application was submitted not long after the applicant took ownership of the premises. In that time there have been breaches of the existing conditions on the licence. This, in addition to the fact that the applicant does not see the need for any further conditions to be added, despite the extension of hours into the time crime and disorder in the area becomes a more

serious issue, suggests the applicant has not considered the difficulties that would be encountered in an area already subject to cumulative impact issues.

The Sub-Committee were therefore not prepared to allow the application in its current form.

Chairman