

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
2 August 2012 (10.30 - 11.35 am)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman)

Residents' Group Brian Eagling

Labour Group Denis Breading

Present at the hearing were: Mr D Patel (Applicant), Mr A Ay (Agent for the applicant) and Mr J Rankin (on behalf of the Applicant)
Objectors: Councillor Mike Armstrong, Mr K Senior, Mrs M Holland, Mr & Mrs Winney and A Corbry

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

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

There were no declarations of pecuniary interest by Members.

1 REPORT OF THE LICENSING OFFICER

PREMISES

Planet's Premier Food & Wine
8-10 Moray Way
Romford
RM1 4YD

DETAILS OF APPLICATION

An application for a premises licence under s.17 of the Licensing Act 2003 ("the Act").

APPLICANT

Mr Dhansukh Patel
3, Beaulay Court
Beaulay Way
Romford
RM1 4XD

1. Details of the application

Supply of Alcohol (off Supply only)		
Day	Start	Finish
Monday to Saturday	07:00hrs	23:00hrs
Sunday	08:00hrs	22:30hrs

Seasonal variations & Non-standard timings

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

2. Promotion of the Licensing Objectives

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 22 June 2012.

3. Details of Representations

Valid representations could 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 **155** valid representations against this application from interested parties. (One of the individual letters had a petition attached with 15 signatures and addresses). **132** of these were the same letter with individual names and addresses placed on them. (One of these letters had a petition attached with 13 signatures). A number of the licensing objectives were addressed in these representations.

There were no representations against this application from any of the responsible authorities.

Responsible Authorities

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

Councillor Michael Armstrong.

Councillor Armstrong stated that the evidence before the Sub-Committee showed that there was wide and strong local opposition to the granting of an alcohol licence to the applicant. He advanced the following points in support of the objections:

1. A restrictive covenant existed which not only limited the hours shops in the parade could stay open, but also forbade the sale of alcohol.
2. The nature of the business was one which would not bring anything new to the area. He cited the proximity of other outlets (including a public house) where alcohol was sold and stated that where there were too many businesses chasing limited sales, prices were likely to be driven down and this would be to the detriment of public order as well as encouraging young people to drink – which was in opposition to the Council's intentions.
3. There were genuine concerns about the threat of crime and disorder as experienced by residents living in the vicinity of the "white shops" (Pettits Lane junction with the Eastern Avenue) where a Dispersal Order had to be employed.
4. Concerns about public safety were focused on the potential for traffic to increase in the area which was residential. He stated that the roads were narrow and already busy.
5. Protecting children from harm. Residents were worried about the impact an alcohol outlet would have being so close (directly opposite a church and church hall which young children regularly attended for a variety of activities). Parents were anxious about allowing their children to go into a premises where alcohol was on sale and openly displayed.

He concluded by stating that the Sub-Committee needed to bear in mind that this was very much a family area and that it was inappropriate for a premises to be selling alcohol which could lead to undesirable elements congregating in the area and threatening the peace and safety of the community.

Mrs Holland.

She stated that she had lived in Rise Park since she was eleven and there was no time – in her memory – where any of the shops in the parade had opened late. She reiterated Councillor Armstrong's concerns about the proximity of the Church and church hall and the problems that could arise for parents with young children if groups of young people began to congregate in the vicinity drinking. She stated that Havering had the worst alcohol record of all the London boroughs and that allowing yet another outlet to open seemed to run counter to the stated objectives of the Council which was to reduce alcohol related incidents.

She added that yet another off-licence would mean an increase in traffic and this would be dangerous for the residents, many of whom were elderly or were families with very young children. The shop was simply not needed as there were five premises selling alcohol close enough.

Mr Senior

He stated that he echoed what the others had said and drew the Sub-Committee's attention to the existence of the restrictive covenant, the fact that an off-licence was being allowed to trade opposite a church, that it would become a magnet for all sorts of undesirables and that the shop was simply not necessary. The pleasant nature of the area would deteriorate and residents would become fearful because of the increase of groups of youths hanging around drinking and appearing intimidating.

He added that there had already been an increase of criminal activity in the area and cited the need for gates to be fixed to properties to prevent youths from making their way upstairs to the flats above the shops. He reiterated that many elderly people lived near-by and urged the Sub-Committee to refuse the licence as it would send the wrong message to both residents and those who wanted cheap alcohol and to cause mischief.

4. Applicant's response.

Mr Rankin, on behalf of the Applicant stated that whilst he appreciated the concerns expressed by Councillor Armstrong and the residents, they failed to properly address the licensing objectives as they did not present the Sub-Committee with any evidence that the Applicant was either unfit to hold a licence or that a problem existed which the presence of his client's premises would inevitably exacerbate. He said that whilst he understood the emotional uncertainty of having a premises selling alcohol in a place where there had not been one before, it was an emotional response and not one which could be supported by evidence.

Mr Rankin reminded the Sub-Committee that none of the responsible authorities had chosen to put in a representation against the application and that it ought to bear in mind that refusing a licence had to be evidence based on the grounds of reasonableness. He was certain that the refusal of a licence in this instance would not be a decision a reasonable licensing authority would make.

He informed those present of the Applicant's trading history, stating that he had run similar businesses for some 30 years during which, despite numerous test purchases by Trading Standards, he had never been found to have abused his trust and sold to the under-age. He had run a fully licensed restaurant successfully and he and his family lived in the vicinity. The shop was principally a convenience store for the benefit of the local community and concentrated on domestic items such as bread, milk and so forth. He accepted that there would be alcohol on sale, but was clear that the proportion of shelving for this purpose would not exceed 30% and in

addition, no alcohol would be on display outside the time allowed in the licence.

Mr Rankin added that Mr Patel had invested over £100,000 of his own money in the project and would not have done so if he felt that his premises would not be offering something to the community and that the venture would provide an income for himself and his family. He said that Mr Patel would not be alone in the shop but would be employing four or five members of staff and this would ensure that during busy periods, proper control over the stock could be maintained. He accepted that this was a residential area – one with a nursery near-by and with a wide age range, but argued that the principal activity was as a general store, a place for local people to find what they needed without having to use the car to drive to the local Tesco. The sale of alcohol was a necessary adjunct in order that his client could provide the shopper with a complete range of goods as would be found in any supermarket.

He argued that the objection to parking was weakened by there being a provision immediately in front of the premises which permitted up to two hours free parking. Deliveries would not inconvenience residents as they would be made to the rear of the premises. His client would not be engaging in price-cutting activities in an effort to boost sales as this was ancillary to the main trading activities.

He reminded the Sub-Committee that whether a restrictive covenant was in existence or not, this was not something it could rule on. Mr Patel had a blameless trading history, the shop would be well staffed and would bristle with CCTV cameras. This was a good application and, if problems did arise in the future, the matter could be reconsidered in the light of experience, this was not a once-and-for-all decision.

5. Determination of Application

Decision

Following the hearing held on 2 August 2012, the Sub-Committee's decision regarding the application for a Premises Licence for Planet's Premier Food and Wine, Moray Way, Romford RM1 4YD is 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 were:

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

Councillor Armstrong and residents stated that the granting of a licence to sell alcohol would lead to a change in the character of the area.

There would be an increase in public nuisance because of the likely increase of traffic which would continue well into the evening – long after the current closing time observed by shops already trading in the parade. Fears of groups of youths congregating in the vicinity, drinking, talking loudly would also be a source of real nuisance.

Public safety would be threatened by those same groups of young people as well as the area attracting unsavoury people to it as could be seen in other areas where such premises were allowed to trade long into the night.

The proximity of a church and church hall where very young children regularly attended for various activities would place them at risk by exposing them to such scenes and language.

An increase in criminal activity (a close associate of drink-fuelled public nuisance) was a likely consequence of this premises being allowed to trade. Local residents had already experienced a gradual increase in criminal activity which – for the elderly and for those with young children – was particularly alarming, and with an outlet for alcohol now in its midst, the community was under an even greater threat.

In response, Mr Rankin argued that Mr Patel was a competent and conscientious retailer who had a great deal of experience and who was a person who would respect the values of local residents and

ensure that, as far as was within his control, the licensing objectives were adhered to. He stated that the sale of alcohol was not the principal purpose of the shop and that its display and sale would be carefully monitored and controlled. He reminded the Sub-Committee that it had the authority to recall his client in the event of any misdemeanour and said that other consideration (such as any restrictive covenant) was not a prohibition within the Licensing Act and that no responsible authority had submitted a representation.

The Sub Committee was mindful that this was primarily a residential area and that residents had a right to peace and quiet. The Sub-Committee was minded to **grant** the application as amended below for the following reasons:

It accepted that the Applicant had shown that the primary usage of the premises was that of a general store and that the sale of alcohol was ancillary to the sale of provisions. It was also conscious that in its original form, the closing times were not appropriate to its location and that in order to prevent any late purchase of alcohol (after the closure of local public houses) it would reduce the hours during which alcohol could be sold. In coming to this decision, it had taken residents' concerns into consideration with regard to public nuisance and accepted the potential for customers to be attracted to the sale of alcohol late at night and for young people to gather there and cause a nuisance in the vicinity.

Accordingly, the Sub-Committee amended the hours the Applicant could sell alcohol to:

Supply of Alcohol (off Supply only)		
Day	Start	Finish
Monday to Thursday	08:00hrs	22:00hrs
Friday & Saturday	08:00hrs	22:30hrs
Sunday	09:00hrs	18:00hrs

In addition, the Sub-Committee imposed the following restrictions on the sale of alcohol:

No more than 30% of the sales area could be devoted to the sale or display of alcohol.

The Sub-Committee also added the following conditions – proposed by the Police - to the licence:

CD16 A properly specified and fully operational CCTV system should be installed or the existing system maintained to a satisfactory standard. The system should incorporate a camera covering each of the entrances and be capable of providing an image which was regarded as 'identification standard' of all persons entering and/or leaving the premises. All other areas of risk identified in the operational requirement should have coverage appropriate to the risk.

- 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 should incorporate a recording facility and all recordings should be securely stored for a minimum of **one calendar month**. A system should be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system should comply with other essential legislation and all signs as required should be clearly displayed. The system should be maintained and fully operational throughout the hours that the premises was open for any licensable activity.
- CD21 A staff member from the premises who could operate the CCTV system should be on the premises at all times when the premises was open to the public. This staff member should be able to show Police recent data or footage with the absolute minimum of delay when requested.

A hard-bound (not loose-leaf) **Incident Log** should be kept at the premises and made available on request to an authorised officer of the Council or the Police and which would record the following:

- (a) All crimes reported to the venue
- (b) Any complaints received
- (c) Any incidents of disorder and
- (d) Any faults in the CCTV system

Chairman