

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

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman), Frederick Thompson and Melvin Wallace

Mr Leo Charalambides (solicitor for the applicant), Yagneshkumar Brahmbhatt (the applicant), PC David Fern (Metropolitan Police), Keith Bush (Havering Trading Standards Service), Paul Jones (Havering Licensing Authority), Councillor John Mylod, Trudi Penman (Havering Licensing Officer), the Legal Advisor and Clerk to the Sub-Committee were present.

All decisions were taken with no votes against.

There were no disclosures of pecuniary interest.

The Chairman reminded Members of the action to be taken in an emergency.

1 REPORT OF THE LICENSING OFFICER

PREMISES

Centre News
169 High Street
Hornchurch
Essex
RM11 3XS

DETAILS OF APPLICATION

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

APPLICANTS

Yagneshkumar Brahmbhatt
94 Boleyn Road
London
E7 9QG

1. Details of the application:

The applicant amended the application at the Hearing to the following:

Supply of Alcohol (off supply only)		
Day	Start	Finish
Monday to Sunday	06:00hrs	19:00hrs

Seasonal variations

There were no seasonal variations applied for in the application.

Non-standard timings

There were no non-standard timings applied for in the application.

2. Promotion of the licensing objectives:

The applicant acted in accordance with premises licence regulations 25 and 26 of the Licensing Act 2003 Regulations 2005 relating to the advertising of the application. The required public notice was installed in the Yellow Advertiser on Wednesday 20 June 2012.

3. 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

Three valid representations had been received against the application from interested parties.

Three representations had been received against the application from responsible authorities.

Representation from the interested party

The interested party representations largely addressed the 'prevention of public nuisance' licensing objective, as well as the 'prevention of crime and disorder' and 'public safety' objectives. It was contended, in summary, that the addition of another premises licence within the Hornchurch Town Centre saturation zone would increase the availability of alcohol to persons who 'pre-load' on cheap alcohol before heading to nearby pubs and clubs. By granting the licence, it would increase the threat to public safety caused by excessive alcohol consumption and increase the likelihood of noise disturbance to local residents.

Reference had also been made to late night street drinkers who urinated in public alleyways adjacent to residential properties.

Councillor John Mylod explained at the hearing that the representations made by the Police the Licensing Authority and the Trading Standards Service had covered many of the points he wished to raise. Councillor Mylod emphasised the disturbance local residents, suffered as a result of noise caused by intoxicated late night revellers. By granting a further licence, this would increase the availability of alcohol and encourage persons to remain in the town centre rather than leaving for home. He urged the Sub-Committee to uphold the saturation policy and refuse the application.

Representations from Responsible Authorities

Licensing Authority:

The representation from the Licensing Authority was based upon the perceived impact a further licence would have upon Hornchurch Town Centre which had been identified as being under particular stress due to the cumulative effect of the concentration of licensed premises which led to serious problems of public disorder and public nuisance affecting residents, visitors and businesses. The granting of an additional licence would only serve to undermine the Hornchurch Town Centre Saturation Policy which had been introduced to address such problems.

Mr Paul Jones, speaking on behalf of the Licensing Authority, explained that the cumulative impact of the proposal would merely add to the alcohol-related problems experienced in Hornchurch Town Centre and undermine the prevention of crime and disorder, the prevention of public nuisance and public safety licensing objectives.

Metropolitan Police:

The representation from the Metropolitan Police, in summary, addressed the 'prevention of crime and disorder' and 'prevention of public nuisance' licensing objectives. In addition, the representation contended that granting the licence would contravene the saturation policy designated for the Hornchurch Town Centre and increase the cumulative impact of licensed premises on the promotion of the licensing objectives in the town centre.

PC David Fern, representing the Metropolitan Police, echoed many of Mr Jones's sentiments, arguing that the proliferation of off-licensed premises within the town centre had increased the availability of cheap alcohol which was in-turn linked to a rise in violence and disorder in Hornchurch Town Centre. PC Fern remarked that the saturation policy had been introduced to prevent further deterioration of the public realm. He commented that the application before the Sub-Committee was not

exceptional and offered nothing different to any of the off-licensed premises in Hornchurch Town Centre of which there were many. By granting the application, it would merely increase the cumulative impact of premises selling alcohol and likely result in increased instances of public nuisance and disorder which would place members of the public and the Police at risk from intoxicated individuals at all times of the day. He added that street drinkers were visible throughout the day and that those individuals had purchased their alcohol from off-licensed premises.

Trading Standards Service:

The representation from Havering Council's Trading Standards Service addressed the 'protection of children from harm' licensing objective.

Mr Keith Bush, representing the Trading Standards Service, commented that the failure rate for test purchases was higher in the ward in which the premises was located than in any other ward in the borough. In addition, there were a number of bus stops located in close proximity to the premises where young children congregated. In Mr Bush's view, the application insufficiently addressed such concerns. In particular, there was insufficient detail contained in the application around refresher training for staff; no mention of till prompts for alcohol sales; and no mention of how refusals for alcohol purchases would be monitored. On that basis, Mr Bush considered that the application failed to adequately address all of the licensing objectives and as such the Service was not able to support the application.

Response of the Applicant:

Mr Leo Charalambides, speaking on behalf of the applicant, explained that the representations submitted in objection to the application had been focussed on matters of policy rather than on the ability or competency of his client to operate the premises in accordance with the licensing objectives. The applicant was an experienced premises operator who had previously worked as a postmaster.

Mr Charalambides explained that the Hornchurch Town Centre Saturation Policy had been focussed predominantly on on-sales alcohol purchases. There was little evidential basis for the impact of off-sales purchases on the town centre. Indeed, this was a matter which had been identified in the draft Licensing strategy currently out for consultation which made reference to the increased number of licensing off-sales premises in Hornchurch and the gradual increase in the hours of operation of such premises closer to the times where alcohol-fuelled violence and public disorder materialised. He commented that smaller newsagent/tobacconist shops were no longer able to compete with larger retail stores and as such had started to sell alcohol in order to survive. Their inability to do so would result in their closure which would materially impact upon the vitality of town centres such as Hornchurch.

He remarked that the issue of competition was not a material licensing consideration as it was for the market to resolve this. He also referred to paragraph 13.18 of the Guidance which states that the 'need' for licensed premises is not a consideration for the Licensing Authority. There was also no evidence to suggest that the applicant had failed any test purchases for the sale of alcohol or cigarettes.

In order to overcome the objections raised by interested parties and responsible authorities with respect to the potential for public disorder, crime and disorder and protection of children from harm, the applicant proposed a number of amendments to the operating schedule. The hours for the supply of alcohol would be significantly reduced to an earlier finishing time; beers, lagers, ciders and spirit mixers would be sold as multipack purchases only and would not exceed 5.5% ABV; the premises would operate a Challenge 25 policy; there would be 6 month refresher training for all staff; a paginated refusals log/incident book would be used; CCTV coverage would be in accordance with Police recommendations, and all tills would be equipped with sufficient prompts for the sale of alcohol.

In response to a query from PC Fern, Mr Charalambides agreed that all posters would be removed from the front window so as not to obstruct the view thereby allowing staff within the store to monitor outside for potential proxy sales of alcohol. He added that a monitor would be installed at the till area which would provide CCTV coverage of the area immediately in front of the premises.

4. Determination of Application

Decision:

Consequent upon the hearing held on 6 August 2012, the Sub-Committee's decision regarding the application for a Premises Licence for Centre News 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 requested variation to the premises licence would undermine the licensing objectives.

The Sub-Committee acknowledged that the premises was located within a saturation zone, and therefore issues of cumulative impact upon the licensing conditions would be considered if raised. However it remained that applications must be considered upon their merits, the 'need' (or lack thereof) for a further licensed premises could not be considered, and there would need to be a link shown between the application and legitimate concerns as to cumulative impact.

The applicant presented as an experienced and responsible operator, and this was not challenged.

The Sub-Committee accepted what was said with regard to the issue of "pre-loading", but were satisfied that the amended hours applied for would effectively negate this premises adding to this. The crime statistics that the saturation policy was based upon indicate that crime and disorder become problematic from 23:00 onward, and this premises would be closed by 19:00.

With the hours applied for and the substantial number of conditions offered, the Sub-Committee was not provided with any evidence that the premises would contribute to cumulative impact upon any of the licensing objectives.

The Sub-Committee stated that in arriving at this decision, it took into consideration the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council's Licensing Policy.

The Sub-Committee stated that it considered all aspects of the application, including all written and oral representations which were largely concerned with the Hornchurch Town Centre Saturation Zone and the impact that granting a further premises licence would have on the effectiveness of that policy.

The effect of the policy was to create a rebuttable presumption that applications which would likely add to the existing cumulative impact would normally be refused or subject to certain limitations, unless the

applicant could show that there would be no negative cumulative impact upon the licensing objectives.

The Sub-Committee commented that the amended application was modest in terms of the hours of operation applied for and it noted that low strength beers, lagers, ciders and spirit mixers would be sold in multipacks only. Given those limitations, the Sub-Committee was unconvinced by the submitted objections that the application would not add to the cumulative impact upon any of the four licensing objectives.

The Sub-Committee considered that early closing times and the restrictive conditions being offered by the applicant was sufficient to demonstrate that the saturation policy was working, and had resulted in the submission of a measured application.

The Sub-Committee added that each application must be dealt with on its own merits irrespective of whether the premises was located within a saturation zone.

The Sub-Committee therefore granted the amended application in full subject to the following conditions:

1. 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, and must be available to a relevant Responsible Authority when called upon. Refresher training should be every 6 months on the responsible sale of alcohol.
2. A Premises Daily Register shall be kept at the premises. This register will be maintained and kept for a minimum of 12 months. This record should record the name of the person responsible for the premises 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 premises. The Premises Daily Register will also record all incidents in relation to the use of any force by staff. It shall record the time and date of the occurrence, name or brief description of the person removed, and details of the staff involved.
3. A properly specified and fully operational CCTV system shall be installed or the existing system maintained to a satisfactory standard. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises. All other areas of risk identified in the

Operational Requirement shall have coverage appropriate to the risk.

4. 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 eg. 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.
5. 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.
6. 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.
7. 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.
8. A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premises 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.
9. A proof of age scheme, Challenge 25, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification card, such as a driving licence or passport.
10. 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.
11. All occasions when persons have been refused service shall be recorded in writing and kept at the premises for 12 months.
Designated Premises Supervisor, Premises licence holders and other members of their staff must keep a register detailing when alcohol and cigarettes have attempted to be purchased someone

suspected as being underage. The register should detail the person who refused the sale, the date and time and the product subject to the attempted purchase, details surrounding the attempted purchase and detail/description of the person attempting the purchase.

This register should be available to all staff selling age restricted products, for their referral prior to them starting work each day. The register should be available for inspection by a Trading Standards Officer, Police Officer or Licensing Officer.

12. Prominent, clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved.
 - The front window of the store must be kept clear from any promotional posters or anything similar, staff are required to monitor outside the store to prevent any proximity sales. Warnings should be given to adults about the offence of buying alcohol for those under 18 if suspected.
 - A personal licence holder will be on duty at times during licensable activity.
 - No alcohol can be placed or stacked in the store other than in places indicated on the map accompanying the application, except in the storage area out of public view.
13. The premises shall not stock any beers, ciders, lagers and spirit mixers with an ABV of over 5.5%.
14. The premises shall not stock any cans/bottles of lagers, cider, beers and spirit mixers unless they are in a pack of four or more.
15. No bottles of wine or spirits less than 75cl to be sold on the premises.
16. Any till used at the premises for the purpose of serving customers must operate a prompt which requires the vendor to certify the age of the customer purchasing any alcoholic product

Chairman