

**MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE  
Council Chamber - Town Hall  
27 September 2012 (10.30 am - 12.15 pm)**

**Present:**

**COUNCILLORS**

**Conservative Group**            Peter Gardner (Chairman) and Frederick Thompson

**Residents' Group**            Brian Eagling

Present at the hearing were: Mr D Dadds (Counsel) (on behalf of the applicant) and Mr B Vijayatharan the Applicant.

Objectors: Councillor John Wood and Licensing Police Inspector, MPS M Blackledge, Mr P Jones, Havering Licensing Officer, S Taylor, Senior Trading Standards Officer and Miss L Clements, resident.

Also present were Paul Jones (Havering Licensing Officer – presenting the report), 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        PREMISES LICENCE APPLICATION FOR STATION LANE EXPRESS, 89  
         STATION LANE, HORNCHURCH RM12 6JU**

**PREMISES**

Station Lane Express  
89 Station Lane  
Hornchurch  
RM12 6JU

**DETAILS OF APPLICATION**

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

**APPLICANT**

Mr Balasandram Vijayatharan  
79 Laird Avenue  
Grays  
RM16 2NL

**1. Details of the application**

<b>Supply of Alcohol (off Supply only)</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	06:00hrs	23:00hrs

**Seasonal variations & Non-standard timings**

There are 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 Yellow Advertiser on Wednesday 27 June 2012.

**3. 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 two valid representations against this application from interested parties.

The interested parties' representations covered points relating to crime and disorder, public safety and public nuisance and both mentioned that the premises is within the saturation area listed in the London Borough of Havering's licensing policy.

There were two representations against this application from responsible authorities:

The Metropolitan Police and the Licensing Authority both outlined their concerns relating to the grant of a premises licence and both mentioned the premises being inside a saturation area.

There were no representations from the following responsible authorities:

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

In the absence of the Licensing Officer, the Chairman asked whether his report could be accepted without being orally presented. This was agreed.

**Inspector Blackledge** Licensing Inspector presented the case for the Metropolitan Police. She stated that the Applicant had not shown that it was bringing anything new to the locality and this was important because the location of the premises was within a saturation area and that in close proximity there were numerous outlets selling alcohol: other convenience stores/off-licences, restaurants, pubs and clubs. She reminded the Sub-Committee that Havering had identified that a good deal of crime and disorder, public nuisance and threat to public safety was exacerbated by the use of alcohol, and in the St Andrews ward in particular, hence the area had been made the subject of a saturation policy. The Police were concerned that the practice of “pre-loading” by those participating in the night-time economy was very much in evidence within and around Hornchurch and much of the alcohol used for this “pre-loading” was likely to come from peripheral off-licences.

The Inspector cited four other off-sales establishments that were, she said, “less than five minutes walk” from 89 Station Lane. She drew the Sub-Committee’s attention to the potential scale of alcohol sale by reference to the floor space proposed for its display and sale and argued that it would be the sale of alcohol that would drive the Applicant’s profits. The premises itself was situated in a largely residential area, on a major thoroughfare and lay between the underground station and the town centre and that there was an extensive pedestrian space in front of it which could allow groups to gather either on their way into the town centre or on their way out. In addition, she was concerned that shops selling alcohol as off-sales were particularly prone to being targeted by adults making proxy purchases on behalf of minors and she sought assurance from the Applicant that he would keep his windows clear of obstruction in order that staff could keep a watch on what was happening outside as this was shown to deter this activity.

She felt that the adoption of Challenge 25 would also help control the sale of alcohol to those whose appearance suggested they were older than they were. She observed that off-licences had a tendency to sell alcohol more cheaply than other outlets and said that this was a concern to the Police because it was likely to fuel crime and disorder and also public nuisance which, she said, was particularly bad in Havering and was the reason St Andrew’s Ward was covered by a saturation policy.

She concluded by referring to crime figures for the borough which showed an increase in drink related incidents and said that if the Sub-Committee was minded to grant a licence, that a number of conditions should be added to it in order to address Police concerns.

**Mr Jones**, Havering Licensing Officer, presented the case for the Licensing Authority. He too referred to the fact that there was a saturation policy in force covering the area in which the premises was situated and which the Licensing Authority urged the Sub-Committee to enforce. He argued that the impact of the addition of licensed premises within a saturation area would add to the cumulative impact of licensed premises in the area and referred to paragraph 13.19 of the

guidance issued under s.182 of the Licensing Act 2003 as having *“the potential impact on the promotion of the licensing objectives of a significant number of licensed premises in one area”*.

He argued that the greater the number of outlets for the sale of alcohol, the higher the risk of threat to public safety, a rise in crime and disorder and public nuisance. He said that when the borough was persuaded that a problem existed which made an area vulnerable and identified it by applying the saturation policy, it was clear that any further premises within that area selling alcohol would have a negative impact on the public perception of the Council’s ability and will to enforce its own policies where those policies ran counter to business interests.

**Councillor John Wood**, representing St Andrews Ward said that his principal concerns were that this application was contrary to the effective enforcement of the saturation policy and simply meant that there would be yet another alcohol outlet added to the 32 licensed premises in the ward. As far as he could see, there were no exceptional circumstances in this request and he was concerned that the level of physical assaults recorded in the town centre would spread into surrounding areas. He informed the Sub-Committee that, quite apart from the possibility of there being an escalation in public disorder, consideration needed to be given to the proximity of a residential complex for the elderly who might be confronted by an increase in young people congregating prior to making their way to the town centre.

**Miss Clements** informed the Sub-Committee that: as a resident, living close to the premises, she was concerned about the prospect of alcohol being sold there. She said that there was an alleyway next to the shop where previously there had been incidents of anti-social behaviour. She felt that this would undoubtedly increase. She was also concerned that the extensive paved area in front of the premises, close to fast-food outlets and provided with benches, would be an attractive place for people to congregate, drink alcohol and cause trouble to the detriment of residents.

Miss Clements also expressed concern that there would be an increase in litter as well as the possibility of glass being broken and causing a danger to residents, passers-by and pets. It would also add to the work of the street-cleansing service. She concluded by stating that Hornchurch had not been designated a saturation area for no good reason and the addition of yet another alcohol outlet would simply undermine that policy leading to an increase in crime and disorder, public nuisance and threatening public safety. For those reasons, the application should be refused.

#### **4. Applicant’s response.**

Mr Dadds, on behalf of the Applicant opened by informing the Sub-Committee that with the agreement of his client, he would like to amend the hours from 6.00am to 11.00pm to 8.00am to 9.00pm. This was noted by the Sub-Committee. He then stated that whilst he appreciated the concerns expressed by the resident, Councillor, Licensing Officer and Police representative, he could not accept their argument that because there was a saturation policy covering the area in which

his client proposed to sell alcohol, that it automatically followed he should be prevented from doing so.

He argued that the policy did not outweigh the need for the Licensing Authority to consider each case on its individual merits. It was not a simple matter of numbers, and to simply say another licensed premises ought not be added to the area was insufficient, and flawed. To impose a quota was unlawful (Mr Dadds referred to paragraph 13.37 of the Guidance) and the “need” for licensed premises could not be considered (paragraph 13.18 of the Guidance). The evidence provided to the Sub-Committee needed to be specific to the application. From what he could see – and what he had heard, many of the concerns referred to the town centre and appeared speculative in nature. He referred to the statistics mentioned by the Police and Licensing Officer and asked what substance supported those figures. He argued that his client’s premises was not in the town centre (where most of the incidents cited appeared to occur) nor were similar outlets near at hand (he questioned the “five minutes” quoted by the Police as he had visited the area. He urged the Sub-Committee to bear in mind that it could not consider whether there were too many establishments in an area, only whether the licence being sought contravened the licensing objectives – and could only determine that on the basis of evidence provided. He considered that none of the objections had provided any evidence, only speculation.

He said that his client had a blameless record and only sought to ensure that his business provided a range of services which would ensure a reasonable income. Although currently he alone held a personal licence, his wife was currently applying for one and so the business would be fully covered.

He questioned some of the provisions in the conditions which the Police had proposed. In particular he was critical of the proposed limitation of ABV to below 5.2% saying that this was unreasonable as other establishments could sell legally available products which exceeded that figure and so it was an unreasonable restriction. Another instance was the Police request that a condition be applied limiting sales of various alcohol products to multi-packs or that wines and spirits could not be sold in containers less than 75cl. He argued that this was likewise questionable as it denied customers the opportunity of purchasing only what they wanted and forced them to buy larger quantities or go without. This, he asserted was good for neither his client nor the customer and was in opposition to the provisions of the Licensing Act.

He questioned whether Miss Clements could claim public nuisance as there were no other residents supporting her view, besides, what evidence did she have to support this claim? It was his contention that, irrespective of the strength of feeling, unless the argument was supported by evidence specific to the venue, the licence-holder or the immediate vicinity of the establishment, the Sub-Committee had to be careful of the weight it gave it.

Mr Dadds concluded by saying that the claim by objectors that the licence should not be granted because there was a saturation policy in force could not be sustained in this instance because there were no specific objections against his client, nor was there any evidence to support the assertion that the licensing objectives would not be met if his client was granted a licence.

In answer to questions posed by Councillor Brian Eagling, Mr Dadds stated that it was not the intention of his client to focus on the sale of alcohol, merely to provide that option to members of the local community. He confirmed that the area of shop devoted to alcohol display and sale was not large and invited the Sub-Committee to set a figure which should not be exceeded (10% had been suggested by Police, who had established that the plan provided would be around 20%. Mr Dadds proposed 25%. He explained that his client had 10 years experience in this sort of trade and that this was to be a family business – though it was proposed to join with one of the franchises in order to benefit from its scale. He also confirmed that his client would not be living above the premises, but did not live far away.

The Applicant confirmed that currently he was selling only a limited range of products (he had not been trading there long), but assured the Sub-Committee that as local residents indicated what they would like to buy, he would extend his range accordingly.

Mr Dadds reminded the Sub-Committee that it would be unlawful for it to prevent his client from selling legal products and legal sizes, so restricting the ABV to a low figure (thereby excluding some legitimate brands) would be wrong as would preventing him from selling individual bottles/cans or preventing him from selling containers which held less than 75cl. He added that it would also be unreasonable for the Sub-Committee to insist on his client having to pay for a “prompt” till which he said would be prohibitively expensive and so disproportionate – especially as he would be applying Challenge 25.

The Chairman invited questions from the interested parties.

Inspector Blackledge stated that she appreciated the voluntary reduction in hours, and although she would have preferred the period to be reduced to twelve hours, but she did not support the contention that off-licenses did not contribute to the opportunity for those using the night-time economy to pre-load with cheap off-sales. Other than that she had no further comment.

The Licensing Officer observed that there seemed to be a misunderstanding about the issue of numbers. He had not intended to convey the impression that the Licensing Service was considering quotas, but the fact that it had been considered necessary for the area to be subject to the Council’s saturation policy should suggest that the addition of any additional licensed premises would weaken its effect.

Mr Dadds observed that saturation policies could not be applied in a blanket fashion. If they were to have any effect they had to be argued on a case by case basis and evidence needed to be produced to show how the policy would be affected by reference to the premises and to its immediate locality. It was not enough to say there was a policy in place so no more premises licences would be granted.

## **5. Determination of Application**

### **Decision**

**Following the hearing held on 27 September 2012, the Sub-Committee's decision regarding the application for a Premises Licence for Station Lane Express, 89 Station Lane, Hornchurch RM12 6JU is 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 Police, Licensing Authority, Councillor and resident all referred to the fact that the premises was in a designated saturation area and as such, the addition of another outlet for the sale of alcohol would:

- Be against the spirit and intention of the saturation policy which was in place to prevent the four licensing objectives from being undermined
- Add to the difficulties faced by the Police in confronting the effects of the abuse of alcohol and their attempts to enforce the licensing objectives – particularly those of the prevention of public nuisance and crime and disorder and ensuring public safety.
- Spread the problem identified as “pre-loading” further from the town centre and
- Because of the location of the premises, attract and allow groups to congregate in the vicinity which would add to the fears of the local residents – many of whom were elderly or who had young children.

The Police representative added that the Police had concerns that the sale of single units of alcohol and small bottles of higher proof alcohol would add to their difficulties in maintaining public order as these could be easily concealed and consumed surreptitiously in public.

Additionally, the premises had the opportunity to sell a disproportionate amount of alcohol to other products unless restrained.

The Licensing Officer expressed concerns that the granting of a licence would have a detrimental effect on the perception of the local population on the intention of Havering's Licensing Authority to actively tackle the alcohol related problems across the borough as it was not enforcing its own policies.

Councillor Wood argued that Hornchurch was already a challenging area and the town centre was often avoided by older residents. Granting a further licence (to the 33 already in the Ward) would simply make the problems in and around the town centre worse. There were other outlets in close proximity (a licensed restaurant was opposite the premises) and it was on a major route into and out of the town centre, being between it and the local rail station.

The resident argued that not only would the granting of a licence add to the overall drink-related problems in the area, it would attract groups because of the large pedestrian frontage which had public seating available; there was an alleyway next to the premises which could become a problem area – especially as a place where children could way-lay adults and try to persuade them to buy alcohol for them.

In response, Mr Dadds argued that the saturation policy was not being applied correctly. He stated that the responsible authorities had not provided any direct evidence to show that the granting of a licence to his client would have a negative impact on any of the licensing objectives. The four off-licenses in the Police representation were not near by and constant reference to issues involving the town centre was not the responsibility of his client.

Mr Dadds informed the Sub-Committee that his client had over ten years trouble-free experience in the trade and was only seeking to add another product line to his provision for the local community. He also claimed that it would be unlawful and excessive for the Sub-Committee to forbid his client to sell single units or forbid the sale of small bottles of higher proof alcohol. He added that the imposition of a "prompt" till would also be considered disproportionate. Finally, he reminded the Sub-Committee that there was an end to his client's responsibility concerning what happened outside his premises and whilst he was prepared to take all reasonable precautions inside and immediately outside his premises, there was a limit to his liability.

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

Having noted the Applicant's offer to limit the sale of alcohol in the evening to 9.00pm, the Sub-Committee further amended the hours the Applicant could sell alcohol to:



<b>Supply of Alcohol (off Supply only)</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	08:00hrs	20:00hrs

The reason being that: the Sub-Committee was mindful about the concerns of the Police that off-sales outlets afforded those elements of the night-time economy opportunity to purchase cheap alcohol ahead of going to clubs and other establishments where prices were much higher.

In addition, the Sub-Committee made some minor amendments to the Applicant's Operating Schedule, specifically that:

Item 8 be amended to read: "The premises licence holder shall ensure that the premises shall install and maintain a comprehensive CCTV system ***including an appropriately placed camera covering the entrance to the property which is capable of providing an image that is regarded as 'identification standard' of all persons entering and/or leaving the premises***"

Item 14 to have added the words "**hard bound**" inserted before the words "incident book".

Item 18 to have added the words "**hard bound**" inserted before the words "refusals log".

The Sub-Committee imposed the following conditions on the licence:

No more than 15% of the sales area could be devoted to the sale or display or alcohol.

This was in response to the Applicant's suggestion that the Sub-Committee set a reasonable figure which was not to be exceeded and the Sub-Committee considered that as the Applicant had stated that the sale of alcohol would be ancillary to the main business of the sale of general groceries, this was deemed appropriate, and would prevent the premises being simply an outlet for alcohol sales, alcohol associated crime and disorder having been identified as problematic in the area.

**CDGPG13:** 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 is to be kept clear of 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.

The premises shall not stock any beers, ciders, lagers and spirit-mixed drinks with an ABV over 5.5%.

The premises shall not stock any cans/bottles of lager, cider, beer or spirit-based mixers unless they are in packs of four or more.

No bottles of wine or spirits less than 75cl shall be sold off the premises.

The reason for the last three conditions concerning quantity and strength of certain products is that the Sub-Committee recognised that single items could be easily

removed from the premises or purchased for immediate consumption and that small quantities of alcohol sold in small containers could too easily be carried in pockets or hand-bags and consumed in public. To avoid the concerns of pre-loading and the congregation of drinkers in the vicinity in an area the subject of a cumulative impact policy, the Sub-Committee agreed that these conditions - requested by the police and supported by the Licensing Authority, were appropriate and proportionate, as was the reduction in hours.

The area had been designated a saturation zone due to concerns over alcohol-related problems. The Police had raised concerns over the hours originally applied for and the sale of single units of alcohol, or smaller bottles of high alcohol percentage spirits which were commonly used in the practise of "pre-loading" which was a concern for them in terms of the cumulative impact upon the licensing objectives in the area. The Police maintained that the conditions sought were required to assist their endeavours to confront alcohol related trouble in the area and the Sub-Committee agreed that such conditions were appropriate given legitimate concerns of pre-loading and the problems caused by it.

The saturation policy was governed by the Guidance, which stipulated that quotas for licensed premises could not be imposed by a Licensing Authority, and the "need" for licensed premises could not be considered.

The saturation policy did not give the Sub-Committee the right to refuse all applications in the area, as appeared to be suggested by some of the representations submitted. Objectors to an application in such an area needed to show that the premises would add to existing concerns in the area relating to the licensing objectives. To justify refusal, the Sub-Committee would need to be satisfied that the granting of the licence would undermine the promotion of one or more of the licensing objectives and that the application of conditions would be ineffective in preventing the problems escalating.

In this case, with the above conditions added to minimise police concerns over pre-loading and its effect on crime and disorder and public nuisance in a saturation zone, and with the revised hours, the Sub-Committee was satisfied that the licence as granted would not undermine any of the licensing objectives.

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**Chairman**