

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

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and Frederick Thompson

Residents' Group Linda Van den Hende

Present at the meeting were Mr Kajendren Nagarajah, Mr Thavarajah Shanthakumaran and Siva Kapa (applicant and agent), Councillor Denis Breading and Mr Terry Page (Objectors).

Also present were Paul Campbell (Licensing Officer), the Legal Adviser to the Sub-Committee and the Clerk to the Licensing Sub-Committee.

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

1 APPLICATION TO VARY A PREMISES LICENCE LONDIS FOOD & WINE, 211 CHERRY TREE LANE, RAINHAM.

PREMISES

Londis/1com2 Food and Wine,
211 Cherry Tree Lane,
Rainham,
Essex.
RM13 8TU

DETAILS OF APPLICATION

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

APPLICANT

Mr Kajendren Nagarajan,
211 Cherry Tree Lane,
Rainham,
RM13 8TU

1. Details of the application

The premises is a single unit end of terrace business with the shop area on the ground floor with residential flats above. The area around the Cherry

Tree junction has a number of shops and businesses on the ground floor with residential flats above. There are several restaurants close to the venue and five outlets for off sales of alcohol including a Tesco Express directly opposite the applicants shop on the Cherry Tree Pub site. There is a newly opened KFC adjacent to the Tesco store. All other premises in the area are residential..

The current premises licence is

Supply of Alcohol (Off supplies only)		
Day	Start	Finish
Monday to Sunday	07:00	21:00
Good Friday	08:00	21:00
Christmas Day	10:00	17:00

The variation applied for is

Supply of Alcohol (Off supplies only)		
Day	Start	Finish
Monday to Thursday	07:00	24:00
Friday & Saturday	07:00	02:00
Sunday	07:00	23:00

Prior to the meeting the applicant had agreed with the Metropolitan Police to amend the application to cease the sale of alcohol at 01:00 on Fridays and Saturdays.

In addition to amending the hours the applicant was seeking the removal or alteration of a number of conditions on the current licence.

The Metropolitan Police had indicated that they had no objection to the request relating to conditions with the exception that condition 14 be retained.

Seasonal variations & Non-standard timings

No seasonal variation or non standard timing were applied for in this 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 Yellow Advertiser on Wednesday, 11th July 2012.

2. Details of Representations

Valid representations may only address the four licensing objectives

- The prevention of crime and disorder;
- The prevention of public nuisance;

- The protection of children from harm; and
- Public Safety.

Responsible Authorities

There were no representations against this application from responsible authorities.

Interested parties' representations

Three valid representations had been received, two from local residents and one from the ward councillor for South Hornchurch.

The representations relate to the prevention of public nuisance and prevention of crime and disorder.

Councillor Breading (Ward Councillor) stated his objection was to the late opening in this area which is mixed use with older persons residences in close proximity. His objection was to the sale of alcohol after 23:00.

Mr Page lives above the premises, with his daughter and he was concerned about public nuisance. He felt that the proposed hours of opening were excessive and this would exacerbate the problems of excessive alcohol consumption, leading to problems for the Police and the NHS, and leading to an increase in anti-social behaviour, and late night disturbance in the area. Local residents need protection against late opening hours.

Mr Page had submitted a letter which outlined his attempts to resolve the issue of noisy metal gates, and alleged aggressive behaviour from the applicant in response.

3. Applicant's response.

The applicant's representative presented the case on behalf of Mr Nagarajah. He reminded the committee that all the responsible authorities were happy with the application. As advised there were 5 other off licences in the neighbourhood. 84 Rainham Road had recently been granted a licence until 01:30 hrs. Mr Campbell confirmed that an application had been granted, by officers, as the application had attracted no representations.

The applicants had taken all measures to ensure children were protected from harm and to reduce the possibility of public nuisance. He had CCTV in place, and operated a Challenge 21 policy. He was taking all necessary steps to promote the licensing objectives. With regard to the issues raised by Mr Page in his supplementary representation the CCTV

footage had been made available to the police and was offered to the sub-committee.

4. Determination of Application

Decision

Consequent upon the hearing held on 16 August 2012, the Sub-Committee's decision regarding the application to vary a Premises Licence for Londis Food and Wine, 211 Cherry Tree Lane, Rainham was as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

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

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Agreed Facts **Facts/Issues**

Whether the granting of the premises licence would undermine the four licensing objectives.

The Metropolitan police following discussions with the applicant had decided not to make any representation as the applicant had amended his application to meet the police's concerns. The representations raised issues regarding public nuisance.

It was obvious from the representation submitted that there were issues between the applicant and Mr Page but these did not specifically relate to the sale of alcohol but more to opening hours generally and the noise allegedly made when the applicants closed the shutters and metal gate.

When questioned by the sub-committee with regard to the request to change condition 5 the applicant provided further clarification that he did not wish to do away with the Refusals register but rather to supplement it with a digital log.

The Sub-Committee were prepared to grant the variation subject to certain amendments. The Havering Licensing Policy suggests licences in a mixed use area may be granted until 00:30 hrs at the latest. Given the concerns raised by those who had submitted valid representations regarding noise nuisance the Committee were minded to grant the licence until midnight Friday and Saturday, with no change to the hours applied for on the other days, meaning the licence as granted was from 07:00 till 00:00 Monday to Saturday, and 07:00 till 23:00 on Sunday.

The sub-committee were prepared to agree to the removal of conditions as requested, with the exception of condition 14 (which is to remain) and the amendment of Condition 5 by the removal of the second sentence which read ' The details of the incidents recorded in the log shall relate to the times and dates of the relevant CCTV recordings.' A separate condition shall be added, as stated in the application, that the premises shall also operate a digital log to record refusals (EPoS till system).

The Sub-Committee were concerned to hear of the dispute between the applicant and his neighbour and stated to the applicant that it would expect Licensed Premises to work with the local community to ensure as little disturbance as possible was created.

Chairman