



Haverling

LONDON BOROUGH

LICENSING SUB-COMMITTEE MALTHURST FARINGDON

AGENDA

10.30 am	Friday 22 June 2012	Council Chamber - Town Hall
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Members 3: Quorum 2

COUNCILLORS:

Peter Gardner (Chairman)
Pam Light
Melvin Wallace

For information about the meeting please contact:

Grant Soderberg Tel: (01708) 433091
e-mail: grant.soderberg@haverling.gov.uk

AGENDA ITEMS

1 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS

(if any) - receive

2 DECLARATION OF INTERESTS

Members are invited to declare any interest in any of the item on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

3 CHAIRMAN'S ANNOUNCEMENT

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

4 REPORT OF THE CLERK (Pages 1 - 6)

5 REPORT OF THE LICENSING OFFICER (Pages 7 - 38)

Application for a premises licence under s.17 of the Licensing Act 2003.

**Ian Buckmaster
Committee Administration & Member Support
Manager**

LICENSING SUB-COMMITTEE

REPORT

22 June 2012

Subject Heading:

Procedure for the Hearing: Licensing Act 2003

Report Author and contact details:

**Grant Söderberg (01708) 433091
e-mail: grant.soderberg@havering.gov.uk**

Members are advised that, when considering application for a premises licence, the following options are available to them by virtue of the Licensing Act 2003, Part 3, section 35, paragraphs 3 and 4:

"Where relevant representations are made, the authority must

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such steps as it considers necessary for the promotion of the licensing objectives.

The steps are:

- a) modify the conditions of the licence
- b) reject the whole or part of the application

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added."

The Sub-Committee will also wish to note that, if none of these steps is required, the application must be granted.

Assuming that the Sub-Committee is satisfied that a hearing is required, then the following procedural steps are recommended. The Licensing Act 2003 (Hearings) Regulations 2005 will govern the arrangements for the hearing of the application now under consideration. This report accords with the requirements of that Act and the Regulations, and in particular Regulations 21-25 (procedure at the hearing).

1. Membership of the Sub-Committee:

- 1.1 The Sub-Committee comprises three members of the Licensing Committee, with a quorum of two members. **Unless there are objections, in the absence of three members, the hearing shall proceed with the quorum of two.**
- 1.2 A members of the Licensing Committee will be excluded from hearing an application where he or she:
 - 1.2.1 has considered an application in respect of the premises in the previous 12 months as a Member of the Regulatory Services Committee; or
 - 1.2.2 is a Ward Councillor for the Ward in which the premises, subject to the application, are located; or
 - 1.2.3 is a Ward Councillor for a Ward which is likely to be affected by the application or;
 - 1.2.4 has a personal interest in the application.

2. Roles of other participants:

- 2.1 The Legal Advisor is not a party to the hearing. The role of the Legal Advisor is to provide legal advice relating to the application and submissions.
- 2.2 The Clerk is not a party to the hearing. The role of the Clerk is to record the hearing and the decisions of the Sub-Committee, and ensure efficient administration

3. Representation validation meeting:

- 3.1 Prior to this hearing, the Sub-Committee Chairman will have met the Legal Advisor and/or Clerk to determine whether further clarification is required of any issues contained in the application or any representation.
- 3.2 During this preliminary meeting no decision will have been made or discussion held regarding the substantive merits of the application or representations.

4. Location and facilities:

- 4.1 All hearings will be heard at the Havering Town Hall unless otherwise directed.
- 4.2 Interpreters will be provided by the Council on request, provided notice is given at least five working days before the hearing.

5. Notification of attendance:

- 5.1 The Chairman will enquire of the parties who is in attendance and the parties will indicate their names (and, where relevant, whom they represent). A register will be circulated before the commencement of the hearing on

which the applicant, his/her advisers and companions and all interested parties (and/or their representatives) will be asked to record their attendance.

6. Procedural matters:

- 6.1 Prior to the commencement of the hearing, the Chairman of the Sub-Committee will orally inform the parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused. Note this relates to people other than those attending on behalf of a party in the capacity as a representative of the party.
- 6.2 Prior to the commencement of the hearing the Chairman of the Sub-Committee will outline the procedure to be followed at the hearing. This will normally be as follows:

Introduction of the application:

The Licensing officer will outline:

- details of the application and relevant representations received from the parties;
- relevant legislation ;
- relevant Licensing Policy; and
- the time limit in which the Council must reach a determination.

Documentary evidence:

- Documentary or other information in support of applications, representations or notices should be provided to the Clerk of the Sub-Committee at least 7 clear working days before the hearing. If this information is produced at the hearing it will only be taken into account by the Sub-Committee if the Sub-Committee and all the parties consent to its submission. Permission to have this information included in the hearing should be requested at the beginning of the hearing before any oral submissions have been made.
- Statements made by people in support of a party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

Representations:

- The chairman will invite each of the parties at the hearing or their representative sequentially to address the Sub-Committee and call any person/s to whom permission has been granted to appear. Each party will be allowed a maximum period of 10 minutes in which to address the Sub-Committee and call persons on his/her behalf.

- This 10 minute period is where each party has the opportunity to orally address the Sub-Committee and clarify any points in which the Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Sub-Committee or Legal Advisor considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
- Members of the Sub-Committee may ask questions of any party, at any time during the proceedings. Time taken in dealing with a Member's question will not be taken into account in determining the length of time available to the party in question to make their representation.

The sequence in which each of the parties will be invited to address the Sub-Committee will normally be in the order of:

- the Chief Officer of Police;
- the Fire Authority;
- the Health and Safety at Work Enforcing Authority;
- the Local Planning Authority;
- the Local environmental Health Authority;
- the Local Weights and Measures Authority;
- the Authority Responsible for the Protection of Children from Harm;
- a navigation or other authority responsible for waterways; and
- any other party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Sub-Committee;
- the party that has submitted the application, certificate, notice or other matter appearing before the Sub-Committee.

At the discretion of the Sub-Committee the above order may be varied.

Cross-Examination:

Where witnesses have been permitted by the Sub-Committee to speak at the hearing on behalf of a party, permission must be sought from the Sub-Committee before another party can ask the witness questions. This process of questioning is normally referred to as cross-examination. The Sub-Committee will allow cross-examination only where it is necessary to assist it in considering the representations or application.

Relevance:

Information submitted at the hearing must be relevant to the applications, representations, or notice and the promotion of the licensing objectives. The Chairman of the Sub-Committee is entitled to exclude any information it considers to be irrelevant whether presented in written or oral form. The licensing objectives are:

- The prevention of crime and disorder;**
- Public safety;**
- The prevention of public nuisance; and**

The protection of children from harm.

7. Failure of parties to attend the hearing:

- 7.1 If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing is held in the absence of a party, the Sub-Committee will still consider the application, representation or notice submitted by that party.

8. Adjournments and extension of time:

- 8.1 The Sub-Committee may adjourn a hearing to a specified date or extend a notice period except where it must make a determination within certain time limits in the following specific applications:

- Applications for conversion of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being rejected;
- Applications for conversion of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being rejected;
- Applications made by holders of justices' licences for personal licences must be determined within 3 months of the application first being received. In default of a decision not being made within this period the application will be treated as being granted;
- Review of premises licences following closure orders where the Sub-committee must make a determination within 28 days of receiving notice of the closure order.

9. Sub-Committee's determination of the hearing:

- 9.1 At the conclusion of the hearing the Sub-Committee will deliberate in private accompanied by the Clerk and the Legal Advisor who will be available to assist the Sub-Committee with any legal problems but will not participate in any decision making of the Sub-Committee.

9.2 The Sub-Committee will normally make its determination and announce its decision at the end of the hearing.

9.3 Where all parties have notified the Sub-Committee that a hearing is not required the Sub-Committee must make its determination within 10 working days of being given notice that the hearing is not required.

10. Power to exclude people from hearing:

10.1 The public are entitled to attend the hearing as spectators. However, the Sub-Committee may exclude any person from the hearing including any person assisting or representing a party where:

- it considers that the public interest would be best served by excluding the public or the individual person from the hearing; or
- that person is behaving in a disruptive manner. This may include a party who is seeking to be heard at the hearing. In the case where a party is to be excluded, the party may submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave the hearing.

11. Recording of proceedings:

11.1 A written record of the hearing will be produced and kept for 6 years from the date of the determination of the hearing.

12. Power to vary procedure:

12.1 The Sub-committee may depart from following any of the procedures set out in this document if it considers the departure to be necessary in order to consider an application, notice or representation.



LICENSING SUB-COMMITTEE

REPORT

22 June 2012

Subject Heading:

Premises licence application for
Malthurst Faringdon, Faringdon Avenue,
Harold Hill, Romford, RM3 0AB
Paul Campbell – Licensing Officer
01708 432777
licensing@havering.gov.uk

Report Author and contact details:

This application for a premises licence is made by Malthurst Limited under section 17 of the Licensing Act 2003. The application was received by Havering's Licensing Authority on 1st May 2012.

Geographical description of the area and description of the building

The premises are a single story detached building situated at the rear of a petrol station forecourt. The premises are located on the south side of Faringdon Avenue at the junction with Neave Crescent opposite the junction with Langley Close.

The area surrounding the premises is a mixture of commercial premises and residential properties.

There is a bus service that operates to the area during the day, this service is reduced in the evening and stops at night.

A map of the area is attached to assist the committee.

Details of the application

Supply of Alcohol (off Supply only)		
Day	Start	Finish
Monday to Sunday	00:00hrs	24:00hrs

Late Night Refreshment		
Day	Start	Finish
Monday to Sunday	23:00hrs	05:00hrs

Seasonal variations & Non-standard timings

There are no seasonal variations or non-standard timings on this application.

Comments and observations on the application

The applicant 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 Romford Recorder on Friday 4th May 2012.

Summary

There were no valid representations against this application from interested parties.

There were three representations against this application from responsible authorities.

Details of representations

Valid representations may only address the following licensing objectives:

The prevention of crime and disorder
The prevention of public nuisance
The protection of children from harm
Public safety

Interested parties' representations

Detail substance and number of interested party representations

Responsible Authorities' representations

Both the Police and the Licensing Authority question if a premises licence for the sale of alcohol can be granted to these premises. Section 176 of the Licensing Act 2003 outlines the restrictions relating to this. A copy of Section 176 is attached to my report.

Mr Paul Jones Licensing Officer for the London Borough of Havering requested clarification from the applicant in relation to this matter their reply is included with his representation.

The police, Health and Safety and the Licensing Authority as responsible authorities outline their concerns to the application.

There were no representations from the following responsible authorities:

Public Health
The London Fire and Emergency Planning Authority
The Trading Standards Service
Planning Control & Enforcement
Children & Families Service

176 Prohibition of alcohol sales at service areas, garages etc.

(1) No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.

(2) In this section “excluded premises” means—

(a) premises situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes); or

(b) premises used primarily as a garage or which form part of premises which are primarily so used.

(3) The Secretary of State may by order amend the definition of excluded premises in subsection (2) so as to include or exclude premises of such description as may be specified in the order.

(4) For the purposes of this section—

(a) “special road” and “special road authority” have the same meaning as in the Highways Act 1980 (c. 66), except that “special road” includes a trunk road to which (by virtue of paragraph 3 of Schedule 23 to that Act) the provisions of that Act apply as if the road were a special road,

(b) “class I” means class I in Schedule 4 to the Highways Act 1980 as varied from time to time by an order under section 17 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (2) (a) to traffic of class I so as to take account of the additional class, and

(c) premises are used as a garage if they are used for one or more of the following—

(i) the retailing of petrol,

(ii) the retailing of derv,

(iii) the sale of motor vehicles,

(iv) the maintenance of motor vehicles

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Licensing Sub-Committee

Appendix 1 - Copy of the Application

**Application for a premises licence to be granted
under the Licensing Act 2003**

RECEIVED BY
LICENSING
ON 21/05/12 PJ

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

11658

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Malthurst Limited

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Malthurst Faringdon Faringdon Avenue Harold Hill			
Post town	Romford	Post code	RM3 0AB

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£23000

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)

- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over					<input type="checkbox"/> Please tick yes
Current postal address if different from premises address					
Post Town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over					<input type="checkbox"/> Please tick yes

Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Malthurst Limited
Address Registered Office: Vincent House 4 Grove Lane Epping CM16 4LH
Registered number (where applicable) 03445529
Description of applicant (for example, partnership, company, unincorporated association etc.) Company
Telephone number (if any) 01992 571937
E-mail address (optional) N/A

Part 3 Operating Schedule

When do you want the premises licence to start?

Day	Month	Year
3	0	052012

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year

Please give a general description of the premises (please read guidance note1)
A petrol forecourt store situated at Faringdon Avenue, Harold Hill, Romford, RM3 0AB The store will sell a wide range of convenience store goods.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Supply of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input checked="" type="checkbox"/>			
Day	Start	Finish						
Mon	0000	0500	Please give further details here (please read guidance note 3) The provision will take place inside the premises but customers may leave the premises with items purchased.					
	2300	2400						
Tue	0000	0500						
	2300	2400						
Wed	0000	0500				State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
	2300	2400						
Thur	0000	0500						
	2300	2400						
Fri	0000	0500	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5)					
	2300	2400						
Sat	0000	0500						
	2300	2400						
Sun	0000	0500						
	2300	2400						

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	0000	2400			
Tue	0000	2400			
Wed	0000	2400			
Thur	0000	2400			
Fri	0000	2400			
Sat	0000	2400			
Sun	0000	2400			
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) The applicant wishes to have the flexibility to sell alcohol at all times that the store is open. The applicant may elect not to open the store 24 hours a day every day.		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name Shanmuganathan Nimalaharen	
Address 44 Hatley Avenue Barkingside Ilford	
Postcode	IG6 1EJ
Personal Licence number (if known) P01052	
Issuing licensing authority (if known) London Borough of Redbridge	

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

The premises will sell other age restricted products.

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	0000	2400	
Tue	0000	2400	
Wed	0000	2400	
Thur	0000	2400	
Fri	0000	2400	
Sat	0000	2400	
Sun	0000	2400	

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)
The applicant may elect not to open the store 24 hours a day every day but requires the flexibility to do so subject to statutory or operational restrictions.

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

b) The prevention of crime and disorder

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium.
3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 14 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
4. The precise positions of the camera may be agreed, subject to compliance with Dta Protection legislation, with the police from time to time.
5. The system will display, on any recording, the correct time and date of the recording.
6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

c) Public safety

The applicant will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police.

d) The prevention of public nuisance

Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

e) The protection of children from harm

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification bearing the customer's photograph, date of birth and the Proof of Age Standards Scheme (or similarly accredited scheme) hologram.

Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	<i>U L</i>
Date	30 April 2012
Capacity	Solicitors duly authorised on behalf of the Applicant

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13) Winckworth Sherwood LLP (Ref: EMF/28715/67/RPB) Minerva House 5 Montague Close			
Post town	London	Post code	SE1 9BB
Telephone number (if any)	020 7593 5155		
If you would prefer us to correspond with you by e-mail your e-mail address (optional) efinlay@wslaw.co.uk			

Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

FORM OF CONSENT OF INDIVIDUAL TO BEING SPECIFIED
AS PREMISES SUPERVISOR

I, SHANMUGANATHAN NIMALAHAREN

of 44, HATLEY AVENUE, BARKINGSIDE, ILFORD, IG6 1ET

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for a PREMISES LICENCE

by MALTHURST LIMITED

relating to a premises licence no.

for MALTHURST ~~FARINGDON, FARINGDON~~^{FARINGDON FARINGDON} AVENUE, HAROLD HILL, ROMFORD, ESSEX, RM3 0AB

and any premises licence to be granted or varied in respect of this application made by MALTHURST LIMITED

concerning the supply of alcohol at MALTHURST ~~FARINGDON, FARINGDON~~^{FARINGDON FARINGDON} AVENUE, HAROLD HILL, ROMFORD, ESSEX, RM3 0AB

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below

Personal licence number: P 01052

Personal licence issuing authority: LONDON BOROUGH OF REDBRIDGE

Signed:

N. Nimalaharen

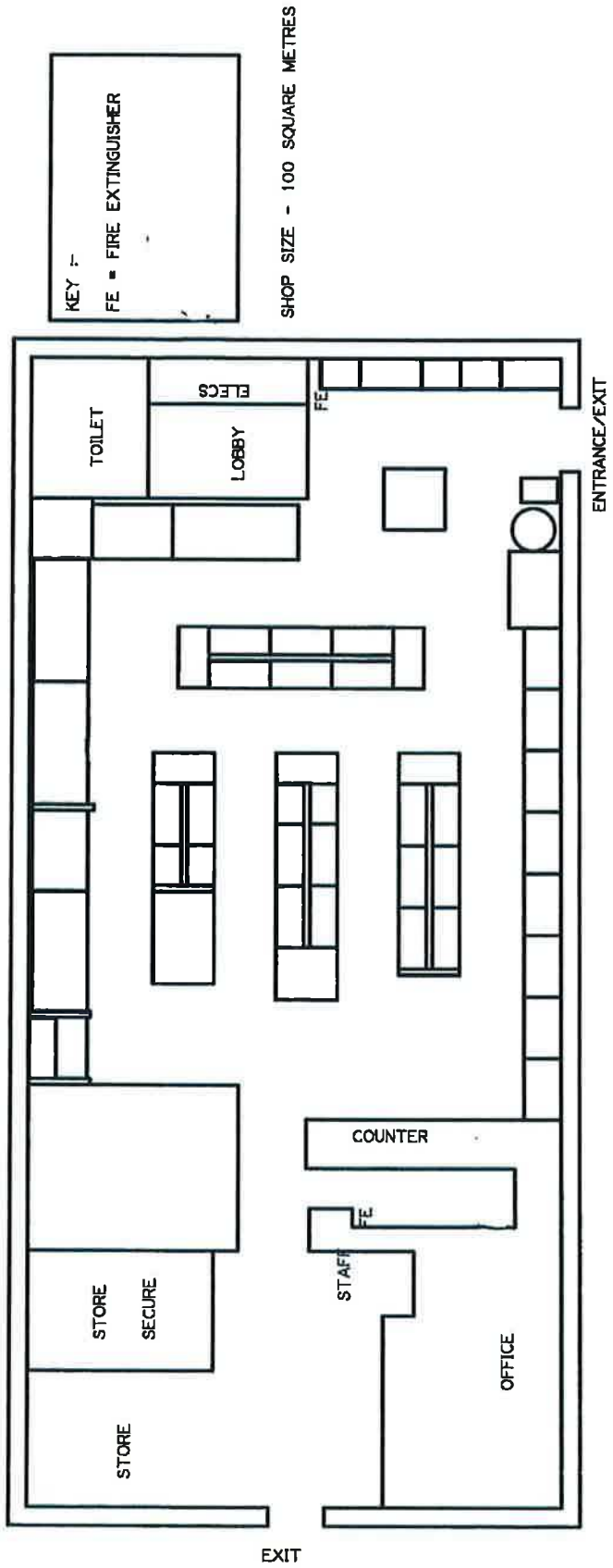
Name (please print):

SHANMUGANATHAN NIMALAHAREN

Date

08/04/2012

THE ENTIRE PREMISES MAY BE USED FOR
 THE SALE OF ALCOHOL AND THE PROVISION
 OF LATE NIGHT REFRESHMENT



MALTHEURST, FARINGDON
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ROAD TRAFFIC REGULATION ACT 1984

THE A127 GLA ROAD (SOUTHEND ARTERIAL ROAD) (ARDLEIGH GREEN ROAD) (LONDON BOROUGH OF HAVERING) (TEMPORARY CONVOY WORKING, SPEED LIMIT AND PROHIBITION OF TRAFFIC) ORDER 2012

1. Transport for London hereby gives notice that it has made the above named Traffic Order under section 14(1) of the Road Traffic Regulation Act 1984 for the purpose specified in paragraph 2. The effect of the Order is summarised in paragraph 3.
2. The purpose of the Order is to enable carriageway resurfacing works to take place.
3. The effect of the Order is to prohibit any vehicle from:
 - (1) entering or exiting A127 Southend Arterial Road at its junction with Squirrels Heath Road or Ardleigh Green Road. Local access will be maintained;
 - (2) exceeding a temporary speed limit of 10mph when traffic signs are in place for convoy working on A127 Southend Arterial Road between its junction with the northbound carriageway of Bryant Avenue and Cecil Avenue;
 - (3) proceeding in an eastbound direction on A12/127 Gallows Corner Flyover between its junctions with A12 Eastern Avenue East and A127 Southend Arterial Road.

The Order will be effective at certain times between 7th May 2012 and 30th June 2012 every night 9:00 PM to 6:00 AM or when the works have been completed whichever is the sooner. The prohibitions will apply only during such times and to such extent as shall from time to time be indicated by traffic signs.
4. The prohibitions will not apply in respect of:

**Licensing Act 2003
Application for a Premises Licence**

Name of Applicant: Malthurst Limited. Address: Malthurst Faringdon, Faringdon Avenue, Harold Hill, Romford, RM3 0AB. Licensing Authority: London Borough of Havering. Licensing Authority Address: Licensing Team, London Borough of Havering, 5th Floor, Mercury House, Mercury Gardens, Romford, RM1 3SL (where a record of the application may be inspected during normal office hours). Licensing Authority Website: www.havering.gov.uk. The applicant has applied to the Licensing Authority for a premises licence for the above premises for the following licensable activities: 1. The sale of alcohol between the hours of 0000 and 2400 daily for consumption off the premises. 2. The provision of late night refreshment daily between the hours of 0000 and 0500 and 2300 and 2400. Any person or responsible authority (as defined by the Licensing Act 2003) may make representations to the Licensing Authority no later than 29 May 2012. Any representations made to the Licensing Authority must be in writing.

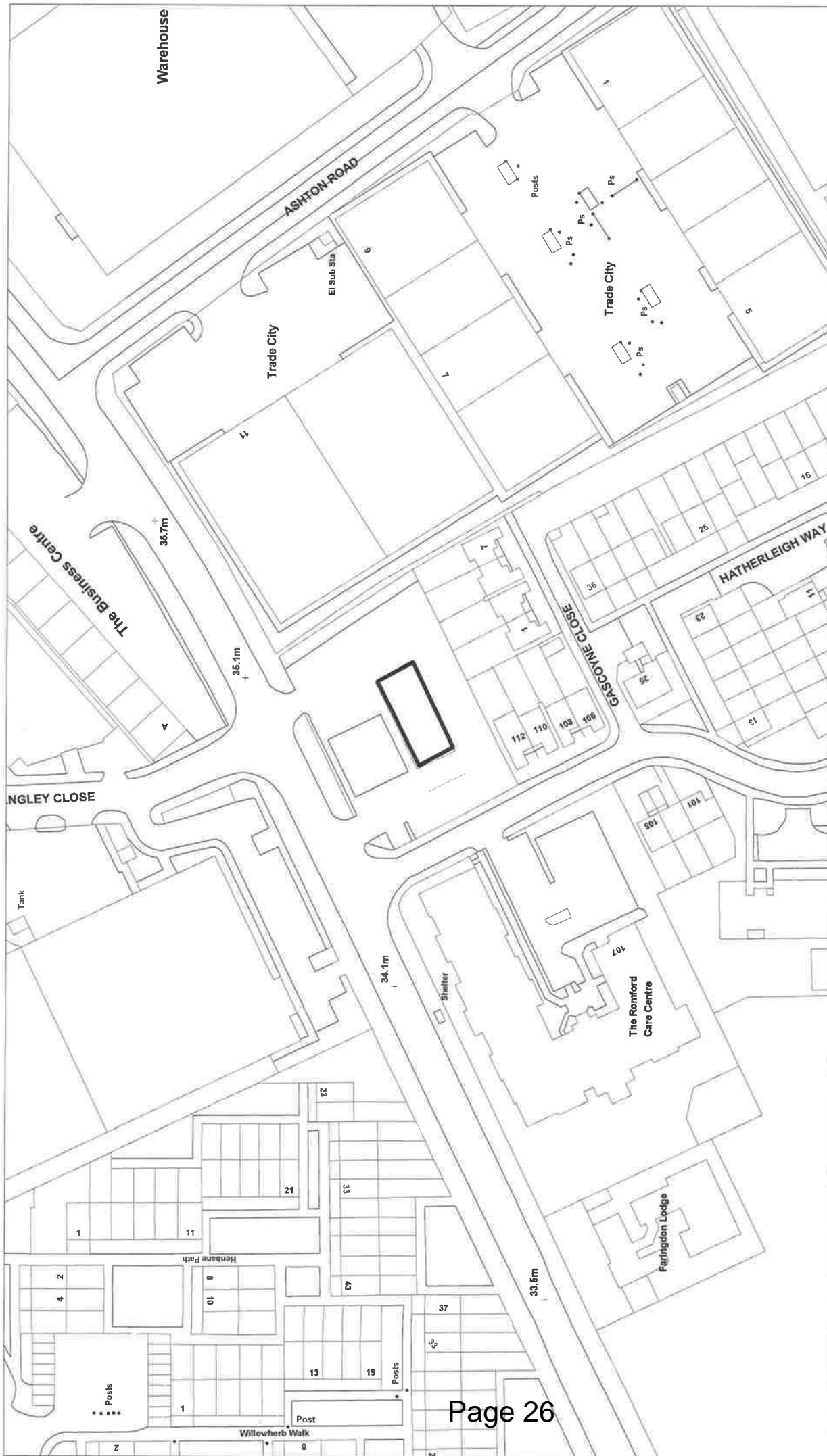
It is an offence knowingly or recklessly to make a false statement in connection with this application. The maximum fine for which a person is liable on summary conviction for this offence is £5,000.

Dated: 30 April 2012
Winckworth Sherwood LLP,
 Minerva House, 5 Montague Close, London, SE1 9BB. Ref: EMP/28715/67/RPB.
 Solicitors and authorised agents for the applicant.

BOROUGH OF HAVERING
NOTICE

Licensing Sub-Committee

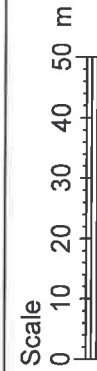
Appendix 2 - Map of local area



Malthouse Faringdon

Map Reference: TQ5391SE
Date: 02/05/2012

Scale @ A4
1:1250



London Borough of Havering
Town Hall, Main Road
Romford, RM1 3BD
Tel: 01708 434343



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Licensing Sub-Committee

Appendix 4 - Representations from Responsible Authorities



**METROPOLITAN
POLICE**

Working together for a safer London

**Licensing Authority
London borough of Havering
Mercury House, Mercury Gardens
Romford
RM1 3SL**

PC 118 KD David Fern
Romford Police Station
19 Main Road
Romford,
Essex
RM1 3BJ

Telephone: 01708 432781
Email:
David-
anthony.fern@met.police.uk
Date: 22nd MAY 2012

Police wish to make representation **against** the application for a new premises licence for Malthurst Faringdon located at Faringdon Avenue, Harold Hill, Romford, RM3 0AB.

Firstly, it is unclear from the application if this is in fact a petrol forecourt or a convenience store, or what its primary use will be. The applicant states on page 4 of the application that it is a "petrol forecourt" with the store selling a range of convenience goods.

- Section 176 of the Licensing Act 2003 covers the prohibition of alcohol sales at service areas, garages etc. The applicant has failed to state the premises' primary use. Section 176(2)(b) states that premises primarily used as a garage or which form part of premises which are primarily so used are excluded from selling alcohol.
- Section 176(4)(c) states that premises are used as a garage if they include the retailing of petrol; this would suggest that the premises is indeed an excluded premises and therefore the authorisation of alcohol supplies may not be allowed.

If the application is deemed acceptable for a premises licence Police would like to make representation against the application on the grounds that granting such a licence would impact on the prevention of crime and disorder and the prevention of public nuisance within the area.

The application is for a premises licence for the 24 hour sale of alcohol including late night refreshment supplies from 2300 - 0500 hours.

- The policing neighbourhood is made up of 3 wards: Heaton, Gooshays and Harold Wood.
- The premises is situated on the borders of these neighbourhoods. This area has been subject to crime and disorder and public nuisance.
- The Briar Road Estate is located nearby. This estate is an area frequented by youths and the problems associated with this include the possession and supply of illegal drugs, criminal damage, anti-social behaviour attendant to youths congregating near shops, under-age alcohol consumption and resident complaints to local Police officers.

Gooshays shopping parade.

The majority of the issues here have been from youths causing anti social behaviour. This can often be from large groups which congregate around premises which are open in the late evening. Residents find this intimidating and often are humiliated. The neighbourhood is suffering deterioration to the public realm. Anti-social behaviour continues to be a ward priority.

Businesses have also suffered from such large groups of youths within the area which resulted in an occurrence of criminal damage when flour bombs were thrown at a store, reports of youths drinking alcohol and fights amongst the travelling community as well as fights between local children.

A section of the area about a ten minute walk from the premises was subject to a Dispersal Order under the anti social behaviour act, which allows police to move people on and to ban them from an area for a flexible period of time. Such reports vary in group size from 3 – 8 people. Police have been persistent in the fight against crime and disorder and anti-social behaviour in the area. Most premises within this area do not open past 2300 hours.

- At present this store trading as Texaco does not open for 24 hours and neither is it licensed, so the effects of allowing such a licence can only be predicted by those who have local knowledge of the pertinent issues.

I have spoken to the local Safer Neighbourhood Team and the acting sergeant has expressed her concerns that allowing such a premises to remain open all night for hot food and alcoholic drink supplies would become a magnet for the area's youth, thus creating further crime and disorder. At present there are no such places for youths to congregate or to be attracted to after 2300 hours.

I also raise concerns at the safety of the premises and staffing levels after 2300 hours; there is no indication of staffing levels or indeed how the shop will be secured.

I have met the applicant who assured me that sales after 2300 would be made via a serving hatch; however, there is no plan to reflect that in this application.

This application is for the whole store to be licensed so potentially a "bargain booze" centre could open. Police oppose such a licence and have asked the applicant to suggest a percentage to be licensed.

I was also informed that the staffing levels after 2300 would most likely be one member on duty through the night. No doubt any confrontational issues the store might face due to selling alcohol or providing late night refreshment after 2300 would require the police to attend to resolve the issue due to the lone worker limitation.

The premises is located in a semi-residential area and not on a main road, for instance the A127 or A12, where there is a premises licensed for 24 hours. This would be the only premises open within the vicinity for alcohol and late night refreshment. I would suggest that the reason many other stores do not open is to promote the prevention of crime and disorder and public nuisance, to which no doubt these premises will likely contribute if granted such a licence.

Public nuisance can be caused just by the sheer volume of vehicles pulling up, car door shutting, engines starting and additional traffic in the area. This may well affect the residential home which is close by to the premises, or any other residents.

Crime and disorder is present in the area. Youths cause the majority of the issues; large groups shouting, using abusive language, criminal damage to property - all these add to the negative factors of this application.

If the committee is inclined to consider granting such a licence I have proposed some conditions which the police feel would assist in the operation of the store and ask the committee to consider their imposition.

- The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or an authorised council officer recent data or footage with the absolute minimum of delay when requested.
- CD1 All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme, ongoing and under constant review, refresher training shall be at a minimum of six monthly intervals these records must be available to a relevant Responsible Authority when called upon.
- No more than **(15)** % of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
- Alcohol shall not be displayed within three (3) metres of the entrance door.
- A proof of age scheme, such as Challenge (21/25), shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
- A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the Council at all times whilst the premises is open.
- CDGPG4 Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
- CDGPG13 Prominent, clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved

After 2300 hours.

- All sales of alcohol and late night refreshment shall be made via the serving hatch which shall be covered by CCTV.
- A personal licence holder shall be on duty from 2300 - 0600

- There shall be a minimum of two staff on duty from 2300 hours to 0600 hours.
- No single cans or bottles of alcoholic drinks less than 500ml shall be sold.

The police licensing officer will continue to work with the applicant and its representative in an effort to develop the business and the community.

If I can be of any further assistance in this matter please do not hesitate to contact me in the licensing office.

Yours sincerely

David Fern
Police licensing Officer
Havering Borough

I wish to make representation on the application for a premises licence for Malthurst, Faringdon Avenue, Harold Hill, Romford.

I am making representation with regard to public safety.

It appears from the application that the premises wishes to sell alcohol and refreshments on a 24 hour basis. There is very little offered in the operating schedule to deal with the issues of 24 hour opening in this area.

Staffing levels have not been addressed and will be disclosed on request. We request details of staffing levels especially late at night.

How are they going to deal with their own staff safety when operating late at night as well as public safety at the premises.

There is no mention in the application as to the number of staff who may be present on the premises at any given time and especially during overnight hours.

Should the main door to the store be left open this could encourage a number of people to congregate in the premises.

The area is mixed use with residential nearby. It could lead to issues of youths hanging around in cars and attempting to buy alcohol. Because the petrol station is not on a main thoroughfare it will be easier for the kids to hang around.

It could also encourage groups of people to congregate on the forecourt at late hours.

Also the Premise is a petrol station and has not provided any information on the business as to whether the shop will be the primary use. S 182 guidance para 5.22 and section 176 of the Act prohibits the sale or supply of alcohol from premises which are primarily used as a garage.

John Giles
Health and Safety Officer
London Borough Of Havering
Public Protection



Havering
LONDON BOROUGH

Public Protection

Housing & Public Protection
London Borough of Havering
Mercury House, Mercury Gardens
Romford RM1 3SL

The Appropriate Licensing Officer
Havering Licensing Authority
Mercury House
Mercury Gardens
Romford
RM1 3SL

Telephone: 01708 432692
Fax: 01708 432554
email: paul.jones@havering.gov.uk
Textphone ☎: 01708 433175

Date: 15th May 2012

My Reference: PJJ/011658

Dear Sirs

Licensing Act 2003

Malthurst Faringdon Faringdon Avenue Romford RM3 0AB

Premises licence application ref. 11658

Please be advised that as a responsible authority Havering's Licensing Authority makes representation against the application detailed above based upon the perceived failures of the applicant to adequately promote all four licensing objectives as provided on the application form.

Before the licensing objectives are addressed this Licensing Authority would like to question the legitimacy of the application itself insofar as it may fail to meet the restriction imposed by s.176(2)(b) of the Licensing Act 2003 (the Act). In the absence of any evidence to the contrary at the time of submission the application was accepted as it had been made in accordance with s.17 of the Act.

s.176 Prohibition of alcohol sales at service areas, garages etc

S.176(1) of the Act states that *no premises licence has effect to authorise the sale of alcohol on or from excluded premises*. S.176(2) goes on to define *excluded premises*, which includes *premises used primarily as a garage or which form part of premises which are primarily so used*. Thus it is the *primary* use of the premises which might appear to qualify whether Malthurst Faringdon is an excluded premises under s.176(2)(b).

The applicant for this licence is Malthurst Ltd. Malthurst Ltd's own definition of the nature of its business on the Companies House register is as one which provides the *retail sale of automotive fuel in specialised stores*. There is no mention of other business activities in the company's usage definition even though multiple definitions are permissible. The applicant's own singular definition of itself as a retail seller of automotive fuel might suggest that s.176(2)(b) would apply in this instance.

A written request was made to the applicant on 2nd May 2012 reasonably requesting evidence to support the application to indicate that the provisions of s.176(2) should not apply to this application. The applicant's response indicated that it is *not* [the applicant's] *practice to provide primary use data as part of the application process*. Instead, the response clarifies, *the issue is therefore one of enforcement*.

This might seem to suggest the applicant's view is that the Licensing Authority should consider granting an application for a premises licence authorising the sale of alcohol at a potentially excluded premises, without the benefit of evidence that the premises should not be excluded under s.176(2), and then subsequently gather evidence to suggest that the premises is excluded under this section. Please see supporting documents attached for further clarification.

Paragraph 5.22 of the April 2012 s.182 amended guidance to the Act indicates that *premises are used as a garage if they are used for [among other things]... the retailing of petrol*. This premises, then, would appear to qualify as a garage.

Paragraph 5.23 states that *the Licensing Authority must decide whether or not premises are used primarily as a garage. The accepted approach is based on 'intensity of use' to establish 'primary use'*. The applicant declined to provide such clarification when it stated that it is *not* [the applicant's] *practice to provide primary use data as part of the application process*.

Paragraph 5.24 states that *where there is insufficient evidence to establish primary use it is for the Licensing Authority to decide whether to grant the licence*. This paragraph goes on to add that the Licensing Authority should *deal with any issues through enforcement action*. This *enforcement action* aspect might seem to apply to an extant licence where the premises' usage may have changed subsequent to its grant, rather than to an application for a new licence.

24 hour alcohol sales

This application is to permit the sale of alcohol and to permit the provision of late night refreshment to the full extent the law permits, i.e. alcohol sales 24 hours a day, seven days a week and late night refreshment provided from 23:00 to 05:00 the day following, seven days a week. Currently the premises is open from 06:00 to 23:00 Monday to Saturday and from 08:00 to 22:00 on Sunday, although visits by this office to the premises during the evening hours have found the premises to be closed earlier than the 23:00 current closing hour.

This Licensing Authority has concerns that a premises which has no experience of selling alcohol, and additionally does not even have experience of 24 hour fuel or grocery sales, seeks to sell alcohol for the maximum period the law permits, i.e. for 168 of the 168 hours in a week, as well as supply hot food and drink throughout the night seven nights a week.

This Licensing Authority suggests that the undertakings offered in section P of the application are inadequate to address such a culture change at the premises, assuming, of course, that the premises is not excluded under the provisions of s.176(2) of the Act.

Licensing objectives

Section P of the application is the area in which the applicant provides undertakings demonstrating his ability to promote the four licensing objectives. The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Section P in this application appears to minimally address the promotion of the licensing objectives suggesting that the applicant is not fully aware of the responsibilities of supplying alcohol 24 hours a day, seven days a week.

The prevention of crime and disorder

To address this licensing objective the applicant has offered six undertakings, all of which relate to the provision of CCTV at the premises. Effectively, then, the applicant has offered to install a fully operational CCTV system as the sole method by which crime and disorder is to be prevented. While this Licensing Authority accepts that CCTV systems have a certain deterrent value with regard to the potential for crime, CCTV is most effective as a means of evidence gathering once a crime has been committed. This Licensing Authority would therefore question the applicant's sole reliance upon CCTV to prevent crime and disorder at the premises.

Public safety

To address public safety at the premises the applicant has undertaken to *at all times maintain adequate levels of staff*. The applicant has declined to make an assessment of what might reasonably constitute *adequate* staffing levels and provide this information with the application. Instead the applicant prefers to disclose this only upon a request from the Licensing Authority or the Police. Other responsible authorities, such as the Fire Service and Havering's Children's Service, appear to be outside the scope of this undertaking. This Licensing Authority would therefore question the applicant's offer of *adequate staffing* as the sole method by which the public safety requirement of a premises licence application is addressed. Given the fact that the premises is a petrol station, one might reasonably have expected the issue of fire hazards combined with 24 hour alcohol supply to have been addressed in this application.

The prevention of public nuisance

To promote this licensing objective the applicant has undertaken to provide *adequate waste receptacles* at the premises. This limited offer suggests that the applicant has little understanding of the impact 24 hour alcohol sales will have upon the premises and its vicinity. The premises is immediately adjacent to a large residential care home. The applicant's offer to provide litter bins as the only measure to address the potential for the full range of public nuisance generated by a 24 hour off licence which also supplies hot food throughout the night causes this Licensing Authority concern. Litter might appear to be the least of the potential problems associated with 24 hour alcohol supplies.

The protection of children from harm

To address the requirement to protect children from harm the applicant has solely undertaken to adopt a 'Challenge 25' age verification policy. A premises licence which authorises the supply of alcohol contains a mandatory condition requiring the licence holder to *ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol*. The applicant's undertaking to adopt a Challenge 25 policy would appear to simply comply with this mandatory condition's requirement rather than offer anything further.

Conclusion

This Licensing Authority finds this application to be lacking in all material aspects. We have concerns that the premises is subject to s.176(2) and thus excluded from selling alcohol. We also have concerns at the applicant's reluctance to provide clarifying information on this issue.

We have concerns at the impact a 24 hour licence would have upon an untested premises at this location which has residential properties, including a care home, in close proximity.

Finally, this Licensing Authority has serious concerns that, should the premises not be excluded under s.176(2), the applicant is ill prepared for the demands placed upon a premises licence holder in relation to 24 hour alcohol supplies. Effectively, the applicant has offered just three voluntary undertakings to address the 24 hour supply of alcohol at this premises (an age verification policy is a mandatory requirement):

- CCTV
- Adequate staffing levels
- Adequate waste receptacles

Before all else we would urge the Licensing Sub-Committee to give consideration to the s.176(2) excluded premises issue and firstly establish whether it feels the application for alcohol should be granted, as paragraph 5.24 of the amended guidance suggests. To assess the *primary use* of the premises we ask the Sub-Committee to ask itself this question: is this premises primarily a garage which also seeks to sell alcohol, or is it primarily to be an off licence which also sells petrol?

If, after consideration, the Sub-Committee is of the view that it is appropriate to grant this application then the Licensing Authority would request the Sub-Committee give further consideration to the hours requested and to consider imposing appropriate conditions to address the concerns expressed previously.

Yours faithfully



Paul Jones
Licensing Officer

cc Ms E Finlay, solicitor for the applicant



Companies House

Company Details

Name & Registered Office:

MALTHURST LIMITED

VINCENT HOUSE

4 GROVE LANE

EPPING

ESSEX

CM16 4LH

Company No. 03445529

Status: Active

Date of Incorporation: 07/10/1997

Country of Origin: United Kingdom

Company Type: Private Limited Company

Nature of Business (SIC):



47300 - Retail sale of automotive fuel in specialised stores



Accounting Reference Date: 30/09

Last Accounts Made Up To: 02/10/2011 (FULL)

Next Accounts Due: 30/06/2013

Last Return Made Up To: 07/10/2011

Next Return Due: 04/11/2012

Last Members List: 07/10/2011

Previous Names:

No previous name information has been recorded over the last 20 years.

UK Establishment Details

There are no UK Establishments associated with this company.

Overseas Company Info

There are no Overseas Details associated with this company.

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