

**MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE  
Council Chamber - Town Hall  
18 July 2013 (10.30 - 11.32 am)**

**Present:**

**COUNCILLORS**

Peter Gardner (Chairman), Brian Eagling and Frederick Thompson

Present at the meeting for the Designated Premises Supervisor were his brother Mr J S Basi and his friend Mr M Puaar.

The Present seeking the review: Mr A Hunt

Those making representations: PC Jason Rose, Metropolitan Police and Paul Campbell representing the Licensing Authority.

Also present were Mr Paul Jones, Licensing Officer, the Legal Advisor to the Sub-Committee and the Clerk to the Sub-Committee.

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

**1 APPLICATION TO REVIEW A PREMISES LICENCE, NEW PORKY'S,  
UNIT 1, MANOR WAY BUSINESS CENTRE, MARSH WAY, RAINHAM,  
RM13 8UG**

**PREMISES**

New Porky's,  
Unit 1 Manor Way Business Centre,  
Marsh Way,  
Rainham,  
Essex.  
RM13 8UG

**DETAILS OF APPLICATION**

Application for a review of the premises licence by the London Borough of Havering's Licensing Authority under section 167 of the Licensing Act 2003 ("the Act").

**APPLICANT**

Arthur Hunt,  
On behalf of the Licensing Authority,  
London Borough of Havering,  
5<sup>th</sup> Floor, Mercury House,

Mercury Gardens,  
Romford,  
Essex.  
RM1 1LS

**1. Details of existing licensable activities**

<b>Indoor Sporting Events</b>		
Day	From	To
Monday to Thursday	10.00	00.00
Friday & Saturday	10.00	01.00
Sunday	10.00	22.00

<b>Live Music</b>		
Day	From	To
Monday to Sunday	19.00	01.00

<b>Recorded Music</b>		
Day	From	To
Monday to Sunday	19.00	03.00

<b>Performances of dance, provision of facilities for dancing</b>		
Day	From	To
Monday to Saturday	19.00	03.00
Sunday	19.00	01.00

<b>Provision of facilities for making music</b>		
Day	From	To
Sunday to Thursday	10.00	00.00
Friday & Saturday	10.00	01.00

<b>Late night refreshment</b>		
Day	From	To
Monday to Saturday	23.00	03.00
Sunday	23.00	01.00

<b>Supply of alcohol (on sales only)</b>		
Day	From	To
Monday to Sunday	10.00	03.00

Opening hours – Monday to Sunday – 10.00 to 03.00

**2. Grounds for Review**

The Metropolitan Police had made a section 161 closure order against New Porky's on 14 April, 2013. The following day the Metropolitan Police attended Redbridge Magistrates' Court to apply for the court to consider the closure notice in accordance with its duty under section 165 of the Licensing Act 2003. The court considered the closure order and determined that it would not exercise any of its rights to further modify the notice under this section. The closure notice therefore expired 24 hours after its initial service.

Section 165(4) requires the court to notify the Licensing Authority of its determination; however, this notification was not supplied to Havering until 21<sup>st</sup> June 2013. It was upon the receipt of the court's notification that this review process commenced.

The provisions of section 167(4) of the Act dictate that the Licensing Authority undertakes certain functions with regard to an application made under this section. To this end the Licensing Authority gave a copy of the application to the premises licence holder and each responsible authority. It also installed an appropriately worded public notice advertising this application at the premises, at Havering Town Hall and on Havering's website inviting interested persons and responsible authorities to make representations against, or in support of, the application in accordance with appropriate premises licence regulations 37, 38 and 39.

When determining an application for a premises licence review made after a section 161 closure notice has been made section 167 of the Act requires that the relevant Licensing Authority holds a hearing to consider the closure order and any relevant representations made. A 'relevant representation' in such circumstances is one which is made by the premises licence holder, a responsible authority or an interested person within the consultation period and which is relevant to one or more of the licensing objectives. During the hearing the Licensing Authority must take any of the following steps it considers necessary to promote the licensing objectives. These steps are:

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) to remove the designated premises supervisor from the licence
- (d) to suspend the licence for a period not exceeding three months
- (e) to revoke the licence

*(NB With reference to (a) the premises plans form a condition of the premises licence.)*

### **3. Promotion of the Licensing Objectives**

The review had been requested in order to promote the licensing objectives as shown below

- **The prevention of crime and disorder**
- **Public Safety**
- **The prevention of public nuisance.**

### **4. Details of Representations**

**Chief Officer of the Metropolitan Police – (a responsible authority under the Licensing Act 2003) –** The representation stated that:

They request a reduction in the times for licensable activity as detailed below.

Reduction in opening hours from 0300 to 0100.

Reduction in supply of alcohol from 0300 to 0030 hours.

Reduction in recorded music from 0300 to 0030 hours.

Reduction in late night refreshment from 0300 to 0030 hours

Reduction in performance of dance, provision of facilities for dancing from 0300 to 0030 hours

They believe that a reduction in hours will address the increase of crime and disorder associated with the premise and increase public safety.

The following information was recorded against the premise.

Police had received information regarding the sale of alcohol outside of the licensed hours. This information was further supported by police being called to the premises on 10 December 2012 at 0415hrs regarding a disturbance, on 31 December 2012 at 0625hrs regarding noise disturbance and again on the 19 January 2013 regarding an allegation of assault involving the door staff at 0320hrs. Police had also received information that customers were often known to drive from the premises under the influence of alcohol.

The local Safer Neighbourhood team had been made aware of complaints of people leaving New Porky's and urinating on nearby premises and an increase of litter from discarded plastic cups.

On 24 February 2013 0450hrs a licensing visit was conducted. Vehicles were seen to be double parked on the carriageway to the side entrance causing an obstruction. The car park directly outside the front entrance was filled to capacity with vehicles double parked. Drivers of vehicles were observed remonstrating with each other in order to manoeuvre their vehicles. It was believed that London Fire Brigade and London Ambulance would have difficulty gaining vehicular access in the case of an emergency. This presented a public safety issue to persons within the premise and indeed other users of the industrial estate.

There were approximately 15 people queuing to gain access to the front of the premise. They were pushing towards the singular door, trying to get past the door supervisor. It was observed that the door supervisor did not hold an SIA badge. He confirmed that the premise usually stayed open until 0500hrs. There were other members of staff within the lobby area, some of which held SIA badges.

The music was still playing and could be heard from outside.

The manager of the premises, Richard Spooner was spoken to and the following concerns brought to his attention.

- 1) Licensable activity being conducted past the licensed hours of 0300 finish.
- 2) That one door supervisor controlling the front door was insufficient given the nature of those in the queue.
- 3) The front door supervisor had no means of keeping count of the number of customers entering / exiting the premise. This carried risk of exceeding the maximum capacity.
- 4) All door supervisors must be licensed by the Security Industry Authority.
- 5) The side entrance which provided a smoking area was unsupervised and vulnerable to customers entering unnoticed which again provided risk to capacity issues.

6) The SIA log produced by Mr Spooner was inadequate. It was a note pad with perforated sleeves. The only record made was forenames recorded on the corner of the page.

A second licensing visit was made on Sunday, 17 March at 0330 hours and Richard Spooner was spoken to again. The premise was closed although there were a number of people on the premise who Mr Spooner stated were staff members.

On 14 April 2013 two calls were received concerning separate incidents at the premises.

Police attended and the premise was closed by Inspector Lorraine Cowley using section 161 Licensing Act 2003. She provided a statement which evidences the premise undermining the licensing objectives of prevention of crime and disorder, public safety and prevention of public nuisance. For example, SIA door supervisors were not displaying their identity badges, she witnessed heated arguments between customers on the premise, customers preparing to fight and drunkenness.

The police believe that if all of the above incidents were considered collectively and as all the incidents had been occurred within a four month period, it supported their request to reduce the licensable hours of this premise.

They also requested a review of condition 14 - annex 2, to include 2 further conditions in relation to organised events.

***CD42 - The licensee shall undertake a risk assessment of any promotion or event using the MPS Promotion/Event Risk Assessment (Form 696) or an equivalent and provide a copy\* to the Metropolitan Police Service and the licensing authority not less than 14 days before the event is due to take place.***

***CD43 - Where an 'event' has taken place, the licensee shall complete an MPS after Promotion/Event Debrief Risk Assessment (Form 696A) and submit this\* to the Metropolitan Police and the Licensing Authority within 3 days of the conclusion of the event.***

***\*submission of electronic documents by e-mail is preferred.***

And an amendment to condition 32 - annex 2 to include a counting system to monitor attendance on first floor.

***'The licensee shall install a monitoring system / device to maintain a current count of all persons present within the upstairs premise at anyone time during licensable hours. This count will include staff. The total count is not to exceed the capacity limit given by the LFEP. This count shall be given to police and local authority upon request.'***

**London Fire & Emergency Planning Authority ("LFEP") – None**

**Health & Safety Enforcing Authority - None**

**Planning Control & Enforcement – None**

## **Licensing Authority**

The representation to support the review was based on three of the four licensing objectives.

**Crime and Disorder** - there has been reports of fights at the premises, the premises have been illegally operating outside of their licensed times, licensing conditions on the Premises Licence have not been kept to, vehicles leaving the premise have been involved in accidents and drink driving.

**Public Safety** - persons that have been drinking at the premises have been found wandering around the industrial estate where vehicle and commercial equipment was being used.

**Public Nuisance** - There have been reports of customers of the venue urinating against the doorways of neighbouring units, also of customers going into other business premises.

In the recent application made to extend the licensing hours at the premises the applicant made no reference in the application to

- Minimum staffing levels for the later hour,
- How they propose to deal with late comers to the venue who may already be under the influence of alcohol.
- If there is an incident how they will deal with it,
- If there will be a searching policy at the premises
- What they will do with any illegal items seized
- How they will deal with parking on the estate to the later hour where persons arriving for an early start at work will need access.
- How they will restrict the number of persons to the first floor.
- How will they try to prevent persons driving if they have had too much to drink
- How will they try to prevent their customers wandering around the estate
- What additional procedures they will put into place to prevent Crime and Disorder
- What extra measures they will take to promote Public Safety
- How they will prevent Public Nuisance at the later finish time
- How they will maintain the Protection for Children

All of these points showed that the management of the premises did not have a grasp of the requirements of the Licensing Act 2003 which were needed to run a safe premises.

Police closed the premises under their powers because of serious crime and the fear of that escalating, the magistrates upheld the police action as being correct. This premise was being poorly managed and run and this representation would add to that concern.

The premises was situated on a business industrial estate, the only reasonable access to it was by car or taxi, there was no public transport to the area at a late hour.

This premise was very near the boundary of Havering and Dagenham, if there were crime and disorder problems at the premises assistance from the police could be a considerable time in arriving at the venue. This matter does not seem to have been taken into consideration by the licence holder in his previous business operations or the fact that they have a duty of care to their customers.

The London Borough of Havering Statement of Licensing Policy states in section 3 that the finish time for regulated activity in mixed use areas is 00.30hrs. The premises licence permitted hours are past this time, the licence holder has operated the premises outside of the licensed times and problems have happened at the premises during these late times.

Item 4.5 of the Licensing Policy states

“It is the intention of the LLA to permit licensing hours which enhance the development of a thriving and safe evening and night-time economy” –

This premise was not keeping to its current licence conditions, it was not taking public safety seriously, it was already causing problems to the police and others, it had put no actions forward to Licensing since the closure to make their premises safer or enhance anything to the community.

These premises were in the first instance a café for the use of the industrial estate, late alcohol was introduced for the benefit of lorry drivers sleeping in their cabs when parked on the estate overnight, since that time the premises have changed and although a café during the daytime is a night club during the evening.

To assist the Sub-Committee and to see if I could support the recent application to extend their licensing hours I carried out an inspection of the premises.

On Friday, 8 March 2013 I telephoned the premises and informed them that I would be carrying out an inspection at the premises on the morning of Monday, 11 March 2013 and that I would be reporting my findings to the Licensing Sub-Committee at a future hearing.

As I had informed the premises that I would be making an inspection I was expecting all things to be in order and to be presented to me. I spoke to the manager (Mr Spooner) we discussed the licensed times and the recent police inspection at the premises, he admitted to me that the premises were open past their finish times when the police attended, a reason for this was not given to me.

I went through with him each Mandatory Condition on the licence and was given the assurance that all of these are adhered to.

These are my findings on that date relating to the licence conditions (starting on page 4 of 7 of the Premises licence)

1. **CCTV** – A CCTV is in operation at the premises and appears to be of a good standard
2. **Staff Training** – I was told that staff were trained regularly but no training records could be produced.
3. **Signage** – Correct – Challenge 21 signage is displayed at the premises
4. **Pubwatch** – The licence holder has not attended the Pubwatch meetings but they may not have been informed of the dates.
5. **Non alcoholic drinks** – Correct – Soft drinks are available.
6. **Public Safety risk assessments** – The manager could not tell me of any risk assessments taken out at the premises.
7. **Customers barred if causing nuisance** – I was told that door staff inform persons of this.
8. **No children after 14.00** – Correct – Children – this was a condition of the licence that the manager wishes to remove or alter but no reference to this is made in the previous application.
9. **Children must be accompanied** – Correct – Children – this was a condition of the licence that the manager wishes to remove or alter but no reference to this is made in the previous application.
10. **Vision from outside** – Correct – Vision – the premises can not be viewed from outside
11. **Training** – I was told this was taking place but no training records could be produced.
12. **Daily Register** – There was no daily register in place at the premises the manager and I discussed at length how this can be done.
13. **Door supervisors register** – There was some records of door supervisors in a separate book but did not cover the previous year.
14. **Police risk assessment** – There was no record that this had been done.
15. **Toughened Glass** – The glassware behind the bar was not toughened glass.
16. **Drugs policy** – There was no record that this had been done.
17. **Drugs Awareness Qualification** – There was no record that this had been done.
18. **Training relating to persons incapacitated through drink or drugs** – I was told that this had been done but no training records were available.
19. **CCTV** – Correct – CCTV this appeared to be of a good standard.
20. **CCTV** – Correct – CCTV this appeared to be of a good standard.
21. **CCTV** – Correct – CCTV a camera was positioned by the entrance used by customers.
22. **CCTV** – Correct – CCTV this appeared to be of a good standard.
23. **CCTV system file** – CCTV – There was no systems file showing the position of the CCTV cameras.
24. **First Aid** – Correct – Full first aid equipment was available.
25. **First Aider on site** – I was told that there was a qualified person on site when open to the public.
26. **Notices** – Correct – Notices relating to first aid equipment were on display.
27. **Proof of age** – I was told this was done when the premises is open.



28. **Challenge 21** – Correct – Challenge 21 signs were displayed.
29. **Door Staff** – I was told that SIA door staff were employed when the premises were open at night.
30. **Dispersal policy** – No policy was available for me to inspect.
31. **Travel safety** – Signs were in position and I was told that staff also remind people when leaving.
32. **Capacity limit** – The manager told me that this limit was not kept to and could not produce any alteration from the Fire Service to alter the limit of 60 persons on the first floor.
33. **Number of staff** – I was told that the correct amount of staff were employed at the premises.
34. **Fire alarm** – Correct – I was told that this was checked on a regular basis.
35. **LFEPA enforcement notice** – This was issued in 2010 I have no records in relation to this matter.

The premises were not operating to the conditions that are on their current licence three of these are high risk for Crime and Disorder –

- Condition 12 – Daily register – this is good practice for any business and especially one involved in alcohol and entertainment. A daily register has not been kept at the premises. No record of complaints has been kept, no record of who was in control of the premises at any date and time, no records of door supervisors removing persons from the premises has been kept. Without this record it seriously restrict the police investigating any crime or a responsible authority following up a complaint or investigation.
- Condition 15 – Drinks all be served in toughened glass – All late night premises serving alcohol in Romford Town Centre use toughened glass or similar this has drastically reduced the incidents of serious injury being caused by glass – all the glasses in the upper floor bar of New Porky's had the potential to be used as a weapon and to cause serious injury.
- Condition 32 – Capacity limit of 60 persons on the first floor – This has not been kept to by the premises, the licence holder has not contacted the Fire Service to alter the number and no reference to it has been made on this application.

The following conditions on the licence 2, 4, 6, 11, 13, 14, 16, 17, 18, 23, 25 and 30 all need to be fully in place and / or improved for the current licence to be considered as an acceptable level.

- This is not a well-run premises.
- It has become a late night drinking venue with little regard to its current licensing conditions.
- I have serious concerns over their record keeping relating to assisting the police and other authorities if an incident occurs.
- Public safety is at risk because of their failure to change to toughened glass allowing potential weapons to be readily available.
- The licence holder has not kept to the limit placed on the upper floor by the Fire Service or made any attempt to alter it with them.

If the police had not taken the action they did in closing the premises, a far more serious incident could have easily taken place at the premises with serious injury or worse.

There is little in place at the premises to reduce risk of an incident and if an incident had taken place at the premises apart from the CCTV there would be few records to assist the police and other emergency services with their investigations.

The premises has not kept to its Premise Licence conditions and has been allowed to or encouraged to develop into a late night drinking venue, it has given little regard to public safety, a high level of crime and disorder has taken place at the premises and public nuisance has taken place interfering with neighbouring properties.

I feel that the correct course of action for the Sub-Committee to take is to revoke the premises licence for this venue.

If the sub-Committee feel it is correct for the ground floor café area to be licensed I would ask that

- The licence is for the ground floor only
- Restaurant conditions are imposed with the need for persons to be taking a table meal to be able to buy and consume alcohol.
- The finish time for such a licence is 18.00hrs

The DPS is changed from Mr Basi to someone who is working at the premises during the day

**Children and Family Services** – None

**The Magistrates Court** – None

**Representation from Interested Party** –

**Security Projects Limited** - supported the review as their staff who provide security for the Business Centre have been abused by patrons of New Porky's. They also complained of a number of incidents of crime, disorder and public nuisance.

**Racefold Limited** – are opposed to the late night activities. They also complained of a number of incidents of crime, disorder and public nuisance.

**Reply for the Premises Licensee**

Mr A Basi was not present, apparently abroad. Mr Puaar and Mr J. Basi were present and purported to be representing Mr A. Basi. They appeared

to have sufficient knowledge of the premises to be able to represent Mr A.Basi and were therefore allowed to act as his representatives.

Mr Puaar for the Licence holder advised the Sub-Committee that the owners understood what the Licensing Authority and Police were saying. They ran the Café/Restaurant and had let another business, managed by Mr Spooner, use the first floor for a late night club. That person had let them down with the activities he was undertaking and following the closure they had asked him to leave, which he had done.

Mr J. Basi spoke to express his sincere apologies to the Council for the things which had occurred at the premises and didn't seek to defend the position in any way.

They accepted that Mr A Basi had failed in his role as Designated Premises Supervisor and they were looking to train one of their existing staff to fill this position. Someone who would be on the premises most of the time.

The owners now wish to continue with the cafeteria/Restaurant and use the first floor as storage for their existing embroidery business. They were happy to talk to Licensing and the Police regarding appropriate conditions. They wanted to run the premises as a café primarily for the people who worked on the industrial estate as they had done for many years. They asked that the premises licence enable them to serve alcohol up until 11pm and that they would close the café by 11:30 at the latest. They also asked that if the DPS was removed that they be given sufficient time to install a new DPS, so that there was no break in their ability to supply alcohol.

## **5. Determination of Application**

**Consequent upon the hearing held on 18 July 2013, the Sub-Committee's decision regarding the review of a premises license for New Porky's, Unit 1 Manor Way Business Centre, Marsh Way, 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 of the First Protocol of the Human Rights Act 1998.

### **Decision**

The Sub-Committee noted that the owners had spoken to Paul Campbell the Licensing Officer prior to the hearing and had indicated that they wished to close the first floor of the premises and use it for storage but retain the ground floor as a cafeteria restaurant opening until 11.30pm, but serving alcohol, with a meal, until 11.00pm. They had apologised for the problems and offered remedies to deal with the issues. The Police indicated that they had no objection to this revised operation.

With regard to the Designated Premises Supervisor they accepted the limitations of the current licence holder and asked for 4 weeks to identify a replacement, from amongst current staff and arrange for them to be trained up.

Agreed Facts. It was not in dispute that all of the allegations by the police, licensing authority and the interested parties were valid. It was also not in dispute that the DPS had failed in his role to exercise control over the premises and was not suitable to continue in that role.

In the light of the steps taken by the owners to address all the issues raised the Committee agreed to modify the conditions of the licence as follows and take no further action.

1. The licence shall only cover the ground floor of the premises;
2. The following activities to be removed from the licence- Indoor Sporting Events, Live Music, Recorded Music, Performances of dance, provision of facilities for dancing, Provision of facilities for making music and Late night refreshment
3. Alcohol will only be served and consumed when a sit down meal is purchased;
4. All drinks shall be decanted into toughened glasses;
5. Alcohol can only be served between 10:00 and 23:00 hours;
6. The premises shall close at 2330 hours;
7. Mr A Basi shall cease to be the Designated Premises Supervisor with effect from 2330 hours on the 31 August 2013.

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**Chairman**