

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
13 February 2015 (10.30 am - 2.15 pm)**

Present:

COUNCILLORS

Conservative Group	Philippa Crowder
Residents' Group	John Wood
East Havering Residents' Group	Linda Van den Hende (Chairman)

Present at the hearing were the applicants, Mr P Harris and his legal representative, Mr A Murrell.

The following interested parties were present, Mr Jayesh Chauhan and Mr Mark Dale. Responsible Authorities present included Havering Licensing Officer PC Jason Rose, Licensing Officer Arthur Hunt, Noise Specialist Marc Gasson and John Giles (Health & Safety)

Also present were Mr Paul Jones (Havering Licensing Officer), the Legal Advisor to the Sub-Committee and the clerk to the Licensing sub-committee.

Others present also included Councillors Michael White and Jody Ganly and Harriett Orrell.

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

No interest was declared at this meeting.

**1 APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF
THE LICENSING ACT 2003**

PREMISES

82-84 Market Place
Romford
Essex
RM1 3ER

DETAILS OF APPLICATION

This application was for a new premises licence was made under section 17 of the Licensing Act 2003 ("the Act").

APPLICANT

ECSC Management Ltd
2 Mountview Court
310 Friern Barnet Lane
Whetstone
London
N20 0YZ

1. Details of requested licensable activities

Details of the application

Films, Live Music, Recorded Music, Performance of Dance, on-supply of alcohol		
Day	Start	Finish
Thursday to Saturday	19:00hrs	03:30hrs
Sunday preceding bank holiday Mondays	19:00hrs	03:30hrs

Late Night Refreshment,		
Day	Start	Finish
Thursday to Saturday	23:00hrs	03:30hrs
Sundays preceding bank holiday Mondays	23:00hrs	03:30hrs

Hours premises open to the public		
Day	Start	Finish
Thursday to Saturday	19:00hrs	04:00hrs
Sundays preceding bank holiday Mondays	19:00hrs	04:00hrs

Seasonal variations / Non-standard timings

There were no seasonal variations or non-standard timings applied for.

2. Promotion of the Licensing Objectives

The applicant acted in accordance with regulations 25 and 26 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 relating to the advertising of the application. The required public notice was installed in the Romford Recorder on 2 January 2015.

An application had been submitted on 23 December 2014 which was then modified significantly on 16 January 2015 further to a meeting between the applicant, the licensing authority and the Police at which concern was raised in relation to various aspects of the original application.

3. Details of Representations

Valid representations may only address the four licensing objectives.

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

There were six representations made against this application from interested persons.

There were five representations made against this application from responsible authorities.

Health & Safety Officer John Giles made representation against the application on behalf of Havering's Health & Safety team. Mr Giles' representation was based upon the prevention of public nuisance and public safety.

Environmental Health Officer Martin Grant made representation against the application on behalf of Havering's Noise Team based upon his concerns in relation to the prevention of public nuisance.

Inspecting Officer David Hallam made representation against the application on behalf of the London Fire & Emergency Planning Authority. IO Hallam's concerns were based upon the public safety licensing objective.

Licensing Officer Arthur Hunt made representation against the application on behalf of Havering's Licensing Authority. Mr Hunt's representation was based upon his concerns in relation to the prevention of public nuisance, public safety and the prevention of crime and disorder licensing objectives.

PC Jason Rose made representation against the application on behalf of the Metropolitan Police. PC Rose's concerns were based upon the prevention of public nuisance and the prevention of crime and disorder.

Responsible Authorities

Chief Officer of Metropolitan Police ("the Police"): One

Licensing Authority: One

Planning Control & Enforcement: None

Public Protection: One

London Fire & Emergency Planning Authority (“LFEPA”): One

Health & Safety Enforcing Authority: One

Public Health: None

Children & Families Service: None

The Magistrates Court: None

The Sub-Committee was advised at the start of the hearing that following mediation between the applicant and officers the London Fire & Emergency Planning Authority had withdrawn their representation.

Mr Arthur Hunt on behalf of Havering’s Licensing Authority advised the Sub-Committee of the history of the licensing of the premises.

Mr Hunt advised that the application was for a premises licence at a venue which previously had held a licence until it lapsed when the company holding the licence became insolvent.

Initially the application sought to open a late night premises supplying alcohol and entertainment to the public Monday to Sunday from 09.00am to 05.00am the day following.

It was clear that the conditions proffered by the applicant were virtually a straight “Cut & Paste” from the previous licence in place at the venue. However, two very important conditions from that licence appeared to be absent from the application: -

- Drinks shall be served in vessels made from polycarbonate or plastic.
- The installation of a noise limiting device in all rooms where the playing of recorded and live music will occur. The noise limiting device once installed by a competent electrician was to be set and sealed by officers from the Environmental Health Service.

Both of these conditions were imposed at hearing by the Licensing Sub-Committee on the 24 September 2009 following representations being made by the Metropolitan Police and Environmental Health Service (Noise) team to a new premises licence application. They were both directly linked to the Public Nuisance and Crime and Disorder Licensing Objectives.

The applicant had not addressed why they thought that the conditions applied to the previous licence were appropriate without the inclusion of the two conditions; which a previous Licensing Sub Committee considered important enough to impose on the premises.

Also, that previous licence had been reviewed following a closure order by the Metropolitan Police. At a hearing before the Licensing Sub-Committee on the 17 October 2013, having listened to all representations and also taking into account the written submissions of the local residents and of the licence holders, the Sub-Committee considered that it would be appropriate, in order to promote the licensing objectives, to modify the conditions as follows:-

- A reduction in trading hours until 0200hrs on all evenings
- A reduction in the supply of Alcohol, Late night Refreshment and other licensable activity until 0130hrs
- Last entry to the premises for customers to be one hour before closing time on each occasion the premise opens
- A member of staff able to operate the CCTV system and download CCTV footage must be on duty at all times the premises is open for business. Staff must assist police and authority in their enquiries wherever possible.
- A Scan Net system (or equivalent) initiative shall be implemented by 31 January 2014. This system shall be installed and used during all hours the premises is open to customers. No customer may enter unless he or she has had their identity confirmed via the Scan Net (or equivalent) system.
- 14 days in advance of any event the licensee shall submit a completed form 696 to the Metropolitan Police. After the event, and as appropriate the licensee shall complete and submit the after event monitoring form 696A.

The decision notice also stated, *“Evidence from the Police was that much of the crime & disorder, including incidents specific to these premises, occurs after 01:00am. Added to this the residents’ complaints related to incidents in the early hours of the morning. It was therefore appropriate to restrict the hours of opening to limit and prevent the crime and disorder and nuisance issues caused by the premises being open until 04:00am.”*

The decision made by the Licensing Sub-Committee was initially appealed by the licence holder, Net Bar Limited. The appeal was scheduled to be heard at Romford Magistrates Court on the 18 March 2014. However, before that date the Licensing Authority were informed that Net Bar Limited had ceased trading and that the appeal was to be withdrawn. There was no application to transfer the premises licence, therefore on the 20 March 2014 the premises licence lapsed.

The premises had been closed since February 2014.

At the suggestion of the Licensing Authority a meeting was held between the applicant, his solicitor, Police and Licensing Authority on the 14 January 2015. At that meeting it became clear that the application form did not match the applicant’s business plan. Following on from that meeting an amendment to the application was received on the 16 January 2015.

The amendment changed the premises opening hours from 19:00 to 04:00 on Thursday to Saturday and on Sundays preceding a Bank Holiday.

Mr Hunt also advised that during mediation the applicant had agreed to the installation of a Scan Net system (or equivalent) initiative.

Mr Hunt advised that there had been little contact between the applicant and all of the other Responsible Authorities.

Mr Hunt also confirmed that both the Licensing Authority and the Metropolitan Police had a number of concerns regarding other conditions namely Drugs Policy, Dispersal Policy and Queue Management policy, all of which were not of a sufficient standard to be acceptable.

In reply to a question from the Sub-Committee Mr Hunt confirmed that the applicable boxes on the application form relating to the promotion of the four licensing objectives had not been completed and officers had had to marry up the conditions supplied to meet the objectives.

Mr Hunt advised that it was usual in applications such as this that the applicant made contact before submitting the paperwork, in order that the applicant's business plan and expectations of the Licensing Authority and other Responsible Authorities could be discussed. This generally resulted in an application that required "tweaking" rather than wholesale changes, as in this case.

Mr Hunt commented that it was disappointing that the applicant at no stage sought to liaise with any of the Responsible Authorities. It was only after Mr Jones, Licensing Officer, suggested to the applicant's solicitor that it would be advisable to make contact with the Police, that a meeting had been arranged. At that meeting, the serious concerns expressed by several of the Responsible Authorities were relayed to the applicant. That meeting had taken place on day 21 out of 28 of the consultation period. The amended application arrived 2 days later giving the Responsible Authorities just 5 days to fully review the application.

Mr Hunt advised that Havering's licensing policy 012 related to the hours during which it was felt appropriate to provide licensable activity in given areas of the borough. Policy 012 was as follows:

The LLA is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Applications for hours set out below in this policy will generally be granted subject to not being contrary to other policies in the statement of licensing policy. Applications for hours outside the hours listed will be considered on their merits.

Regulated activities will normally be permitted:

- *until 11.30 pm in residential areas*
- *until 00.30 am in mixed use areas*

- *no limits in leisure areas*

The Market Place was made up of commercial and residential properties thus making it a mixed use area. The policy indicated that an application for hours which extend beyond these guideline hours would be considered on its merits. Officers contended that the application as submitted should not be considered an exception to the guidelines of licensing policy 012.

The area in which this premises was located was subject to a special policy in relation to licensed premises via licensing policy 018. This policy is as follows:

It is 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 the regard to licensing policy 012

The special policy area was designated as such by Havering in response to its identification by the Police as an area in which resources to cope with late night anti-social behaviour issues were limited.

This special policy area had been highlighted as one which required greater attention than other areas of the borough in relation to licensed premises and the problems attendant to alcohol consumption. As such it might appear, therefore, that an application for a premises licence in this special policy area must provide a *compelling argument* that the special policy should be disregarded in order that the application may be granted. Officers were not convinced that the application had succeeded in this regard.

The only apparent justification appeared in the amended application under:-

Section M a) General – all four licensing objectives:-

These premises, Hush, under previous ownership and management had a later terminal hour for its licence and was reviewed and closed after licensing policy 018 came into force. There are therefore exceptional reasons why a new licence for these premises should be granted.

It was not clear why the applicant considered this to be an exceptional reason. The previous licence after the review hearing had an earlier terminal hour of 02:00, with licensable activity ceasing at 01:30; thus making the terminal hour earlier than the current application.

Mr John Giles representing the Health and Safety Enforcing Authority advised that the application was in the saturation policy area and the applicant had not really explained why their application was exceptional and would have no impact on the area.

Havering's Statement of Licensing Policy suggested that the terminal hour in a mixed use area should be 00.30. The premises directly fronted onto the market place which now had predominantly residential premises above the shops which closed in the early evening. The Bull which was the closest pub licence ceased at midnight. The night club was also likely to generate noise from the dispersal of customers leaving and driving away from the premises which could cause nuisance to the residents of the flats opposite.

Mr Giles also advised that there were concerns that the queuing and dispersal policies made no reference to the market. Market stalls would be up on the Thursday night for the Friday market and on the Friday night for the Saturday market. The stalls would limit visibility for the door staff to see and react to trouble and could provide a source of weapons. At the application closing time there were no other premises open in the vicinity.

Mr Marc Gasson representing the Environmental Health Service's Noise Team advised that the premises in question opened onto a concourse with an unobstructed view to residential premises. There had been repeated problems associated with loud music escaping from the venue due to inadequate controls and arrangements. The extended hours proposed were likely to lead to a repeat of those problems.

Outstanding issues that had not been addressed by the application were as follows;

1. There was no properly calibrated noise limiter provided.
2. The moveable panels forming the front facade did not provide an acoustically imperforate barrier.
3. The entrance, double lobby arrangement provided insufficient circulation space that led to both sets of doors being open simultaneously. This in turn led to noise escaping from the premises with consequent detriment to residential amenity. The presence of venue staff had previously not been able to prevent this from occurring.

PC Jason Rose representing the Metropolitan Police advised that a meeting had taken place between the applicant's legal representative, Mr Hunt and himself on 14 January 2015. During this meeting the Police had expressed their concerns over hours, lack of information contained on the operating schedule, missing conditions and to gain clarity on the intentions of the premises, consequently resulting in a revised application being submitted on Friday 16 January by the applicant's legal representative. The revised application contained substantial changes to the initial requests.

- * Licensable activity and opening hours had been significantly reduced.
- * Premises to open 3 nights per week instead of initial requested 7 days per week

- * Terminal hour for licensable activity reduced to 0330 hours, Thursday, Friday and Saturday only (Closing at 0400hrs) including Sundays before bank holidays.
- * Noise limiter to be installed and used during opening times.
- * No under 18's to be allowed at the premises.
- * Challenge 25 to be implemented (Moving on from challenge 21)
- * Further consideration to prevent noise nuisance at the entrance area.
- * No adult entertainment will be provided of any kind.
- * Last point of entry 1 hour before the premises close.
- * Written Drugs, queue management & dispersal policies provided.
- * I.D system such as Scan Net (or such like) to be utilized during opening hours.
- * Staff member present to operate CCTV at all times the premises is open.
- * Venue door staff to remain on duty 1 hour after the premises is closed
- * Toughened glass through out the premises and / or polycarbonate bottles
- * High resolution, infra red CCTV system to be installed

PC Rose advised that the Police felt the premises had now brought the application to a level expected and in line with other existing premises in close proximity. However serious concerns still remained that "Another" venue namely a third nightclub in a small proximity would only have a negative impact on the very licensing objectives that all the Responsible Authorities were trying to promote.

PC Rose advised that the premises was in a mixed use area and that the number of residential properties in the market place had recently increased since the last time the club had operated.

PC Rose also advised that Police resources were being tested on a nightly basis to keep up with calls, disturbances, assaults and general night time economy incidents relating to vulnerability or aggression by intoxication. An additional "All night venue" would simply be unmanageable for emergency services already deployed in the area; this in turn was a risk to public safety as resources were stretched across the borough.

The venue, on a number of occasions had attracted violent problems, mainly due to its clientele and its "out of the way" location from the main busy night time area of South Street. The premises had come to police attention on a number of occasions mainly violence and noise nuisance related, culminating in a police closure order in July 2013 which in turn reviewed the premises licence in front of the Licensing Sub-Committee. On 17 October 2013 the Sub-Committee decided to add additional conditions to the license under that review process.

It was accepted by the Sub-Committee that much of the crime and disorder at the premises occurred after 01.00 hours, Police believed that this would only continue and be no different if a licence was granted past these hours at the location. PC Rose commented that the Police believed customers / patrons were "Creatures of habit" and would always be drawn back to

venues where they felt comfortable. The premises had, in the past had a high number of events, some linked to the “Travelling Community” which unfortunately ended in violence / disturbances within the premises or on the street in the market place. Consequently this had drained Police resources on duty at the time. Police believe that the clientele base would not change and although certain promises would be made from the applicant they were an untested night club operator in the Romford area. The business/financial incentive to fill the premises would always be present.

PC Rose also advised that the Police had concerns with regards to several of the applicant’s policies namely the Drugs Policy, Dispersal Policy and Queue Management Policy. The Drugs policy in particular was not in line with national policy and appeared to show a level of incompetence on the applicant’s behalf.

PC Rose concluded by commenting that it was impossible to legislate for people’s reaction to alcohol and that another premises of this nature was not needed in the town centre with Police resources already stretched to breaking limit.

Mr Mark Dale, who had submitted a representation, addressed the Sub-Committee. Mr Dale commented that there had previously been problems with noise nuisance when the former Hush nightclub had been open. Mr Dale wished to point out that there was now a greater number of residents living in the market place and that re-opening the club would lead to further problems of noise nuisance and anti-social behaviour.

Mr Jayesh Chauhan, who had submitted a representation, addressed the Sub-Committee. Mr Chauhan commented that there had been problems with noise nuisance, due to poor sound insulation, and anti-social behaviour in the past. Mr Chauhan also commented that there had been problems with groups of smokers congregating outside of the premises

Mr Murrell, the applicant’s Legal Representative, sought to address some of the concerns that had been raised by the interested parties. Mr Murrell informed the Sub-Committee that the application in the paperwork had been amended following consultation.

Mr Murrell advised that the applicant had over twenty years experience of running a hotel, large functions with capacity of 300 to 400 and charity events and banqueting suite in the town centre and that Mr Harris would be running the club in conjunction with his son David Harris who was an SIA trained door supervisor with 20 years experience of close protection work and diffusing violence which was highly desirable. Mr Murrell informed the Sub-Committee that there would be four door supervisors which was above industry standards.

Mr Murrell advised the Sub-Committee that he felt that it was important that the Sub-Committee disassociated his client from the previous

management of the club who had failed to promote the licensing objectives which had in turn led to the police calling for a review of the premises licence. Mr Murrell commented that the people running the premises were key. His client's reputation was important to him and he was investing a large amount of money which he would not want to jeopardise. The combined skills of Mr Harris and his son would adequately deal with the licensing objectives. His client had received a Mayors Award from the Borough and was known to the community for the right reasons.

Mr Murrell confirmed that he and his client had had meetings with the Responsible Authorities and took concerns on board and had amended the licence application. The trading days had been cut back to three days and operation time from 19.00pm instead of 09.00am.

Members noted that the re-submitted application had cut back the trading hours by approximately seventy five percent.

Mr Murrell advised that his client was keen to work with all the Responsible Authorities to ensure the smooth running of the club, including volunteering to hold monthly meetings. The applicant had also asked the Responsible Authorities to let them know what they did not like about their policies but have not had feedback or specific comments.

Mr Murrell reiterated his point about the importance of the people that were managing the premises being the important thing. The plan to undertake the Challenge 25 training, they would close the premises one hour early. The applicant had also taken on the Scan Net issue and door staff would be available one hour after closing.

Mr Murrell advised that by granting the licence there would be no cumulative effect as the application was just re-instating what was there before. The cumulative impact took account of the nightclub. The previous Licence was not revoked. They were a brand new club, a new operator and would promote the licensing objectives. If they did not adhere then they would be held accountable and the licence reviewed. In granting the licence and the club operating there would be a benefit to the local amenity as there would be door staff visible in the market place area.

Mr Murrell referred to the crime statistics that had been provided to him by PC Rose relating to 2012. Mr Murrell told the Sub-Committee that only five incidents related to the Edge Nightclub and that the incidents were not of a serious nature. There was no evidence against his client as he had not traded previously. The application had been brought in line with other licenced premises in the town centre. He pointed the Sub-Committee to the 1.12 guidance.

In response to the Police concern regarding an extra five hundred patrons being attracted to the new club Mr Murrell commented that there

would be a re-distribution of patrons from other venues in the town centre and that this would relieve the pressure on police.

Mr Murrell sought to address the noise issues by confirming that there would be three sets of double doors at the front of the premises that would be fitted with self-closers which would help contain music within the premises. Mr Murrell told the Sub-Committee that the applicant would involve Environmental Health Services in deciding the specification for the doors that were to be fitted.

Mr Murrell confirmed that the applicant had taken on board comments raised regarding the suitability of some of the club's policies and had agreed to implement the conditions previously mentioned regarding glassware and the installation of a noise limiting device.

Mr Murrell also commented that out of all the residential properties situated in the market place only five representations had been received and although there had only been five days of the representation period left when the new application was submitted discussions with the Responsible Authorities was on going. Mr Murrell informed the Sub-Committee that the fire service had withdrawn their objections.

Mr Murrell commented that the premises would be a well-run establishment that would adhere to promoting the four licensing objectives and that special circumstances existed in this particular application as the premises had previously been a nightclub. Mr Murrell commented that there was ample mechanism to bring the licence to an end if there were problems. He did not accept that the application lacked clarity.

Mr Murrell advised the Sub-Committee that the applicant would have responsibility for the patrons whilst on his premises but there was little the applicant could do once patrons had left the premises, although the applicant had promised that the door staff would remain on the premises for at least an hour after the premises had closed. Mr Murrell informed the Sub-Committee that telephone numbers and email addresses would be given to local residents.

In response to a question by the Sub-Committee, Mr Murrell stated that he had completed the application that was before the Sub-Committee for consideration. The Sub-Committee were concerned that the applicant had not provided information about how he would promote the licensing objectives in Section M. Members expressed concern that they had to consider and make up for themselves which conditions would fit the licensing objectives set out on pages 22 to 23 of the Agenda pack.

The Sub-Committee questioned Mr Murrell about the showing of films, the hiring of the premises out for private functions and the entertainment of podium dancers.

In response to these questions Mr Murrell confirmed that the operating hours would be the ones that were submitted in the application and that there would be no adult entertainment taking place in the club. The extra activities applied for had been for the possible occasional use of the club facilities as a conference venue used by local businesses.

4. Determination of Application

Decision

Consequent upon the hearing held on 13 February 2015, the Sub-Committee's decision regarding the application for a Premises Licence for 82-84 Market Place, Romford.

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

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

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

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

Agreed Facts

Facts/Issues

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

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

The Sub-Committee noted the concerns raised in the representations against the application.

- The prevention of public nuisance

The Sub-Committee noted that the representations raised both in the hearing paperwork and at the hearing and

considered these along with the applicant's response.

- The prevention of crime and disorder

The Sub-Committee noted that the representations raised both in the hearing paperwork and at the hearing and considered these along with the applicant's response.

- Public safety

The Sub-Committee noted that the representations raised both in the hearing paperwork and at the hearing and considered these along with the applicant's response.

Having considered the written representations and oral responses, and having regard to the licensing objectives.

The Sub-Committee decided the following:

In respect of Licensing Policy 018, the Cumulative Impact Policy the Sub-Committee was not satisfied either by the written application or the oral representation that the application was exceptional to allow the Sub-Committee to depart from the policy. Indeed the only exceptional reasons offered appeared to be based on the long history of the premises being a nightclub previously and the new management arrangements.

The Sub-Committee also considered that the application fell within the consideration of Licensing Policy 012 governing hours of operation. The Sub-Committee considered that approving an application to 03.30 hours in this location would be incompatible with the licensing policy as the Sub-Committee considered it to be a mixed use area normally permitted to operate until 00.30 hours.

With the above considerations the Sub-Committee refused the application for a premises licence.

Chairman