

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
16 October 2013 (10.30 am - 12.15 pm)**

Present:

COUNCILLORS

Peter Gardner (Chairman), Georgina Galpin and
Linda Trew

There were no declarations of pecuniary interest.

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

Present at the meeting were Mr Hayadulla Turkmani and Mr Ashmatullah Turkmani, the proprietors of the premises. Mr Colin Turner, their legal representative, PC J Rose representing the Metropolitan Police, Mr A Hunt representing Havering's Licensing Authority and Mr P Jones, Licensing Officer. In addition, the premises lease-holder, Mr D Sloan (an SIA approved door supervisor at the premises) and a licensing technician (Mr C Conway) were present.

Also present were the Legal Advisor and the Clerk to the Sub-Committee

**1 REVIEW OF THE PREMISES LICENCE FOR HOT & TASTY CHICKEN,
140 SOUTH STREET, ROMFORD RM1 1TE**

PREMISES

Hot & Tasty Chicken
140 South Street
Romford
RM1 1TE

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

Mr Arthur Hunt
On behalf of the Licensing Authority,
London Borough of Havering,
5th Floor, Mercury House,
Mercury Gardens,
Romford,
Essex.
RM1 1LS

1. Details of existing licensable activities

Recorded Music		
Day	From	To
Monday to Saturday	11.00	02.00
Sunday	11.00	00.00

Late night refreshment		
Day	From	To
Monday to Saturday	23.00	02.00
Sunday	23.00	00.00

Opening hours: Monday to Saturday – 11.00 to 02.00, Sunday – 11.00 to 00.00

2. Grounds for Review

A section 161 Licensing Act 2003 closure order was made against *Hot & Tasty Chicken* by the Metropolitan Police on Saturday 4th May 2013 between 00:30 and 01:00. On Tuesday 7th May 2013 (Monday 6th May 2013 was a bank holiday), as required, the Metropolitan Police attended Barkingside Magistrates' Court to apply for the court to consider the closure notice in accordance with its duty under s.165. The court considered the closure order and determined that it would not exercise any of its rights to further modify the notice. 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 19th September 2013 subsequent to repeated requests to do so from the London Borough of Havering and the Metropolitan Police. It was upon the receipt of the court's notification on 19th September 2013 that this review process was initiated.

Requirements upon the Licensing Authority

The provisions of s.167(4) of the Act dictates 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's Town Hall and on Havering's website inviting interested persons and responsible authorities to make representations against, or in support of, the application.

When determining an application for a premises licence review made after a s.161 closure notice has been given s.167 of the Act requires that the relevant Licensing Authority holds a hearing to consider the closure order, any order issued by the court under s.165(2) and any relevant representations made. There were no orders issued by the court with regard to the closure notice.

During the hearing the Licensing Authority had to take any of the following steps it considered necessary to promote the licensing objectives [s.167(5)(b) & (6)]. These steps were:

- (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

Where the Licensing Authority took a step as defined by (a) or (b) above it should provide that the modification or exclusion was to have effect for a specified period not exceeding three months [s.167(8)].

(This premises licence did not authorise the supply of alcohol; (c) did not apply in this instance.)*

3. Promotion of the Licensing Objectives

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

- **The prevention of crime and disorder**

4. Details of Representations

The following Responsible Authorities submitted no representation:

London Fire & Emergency Planning Authority (“LFEPA”)

Health & Safety Enforcing Authority

Planning Control & Enforcement

Children and Family Services

The Magistrates Court

Representation from Interested Party

Representations were received from the Metropolitan Police and Havering’s Licensing Authority:

The Chief Officer of the Metropolitan Police

PC Jason Rose made representation on behalf of the Metropolitan Police. PC Rose’s representation detailed the sequence of events which led to the s.161 closure order being made and further details the Police concerns in relation to promoting the licensing objectives. He quoted extensively from his written report.

A closure order had been issued at Hot & Tasty Chicken, 140 South Street, Romford, RM1 1TE by police under the Licensing Act 2003. Official notification had been received from Redbridge Magistrates Court

evidencing a hearing on 7th MAY 2013 concerning the above named premises and its closure by police on 4th MAY 2013. The court determined not to use its power under section 165 Licensing Act 2003 but was satisfied with the use of section 161 by police in the circumstances. It was unknown why it had taken the court until October to notify the local authority. Officers, including Inspector Blackledge and PC Rose had made several attempts for this notification to be served sooner.

Police believed the premises of Hot & Tasty Chicken was not acting in a responsible manner to promote the licensing objectives during its late night refreshment hours. Officers felt the premises had a negative effect on crime and disorder and public nuisance, not to mention public safety. Police sought to bring to the Sub-Committee's attention a number of breaches to the premise licence conditions along with suggestions on how those issues might be remedied by changes to their current licence.

BACKGROUND

The premises was located within Havering borough's Anti-Social Behaviour hotspot and directly beside the Transport for London (TfL) travel network hub. There were two large bus stops directly outside the premises which serviced night buses. Naturally, large numbers of people - under the influence of alcohol - would be likely to congregate throughout the evening and into the early hours.

This year alone police had received several complaints of violence and anti-social behaviour recorded directly against the premises. A number of crimes had also been recorded showing the premise as the venue.

The following incidents were detailed to the Su-Committee:

1. Closure under section 161 Licensing Act 2003 on Saturday 4th May 2013 at 00:30-01:00hrs. Other Offence observed at the time: Breach of license condition two (Premises shall have a door supervisor on Friday and Saturday after midnight)
2. 5402572/13 - Grievous Bodily Harm, Sunday 17th Feb 2013 at 00:30 hours:
3. 5401728/13 - Sec 5 Public Order Act, Saturday 16th March 2013 at 00:05 hours:
4. 5408179/13 - Actual Bodily Harm, Wednesday 05th June 2013 at 01:40 hours:
5. Breach of license condition two (Premises shall have a door supervisor on Friday and Saturday after midnight) Saturday 28th April 2013 at 00:05-00:15hrs
6. Operating outside of licensable hours, Saturday 25th May 2013 at 02:03-02:20hrs

**** POINT OF NOTE ****

In all of the six examples shown above the offending times were after midnight. Police submitted that this was the critical time for potential issues to take place. Victims became even more vulnerable due to intoxication. Offenders become even more violent due to intoxication. Romford town centre needed a quick dispersal zone when pubs, clubs and other venues closed - not a venue that attracted people to meet, keep warm, socialise and stay longer - which only increased the chances of crime and disorder and offences against public safety and public nuisance happening. This premises, by the nature of the examples cited above had shown it could not operate without such incidents taking place.

Further to the above observation, police had received numerous calls to the immediate locality and to the premises of A1 mini cabs adjoining Hot & Tasty Chicken. It was impossible to ascertain if these premises were involved in all these incidents as callers / victims had left prior to police arrival. Two further CADS had been logged solely against the premises address -

- Monday 22th July 2013 at 0044hrs CAD KD416 and
- Sunday 28th April 2013 at 2345hrs CAD KD9473

Police believed that the majority of Hot & Tasty Chicken's customer base was under the influence of alcohol to different degrees. The potential for violence was often felt throughout the night. The venue's clientele was loud, jovial, boisterous and in the examples referred to above, sometimes violent. SIA door staff had proven to be an effective tool in the battle against crime and disorder along with aiding public safety. Police encouraged the use of such staff during the hours of late night refreshment. Without these personnel present, the risk to public safety would dramatically increase as would the burden on staff to enforce their current licensing condition in respect of capacity. Police therefore recommended that an SIA badge-holder should be on duty when the premises traded within its late night refreshment hours i.e. 23.00 until close.

In addition, Police had serious concerns in relation to the amount of times CCTV recordings had not been available to view or indeed, the facility to download and seize for evidence. It appeared that staff members continued to clear and clean the premises prior to police arrival which in turn has an impact on loss of evidence. They had been advised about this on several occasions.

Police also had concerns in relation to Public Nuisance and Public Safety from a littering point of view. On all night-time occasions when police patrolled the area, it was clear to see litter which has come from the venue. This included take-away packaging, chips and chicken bones thrown carelessly around the transport hub. Not only were these chicken bones a health risk, they were also a danger as an intoxicated

person might slip on greasy, discarded items such as these. The litter was a constant eyesore for residents and visitors alike. It was not cleaned away by the venue and was traditionally still present on a Saturday and Sunday morning when shoppers entered the area, giving an untidy and false impression of Romford town centre. This was also a clear, continuous breach of condition five of the premises licence.

In conclusion the Police asked for consideration to be given to the following recommendations.

- A reduction in trading hours for Late Night Refreshment to 00.30hrs Monday - Saturday
- A member of staff able to operate, download CCTV footage had to be on duty at all times the premises was open for business. Staff to assist the Police and the Local Authority in their enquires.
- A maximum capacity of ten persons (not including staff members) inside the venue at any one time during the hours of 2300 until close.
- An SIA badge holder should be on duty when the premises traded within its late-night refreshment hours i.e. 23.00 until close Fri and Saturday. (Currently midnight onwards).
- The premises should remove seats and tables from in front of the counter area to deter lengthy stays after 23.00hrs which would assist with dispersal.

Mr Colin Turner, legal representative on behalf of Mr Turkmani, asked PC Rose about the dates of some of the events presented in his evidence. He enquired whether PC Rose was aware that his clients did not own the premises until 21 March 2013 and therefore the incidents on 17 February and 16 March 2013 had nothing to do with his clients. PC Rose accepted that, but argued that the issues concerned the premises irrespective of the proprietor at the time. Mr Turner disagreed saying that liability for previous problems could not be transferred to new owners.

Mr Turner then reminded those present that action to close the premises had been taken on Saturday 4 May 2013 and was considered by magistrates on Tuesday 7 May (Monday being a Bank Holiday). At that hearing, the magistrates chose not to exercise their discretionary powers to confirm or extend the closure and, had the bureaucratic process flowed smoothly, this review hearing would have taken place sometime in June. The point he was making was that those incidents presented by the Police which occurred after mid-June should – by rights – be ignored as the review would have only had the incidents on 25th May and 5th June at best, before it. Again, PC Rose disagreed, holding instead that that view was unrealistic and was not borne out by reality. The court had delayed (considerably) in notifying the borough of its decision (indeed, active enquiries had to be made in order to retrieve the

decision). In the mean-time the new owners had not changed the way in which they operated their business and despite frequent Police intervention, allowed breaches of the peace to continue and disregarded the conditions of their licence to the detriment of the locality and potential danger for those using the transport facilities outside the premises.

Mr Turner reminded those present that Hot & Tasty Chicken was not trading in isolation and that within a small radius of the premises, there were several establishments also providing late-night refreshment (some being open far longer than his clients) and trouble could not be solely attributed to his clients' premises.

PC Rose answered that the Police had received calls from staff working at the premises and from others who identified the premises specifically.

Mr Turner summarised by saying that his clients had shown that they were trying to comply with the Police requirements. The CCTV system had been fully overhauled and extended. Staff were trained to operate it and the Police and Licensing Officers would be able to obtain information on reasonable demand. PC Rose reminded Mr Turner that it had taken some 34 hours on one occasion before CCTV data was provided and that on another occasion no information had been forthcoming at all because staff did not know how to operate the equipment. Mr Turner pointed out that on the occasion when there was delay, the information had not been deliberately withheld and had been provided and regarding the other incident, that was in the past and would not happen again in the future.

Havering's Licensing Authority:

With regards to the above Arthur Hunt confirmed that the Licensing Authority wished to make a representation to be considered by the Licensing Sub-Committee concerning breaches of the following Licensing Objectives:

Crime and Disorder: There had been a failure to comply with conditions on the Premises Licence and assaults reported at the premises and

Public Safety: The premises had operated without Door Supervisors as required by their premises licence.

Crime and Disorder

Mr Hunt reiterated details of the following incidents presented by the Police:

17 February 2013 at 12.30am – Grievous Bodily Harm.

5 June 2013 at 01.40am - Actual Bodily Harm.

In addition, Police had also dealt with other matters at the premises:-

16th March 2013 at 12.05am.

4th May 2013 at 12.30am. When the Police became sufficiently concerned about the premises to utilise their powers under section 161 Licensing Act 2003 to close it.

Public Safety

Mr Hunt reminded the Sub-Committee that Havering's licensing policy 015 (which echoed S.167 of the Licensing Act 2003) stated that consideration should be given to the reviewed premise compliance history. It stated that:

In considering applications for new licences or variations to existing licences and licence reviews following the receipt of relevant representations, the LLA will take the matters listed below into account. These criteria will apply in different ways to different types of premises and licensable activities in the following order:

- *the location of the premises and character of the area*
- *the views of responsible authorities*
- *the views of interested parties*
- *past compliance history of current management*
- *the proposed hours of operation*

Annex 2 of the premises licence contained the following condition:

The CCTV system shall be in operation at the premises at all times when the premises are used for licensable activities. Recorded tapes shall be kept for 28 days and be available for inspection by police and Council officers at all reasonable times.

Mr Hunt reported that when Police attended as a result of the aforementioned assault on the 17 February staff were unable to operate the system and that to date no CCTV images had been supplied to the Police.

In addition, when Police attended the premises as a result of the 6 June assault, the licence holder, Mr Hayadulla Turkmani and his manager Mr Ashmatullah Turkmani were unable to operate the CCTV system. They had to receive training from another member of staff. Police were only able to obtain the CCTV images some 34 hours after the event.

Annex 2 condition 2 of the premises licence stated that:

The premises shall have a door supervisor on Friday and Saturday after midnight

In addition, Mr Hunt cited the following incidents:

28th April 2013 from 12.05am – 12.15am Licensing officers observed that there were no door staff in place.

4th May 2013 at 12.30am no SIA door staff on duty. This was a contributing factor in the decision of the police to close the premises.

25 May 2013 between 02.03am and 02.20am. Police observed the premises operating passed their terminal hour of 02.00am.

Havering's Licensing Policy 014 stated that:

Where relevant representations were received from responsible authorities and/or interested parties, the LLA may seek to restrict the operational hours of premises where this is necessary to promote the licensing objectives. The LLA may impose further limitations in hours upon review of the licence, particularly where the premises was shown to be the focus or cause of nuisance or anti-social behaviour.

Mr Hunt said that the Police had detailed in their representations that the incidents all appeared to have occurred after midnight. It might therefore be appropriate - in line with Havering Policy 012 - to reduce the premises hours to at least 00:30 because of the mixed residential/commercial use of the area.

As the premise was situated within the ring road, Licensing Policy 18 was relevant:

It was the LLA's policy to refuse applications in Romford within the ring road for pubs and bars, late night refreshment premises offering hot food and drink to take away, off licences and premises offering facilities for music and dancing other than applications to vary hours with regard to licensing policy 012

The policy added at Para 4.21:

Existing premises licences that had a negative impact on the licensing objectives contributed to cumulative impact and this might be reduced if appropriate steps were taken on reviews of individual licences that were creating particular problems.

This premises, by the history detailed by the Police, had had a negative impact on the licensing objectives. There had been a history of violence and anti-social behaviour related to the premises. Also there had been more than one incident of non-compliance with the current premises licence. This non-compliance had also attracted complaints from other premises within the locality, which detailed a loss of business due to the premises remaining open past its terminal hour. It also held a prime position within the transport hub in South Street and any incident could therefore have a detrimental effect on late night transport facilities

Paragraph 4.23 of the Policy stated that:

Taking revised Guidance into account, and also the continued existence of some serious problems of nuisance in the Stress Area, the Licensing Authority may, in determining reviews of individual premises licences in a Stress Area, take into account the fact that the premises were in an area of special policies on cumulative impact, when considering what steps were appropriate to take to promote the licensing objectives.

The fact that premises were in an area where special policies on cumulative impact applied could not of itself be the grounds for revoking a licence on review. However, in deciding what steps it should take to promote the licensing objectives, the Licensing Authority should take into account the effect the premises licence and its operation had on the licensing objectives, within the context of the underlying reasons for the designation of the area as one where for special policies on cumulative impact would apply.

In addition to the conditions requested by the Police (above) the Licensing Authority asked for the following conditions to be added to the licence:

- All staff engaged outside the entrance to the premises, or supervising or controlling queues, to wear high visibility jackets or vests.
- A Premises Daily Register should be kept at the premises. This register would be maintained and kept for a minimum of 12 months. This register should record the name of the person responsible for the premise on each given day.
- The Premises Daily Register should be readily available for inspection by an Authorised Person or Police throughout the trading hours of the premises.
- The Premises Daily Register should also record details of any SIA door staff employed at the premises including their home address. Further, all incidents in relation to the use of any force by staff or Door Supervisors in the removal of persons from the premises. It should record the time and date of the occurrence, name or brief description of the person removed, and details of the staff involved.

Mr Turner asked Mr Hunt about the matter of public safety, drawing the Sub-Committee's attention to the completed details in section C in which only the "crime and disorder" box was checked. Mr Hunt accepted he had only checked that box as that was what the Police action involved. Mr Turner questioned whether references to public disorder ought, therefore to be considered.

Response of the Applicant

Mr Turner asked leave to allow Mr Turkmani to firstly address the Sub-Committee in person. Mr Turkmani said that he and his brother apologised for the initial problems which had arisen when they took over the premises and the trouble they had caused, but he had taken control of the situation, listened to the Police and changed the CCTV and ensured staff were available who could operate it, made changes in the way the premises operated – a glass screen had been installed at the counter to minimise any problems with members of the public – and door supervisors were now employed in accordance with the licence – though he accepted that he had told the Police. In addition, he was willing to apply all the changes suggested by the Police and Licensing, even

though, Mr Turner observed, removing tables and chairs from in front of the counter appeared at odds with a requirement that the maximum number of patrons on the premises was not to exceed ten at any one time.

Mr Turkmani stated that he had been present at the premises on 4 May 2013 when they were closed by Police and accepted what had been said about the lack of door staff. He added that he had been told by the previous licence holder that door staff was not required. He had employed door staff ever since that occasion.

Regarding CCTV and the allegation that he had not provide it in relation to the incident on 5 June 2013, Mr Turkmani said that he had told Police he would provide it, and he did so. He stated that there had not been any requests since that time and that whenever it was needed, he or his brother could provide it. He had four staff on duty and that would always include one of the Turkmani brothers.

Mr Turner then stated that his client cleared rubbish from the front of his premises – even if it had not originated from it – and that he wished to run his business properly. In addition, it was a fact that around 40% of his profit came from transactions after midnight and as such, that was a critical period for him.

The Sub-Committee enquired about aspects of the case. In answer to a question from the Chair, Mr Turner agreed that it had been an unfortunate mistake not to have employed a door supervisor as required by the licence and, in answer to a question about taking orders and serving food after the time the premises should have been closed Mr Turner stated that there had been some confusion about the timings. His client did not accept the Police version of when the sale was made. The food had been ordered before the premises should have closed but was only not handed over until later.

Challenged about the premises actively attracting people who were intoxicated to buy their food, Mr Turner argued that this was never his client's intention. The question of customers being intoxicated or not was not one for his client – whose sole purpose was the provision of hot food to whoever wished to buy it.

The Sub-Committee also enquired about the brothers' contact with the premises prior to purchasing it. In response Mr Turkmani said he hadn't worked there, but after the Sub-Committee pressed him on the matter he said: "Not officially worked there, but did visit/inspect prior to buying" explaining that he and his brother had – as would be expected in any business arrangement – visited the premises and spoken with the owner a few of times before buying it. He denied having any responsibility for the incidents prior to his taking over the business on 20 March.

In summary, the Police re-stated their concerns not only about the matter of the operation of the CCTV but reiterated that their view was that crime and disorder was associated with the premises, irrespective of

who owned it and the premises was located at a very sensitive spot at the heart of Romford's dispersal hub and any major incident which involved that location being closed to the public would have serious implications for those trying to get home.

Mr Turner reminded the Sub-Committee that there had been unreasonable delay in bringing this review; that his client accepted that he had not acted wisely in serving food late (though there was some question about that) and in not employing a door supervisor) but he had apologised for that. In addition, he had complied with recommendations from the Police and Licensing Service in updating his CCTV and ensuring staff knew how to operate it. Furthermore, his client now employed SIA approved door supervisors and had put other measures in place (the glass screen at the counter to reduce potential trouble being an example) to ensure that he was seen to operate a responsible business and, in addition, he was willing to accept all the recommendations made by the Police and the Licensing Service other than the reduction in hours.

His client had also stated that some 40% of his profit was earned after midnight and so any change to his closing times would have a serious impact on the viability of his business.

5. Determination of Application

Consequent upon the hearing held on 16 October 2013, the Sub-Committee's decision regarding the review of a premises license for Hot & Tasty Chicken, 140 South Street Romford 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 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 stated that the issue of crime and disorder as detailed by the Police was in part a problem for the area in which the premises was located. There were, however, a number of incidents which related directly to the premises which had been evidenced. The situation had been exacerbated by the failure to adhere to the conditions of the licence – in particular, the

failure of the owners to have a door supervisor in place, the presence of which might well have minimised – or prevented – those incidents occurring.

The Sub-Committee added that it considered it appropriate – for the promotion of the Crime and Disorder Licensing objective – to modify the licensing conditions by adding all of those requested by the Police and Licensing Service, most of which had been accepted. The limitation of hours were appropriate because of the incidents of crime and disorder in the area and recorded at the premises predominantly occurred between the hours of midnight and 2.00am.

The modifications to the premises licence were as follows:

- A reduction in trading hours for Late Night Refreshment to 00.30hrs Monday - Saturday
- A member of staff being able to operate the CCTV equipment should be on duty at all times the premises is used to provide licensable activity.
- Capacity of 10 persons (Non Staff) inside the venue at any one time during the hours of 2300 until close.
- SIA badge holder to be on duty where the premises trade within their late night refreshment hours i.e. 23.00 until close
- Removal of seats and tables from front of counter area after 23.00 hrs.
- All staff engaged outside the entrance to the premises, or supervising or controlling queues, to wear high visibility jackets or vests.
- A Premises Daily Register to be kept at the premises. This register would be maintained and kept for a minimum of 12 months. This register should record the name of the person responsible for the premise on each given day.
- The Premises Daily Register should be readily available for inspection by an Authorised Person or Police throughout the trading hours of the premises.
- The Premises Daily Register should also record details of any SIA door staff employed at the premises including their home address. Further, all incidents in relation to the use of any force by staff or Door Supervisors in the removal of persons from the premises. It should record the time and date of the occurrence, name or brief description of the person removed, and details of the staff involved.

Chairman