

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
17 August 2012 (10.30am - 12.05pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman)
 Pam Light
 Linda Trew

Present at the hearing were: Mr T Singh (Applicant), Mr P West (Agent for the applicant) and Mr A Devkaran (designated Premises Supervisor)
Objectors: Mr M Appleby and Mr M Kendrick

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

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

Rainham Post Office
77-79 Wennington Road
Rainham
RM13 9TH

DETAILS OF APPLICATION

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

APPLICANT

Mr Tarsame Singh
51 Cowdray Way
Rainham
RM12 4AX

Supply of Alcohol (off Supply only)		
Day	Start	Finish
Monday to Sunday	06:00hrs	22:00hrs

Seasonal variations & Non-standard timings

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

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 Yellow Advertiser on Wednesday 27 June 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.

There were **seven** valid representations against this application from interested parties.

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

Mr M Appleby referred to his e-mail to the Council in which he raised a number of points of concern:

- Permitting alcohol to be sold in the premises would have negative effects on the area such as the possible rise in anti-social behaviour and public nuisance caused by undesirable elements being attracted to the shop late night noise and disturbance, parking problems – in an already overburdened stretch of road – escalating and the rise in fear and apprehension in the minds of the elderly residents and concern for those with young families.
- This was a predominantly residential area and there were already sufficient outlets selling alcohol within a reasonable distance.

- He referred to the photographs he had included in his additional information which showed the situation regarding parking in the locality.
- He claimed that Havering had the worst drink-related record of public disorder across Greater London and considered that the granting of another licence was contrary to the objectives for alcohol-related crime reduction stated by the Council.
- With regard to the applicant's efforts to prevent underage sales, and informing that he would use his "best endeavours to move on any groups of youths that congregate outside the premises", Mr Appleby raised the issue of proxy sales – where young people pester adults to purchase for them, and that moving the youths from outside the premises would mean they ended up outside residents' houses.
- He also stated that he had checked with the Yellow Advertiser and had been informed that not all Wennington Road was within its distribution area, so he questioned the legitimacy of the advert.
- Mr Appleby also queried the completion of the application itself claiming that certain aspects were either incorrect or incomplete. (The Council's Legal Officer explained that this was an administrative issue, not a legal one, and had been responded to by a Licensing Officer, and was something which did not invalidate the application).
- He stated that Rainham was an area within Havering where anti-social activity was worse than elsewhere in the borough and he reiterated his concerns that granting a licence would send the wrong message to residents.
- He concluded by reference to case law provided by the Applicant's representative and claimed that this was not relevant as the example used was an on-licensed premises already selling alcohol, seeking a variation to their hours. In this instance the sale of alcohol was a completely new venture. It was a Post Office, not a pub.
- As to the assertion that evidence of a negative impact to the licensing objectives was required, Mr Appleby said that this was difficult when a premises didn't currently serve alcohol, but that there was no chance for a 'trial run', and that once a premises had a licence, it had it for all time and there was no going back.

Mr M Kendrick informed the Sub-Committee that it was his mother who lived next-door to the Post Office and that her front door was only a couple of feet from the Post Office's entrance. In addition, there was only a low wall separating the properties and she was concerned that it could be used as a seat for young people to use whilst drinking – or that they would congregate there and cause noise and nuisance as well as littering the area.

He re-emphasised the solitary location of the venue within a residential environment and stated that it was not as if there was a parade of shops within which the Post Office was located, but it was within a mixed community of young families and elderly residents. He was granted permission to show photographs of the proximity of the entrance to the property to the next-door cottage inhabited by his 91 year old mother and explained that whilst she was still independent and active, she – along with

others in the vicinity – had very real fears for what might happen if a licence was granted.

He concluded by observing that although the Police had not made any representation, they had suggested that CCTV should be installed (more for the protection of the Applicant and his staff), but that this expense (and risk) would not be needed if there was no licence to sell alcohol.

Applicant's response.

Mr West, on behalf of the Applicant stated that whilst he appreciated the concerns expressed by both residents – especially those of Mr Kendrick on behalf of his mother, he was conscious that he and Mr Appleby were the only ones in attendance. He added that he would address their concerns and reminded the Sub-Committee that those concerns did not really impact on the four licensing objectives – which were the only points of concern for the Sub-Committee when determining the application.

He informed those present that the Applicant had run the Post Office and convenience store for five years without any trouble or complaint, and that prior to that had been a teacher. He stated that Mr Singh was, himself, part of the local community and that his application was being made in part to put his business on a more equal footing to other establishments which sold alcohol and his desire to provide those who regularly shopped in his store with a complete choice of products. The application was merely for a small alcohol section ancillary to the goods already offered.

He said that Mr Singh was conscious of the concerns of his neighbours and was realistic in his realisation that he needed their continuing support in order to continue trading. Because he wished to continue to be seen as a good neighbour, he was prepared to add a condition that he would be responsible for ensuring that no groups of young people congregated on the shop's forecourt. If that happened, they would be moved on. In addition, he had volunteered to provide two refuse bins to ensure that patrons of the shop (and the general public) could dispose of litter responsibly. The forecourt would be swept each evening.

Furthermore Mr West announced that his client wished to make a change to the application by reducing the closing time from 10.00pm each night to 8.00pm, thereby reducing the attraction of late-night alcohol sales and providing neighbours with nuisance-free evenings.

He argued that the objections to the application were largely based on conjecture and that neither resident (nor the other objectors who had provided written representations) had provided evidence to show that the granting of a licence would be contrary to the licensing objectives and he added that as they were not present (and so could not be questioned) their views should carry less weight in the minds of the Sub-Committee members. He argued that none of the Responsible Authorities had considered it necessary to register any concern and he suggested that references to drugs and alcohol abuse were a matter for the police, not the Licensing Authority. He also referred to paragraph 13.18 of the Guidance

and asserted that the 'need' for licensed premises in the area should not be considered by the Sub-Committee. He stated that his client was simply asking for the opportunity to provide residents with a service which currently did not exist and that the fears which were being expressed were speculative and unreasonable.

He concluded by reminding the Sub-Committee that whether it had sympathy with the views presented or not, it had to link its decision to the evidence before it. To emphasise this, he referred to the Guidance, and to the *Thwaites* case to support his client's case.

The Chairman invited the objectors to comment and Mr Appleby conceded that the reduction of hours "helped", but that in principle, the selling of alcohol in the Post Office was wrong. He suggested that granting a licence would lead to the possibility of school-children would be enticed into trying to buy alcohol despite what the Applicant said, at which point the Legal Officer reminded those present that the Applicant was entitled to his opinion that this would not happen. Mr Appleby concluded by saying that simply because someone was not present, their views should not be discounted. He had taken time off work to attend the hearing; others might not have been able to attend for different reasons. He noted that the application proposed a Challenge 25, but reiterated his concern that this did not address the question of how the Applicant was protecting children from harm.

Mr Kendrick added that it seemed unreasonable that residents' views counted for so little as once the licence had been granted, it was there for ever.

The Chairman observed that this was not the case. A licence now was much easier to challenge and, if necessary, be revoked and this power lay with the residents as well as the responsible authorities. He added – in response to the residents' concerns about absent objectors views being discounted – that when the 2003 Act initially came into effect, this had been the case, but after amendments, a written objection stood on its own merits whether the objector came to hearing or not, and assured that these had been considered, and would be further considered in making their decision.

Mr West concluded by saying that his only concern about absent objectors was his inability to question them. The Chairman observed that the Sub-Committee had the same disadvantage.

3 DETERMINATION OF APPLICATION

Following the hearing held on 17 August 2012, the Sub-Committee's decision regarding the application for a Premises Licence for the Rainham Post Office, 77-79 Wennington Rod, Rainham RM13 9TH 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**

The residents stated that the granting of a licence to sell alcohol would lead to an increase in anti-social behaviour; a rise in crime (a close associate of drink-fuelled public disorder); the appearance of public nuisance and would put children (as well as elderly residents) at risk. There would be an increase in traffic and the local parking restrictions were likely to be flouted. The sale of alcohol would attract gangs of young people to the area as well as other questionable characters. The residential nature of the place was at variance with an alcohol outlet which had not been requested by residents and was wholly inappropriate.

In response, Mr West argued that Mr Singh 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.

4 **DECISION & CONDITIONS**

The Sub-Committee decided to **grant** the application as amended below for the following reasons:

The Sub Committee was mindful that this was predominantly a residential area and it had taken regard to the genuine and well presented concerns of the objectors in attendance. The application – as amended – was a relatively modest one and it appeared that the Applicant was a responsible operator who was anxious to supply an ancillary service to his existing business.

However, given the valid concerns regarding public nuisance and potential anti-social behaviour, the Sub-Committee proposed to slightly limit the applied for hours for the benefit of residents in close proximity to eliminate any possibility of early morning disturbance. It was also conscious that residents had a right to peace and quiet and given the proximity to the premises of residential properties and given the admission by Mr Singh that he wished to work with his neighbours, the Sub-Committee was minded to curtail the hours on Sunday (as set out below) during which alcohol could be sold to assist residents and demonstrate to them Mr Singh's good-will.

Having accepted the Applicant's offer to limit the sale of alcohol in the evening to 8.00pm, the Sub-Committee further amended the hours the Applicant could sell alcohol to:

Supply of Alcohol (off Supply only)		
Day	Start	Finish
Monday to Saturday	08:00hrs	20:00hrs
Sunday	08:00hrs	16:00hrs

In addition, the Sub-Committee imposed the following restrictions on the sale of alcohol which had been proposed by the police and accepted by the Applicant:

No more than 20% of the sales area could be devoted to the sale or display of alcohol.

All spirits to be stored and displayed for sale behind the shop counter.

Concerning CCTV:

CD16 A properly specified and fully operational CCTV system shall be installed or the existing system maintained to a satisfactory standard. The system shall incorporate a camera covering each of the entrances 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 including an external view of the entrance.

- CD17 The installation or upgrading of any CCTV system shall comply with current best practice.
- 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 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 shall comply with other essential legislation and all signs as required shall be clearly displayed. The system shall be maintained and fully operational throughout the hours that the premises is open for any licensable activity.

The CCTV system to be installed before the sale of alcohol commences.

The Sub-Committee proposed variations to provisions 4 and 7 of part P(a) of the Operating Schedule, to read:

- 4: A hard-bound (not loose-leaf) **refusals book** shall be kept on the premises and used to record all refusals of sales of alcohol. The refusals book shall be made available Police or Licensing Authority officers upon request.
- 7: A hard-bound (not loose-leaf) **incident record** shall be maintained on the premises to record all incidents in respect to crime and disorder. The incident record shall be available Police upon request.

In addition, the Sub-Committee accepted the Applicant's offer to provide and maintain **two refuse bins** on the forecourt of his premises for the use of customers and the general public. It also accepted his stated intention to ensure – so far as was in his power and was safe to do so – that he would disperse any gatherings of young people from the forecourt of his premises.

Chairman