

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
15 April 2016 (10.30 - 11.55 am)**

Present:

COUNCILLORS

Councillors Linda Van den Hende (Chairman), Wendy Brice-Thompson and Reg Whitney.

Present at the meeting were R Botkai, Nicola Law, D Dusyanth (Applicant and agent), P C Daly (Metropolitan Police) and Paul Campbell (Licensing Authority) and Paul Jones, Licensing Officer.

Also present were the Council's Legal Adviser and the Clerk to the Sub-Committee.

All decisions were taken with no votes against.

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

**1 COLLIER ROW SERVICE STATION, 140-148 COLLIER ROW ROAD,
ROMFORD - APPLICATION TO VARY A PREMISES LICENCE.**

PREMISES

MRH Collier Row
Collier Row Service Station
140-148 Collier Row
Romford
RM5 2BD

APPLICANT

Malthurst Petroleum Limited
Vincent House
4 Grove Lane
Epping
CM16 4LH

1. Details of Application

Variation applied for:

| Supply of Alcohol | | |
|-------------------|-------|--------|
| Day | Start | Finish |
| Monday - Sunday | 00:00 | 24:00 |

The premises were already open for 24 hours a day and the application was seeking to bring the alcohol sales in line with their current operation times. Additionally the application was seeking a minor alteration to the internal layout, although a notation on the plan indicated that the entire premises might be used for the sale of alcohol and the provision of late night refreshment.

The applicant had 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 had been installed in the Romford Recorder on the 4 March 2016.

Annex 3 of the current premises licence contained conditions imposed by a Licensing Sub-Committee after a hearing; annex 2 contained conditions proposed by the applicant. The applicant had sought to remove all the conditions listed in annex 3 and replace them with a new set to be included in annex 2. The applicant had submitted an amended set of conditions on 11 March 2016.

A further amended set, as set out below, had been submitted on 12 April 2016.

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for purpose;
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium;
3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection within 24 hours;
4. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time;
5. The system will display, on any recording, the correct time and date of the recording;
6. The CCTV system will be maintained and fully operational throughout the hours the premises are open for any licensable activity;

7. The premises licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police within 24 hours of request;
8. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises;
9. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing an holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence;
10. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training (which will include recognising the signs of intoxication) in age related sales:
 - Induction training which must be completed and documented prior to the sale of alcohol by the staff member;
 - Refresher/reinforcement training at intervals of no more than 6 months;Training records will be available for inspection by a police officer or other authorised officer on request.
11. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:
 - a. Details of the time and date the refusal was made;
 - b. The identity of the staff member refusing the sale.
 - c. Details of the alcohol the person attempted to purchase.This book/register will be available for inspection by a police officer or other authorised officer on request.
12. An incident book/register shall be maintained to record:
 - a. All incidents of crime and disorder occurring at the premises
 - b. Details of occasions when the police are called to the premises.This book/register will be available for inspection by a police officer or other authorised officer on request;
13. There shall be no self-service of spirits except for spirit mixtures;
14. A notice will be displayed informing customers that it is an offence to buy alcohol for persons under the age of 18;
15. There shall be no sale of single cans of beer, lager or cider from the premises;
16. There will be no sales/supplies of beers, ales, lagers or ciders with an ABV over 5.5%;

17. The entrance door to the shop will be closed to customers between 2300 and 0600 and any sales between these hours will be made through the night pay window;
18. There shall be no sales of spirits in vessels smaller than 35cl;
19. There shall be no sales of beers, ales, lagers or ciders in vessels larger than 2 litres.

2. Details of Representations

There were no representations against this application from interested persons.

There were two (2) representations against this application from responsible authorities.

3. Details of representations

Valid representations may only address the following licensing objectives:

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

The Metropolitan Police had submitted a representation on the grounds the application would be detrimental to the following licensing objectives:

- The prevention of crime and disorder,
- Public Safety,
- Prevention of public nuisance, and
- The Protection of Children from Harm.

The Metropolitan Police had concerns that the applicant had sought the removal of the conditions from Annex 3 of the current licence, which the Police Authority considered to be proportionate..

The Prevention of Crime and Disorder

Collier Row currently had no premises which served off-sales past 11.00pm.

The Office for National Statistics detailed that violent incidents which involved alcohol increased from 23% between 1200 - 1800 to 54% between 1800 – 2200 up to an average of 83.5% between 2200 – 0600.

Creating a single outlet for the off-sale of alcohol after 11pm in the Collier Row area would inevitably create a focal point, this would be most concerning at the weekends especially after the various public houses in the area close.

PC Daly, on behalf of the metropolitan Police had advised that the amended conditions offered by the applicant had dealt with the other concerns regarding the Prevention of Crime and Disorder and Public Safety.

Prevention of Public Nuisance

The premises were situated adjacent to a public park. There had been concerns raised by local residents, parks police and the local safer neighbourhood police team that the park was regularly subject to anti-social behaviour. This had commonly involved broken glass bottles in an infant's playground along with general waste.

The Protection of Children From Harm

There had been issues in the vicinity with proxy sales of alcohol to local youths and youths congregating in the park behind the garage. 24hr sales of alcohol would only exacerbate this problem.

The Licensing Authority had submitted a representation as the application was in opposition to a number of Havering's licensing policies and as such had the potential to negatively impact upon the promotion of the licensing objectives, in particular the prevention of crime & disorder, prevention of public nuisance and protection of children from harm.

The application has been submitted to vary the premises licence to extend the hours that alcohol may be sold to 24 hours a day. The current licence permitted the sale of alcohol from 0600 to 0000 each day. The premises were currently open 24 hours a day.

When assessing the application in line with Havering's Statement of Licensing Policy it appeared to contradict some of the policies. Therefore the Licensing Authority has been unable to support the application.

In considering applications for new licences, variations to existing licences and licence reviews the Licensing Authority would take the matters listed below into account:

- the location of the premises and the character of the area;

The application was obviously "generic" as it matched virtually word for word an application made by the same applicant at another venue in the borough. Therefore, in order that the applicant was aware of the "*location of the premises and the character of the area*" they were informed of a problem in Collier Row of apparent underage drinking and anti-social behaviour in Collier Row generally revolving around the recreation ground next to the site.

Havering's Licensing Authority and Trading Standards Service have investigated this issue and been unable to identify which premises, if any, were supplying alcohol to the underage youths involved. The premises were not in any way being accused of underage sales, but had been asked to address the issue.

As a result of contact by the Licensing Authority the applicant had submitted a set of further conditions to be added to the operating schedule

This did not resolve the issue and the applicant had been asked to consider their response in line with **Licensing Policy 19** which might have gone some way to resolve the issue over **Licensing Policy 1**.

The times sought in the application conflicted with **Licensing Policy 5** and **Policy 7**. The hours at the premises were already outside those referred to in Policy 5. The area would be considered to be “mixed use” as its immediate neighbours were residential, but there were commercial units within 50 metres. The application would clearly exceed the hours detailed in Policy 7.

Attempts had been made to resolve the one outstanding issue the requirement for the applicant to have a ‘safeguarding children protection policy’ in place. The applicants had refused to accept a condition to restrict the hours children were allowed to access the premises unaccompanied by a responsible adult.

4. Applicant’s response.

Mr Botkai, acting on behalf of the applicants responded to the representations. He had pointed out that this was an application to vary the licence, not a review, therefore, care needed to be taken when imposing conditions.

The premises were currently licensed to sell alcohol between 0600 hours and 2300 hours and open 24 hours per day. Following negotiations with the Licensing Authority a set of conditions had been agreed, with the exception of one which would restrict children from entering the premises, unaccompanied after 8.00pm.

To comply with this condition his clients would need to employ someone to monitor people entering the premises and check ID’s. A condition needed to be proportionate and capable of being complied with; this suggested condition did not meet either of those criteria.

The service station could be a place of safety for a child in danger and this condition would jeopardise that possibility.

MHR had a comprehensive training manual which covered all the scenarios suggested by the licensing officer; a separate policy was not necessary. The premises already have automated doors, CCTV and challenge 25. Lots of things were done to protect children.

Mr Botkai had stated that his clients accepted there was a problem with drinking in the adjacent park but this was not a result of alcohol sold from the service station. In his view the problem occurred between the hours of 6.00pm to 9.00pm not after midnight. The doors to the premises would be closed after midnight and patrons would need to use the pay window. He had also indicated that if there were any problems his clients would contact the local police to deal with them as quickly as possible.

Mr Botkai also indicated that his clients would be willing to accept a condition limiting the extended hours for a period ending on 15 January 2017. Additionally they would be prepared to accept a condition limiting the amount of shelf space available for the display of alcohol to no more than 15%.

The Licensing Officer had talked about the possibility of bottle marking to help the authority identify where alcohol was being sold from. In his clients experience this had not proved helpful and was just an added burden on his clients. To be effective every local business selling alcohol had to comply with a requirement to mark bottles.

Both the Metropolitan Police and Licensing Authority had indicated that they believed the conditions now offered would help if the Sub-Committee were minded to grant the variation. The Licensing Officer also indicated that having heard the responses given by the applicant's agent the Children's policy condition no longer seemed relevant.

5. Determination of Application

Consequent upon the hearing held on 15 April 2016, the Sub-Committee's decision regarding the application for a variation of the premises licence for MHR Collier Row was as set out below, for the reasons stated:

The Sub-Committee was obliged to determine the application with a view to promoting the licensing objectives.

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 section 117 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

6. Decision

Having listened carefully to all the representations and taking account of the four licensing objectives, we were prepared to grant the variation for alcohol sales to be licensed for 24 hours each day. The following conditions shall apply:

1. All mandatory conditions;

2. Replace Annex 3 in the operating schedule with the following conditions as agreed by all parties with a change to condition 17 so that the entrance door will be closed between 23:00 to 06:00;
 1. A CCTV system will be installed, or the existing system maintained, such system to be fit for purpose;
 2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium;
 3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection within 24 hours;
 4. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time;
 5. The system will display, on any recording, the correct time and date of the recording;
 6. The CCTV system will be maintained and fully operational throughout the hours the premises are open for any licensable activity;
 7. The premises licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police within 24 hours of request;
 8. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises;
 9. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photo card driving licence bearing an holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence;
 10. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training (which will include recognising the signs of intoxication) in age related sales:
 - Induction training which must be completed and documented prior to the sale of alcohol by the staff member;
 - Refresher/reinforcement training at intervals of no more than 6 months;Training records will be available for inspection by a police officer or other authorised officer on request.
 11. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:
 - a. Details of the time and date the refusal was made;

- b. The identity of the staff member refusing the sale.
 - c. Details of the alcohol the person attempted to purchase.
This book/register will be available for inspection by a police officer or other authorised officer on request.
12. An incident book/register shall be maintained to record:
- a. All incidents of crime and disorder occurring at the premises
 - b. Details of occasions when the police are called to the premises.
This book/register will be available for inspection by a police officer or other authorised officer on request;
13. There shall be no self-service of spirits except for spirit mixtures;
14. A notice will be displayed informing customers that it is an offence to buy alcohol for persons under the age of 18;
15. There shall be no sale of single cans of beer, lager or cider from the premises;
16. There will be no sales/supplies of beers, ales, lagers or ciders with an ABV over 5.5%;
17. The entrance door to the shop will be closed to customers between 2300 and 0600 and any sales between these hours will be made through the night pay window;
18. There shall be no sales of spirits in vessels smaller than 35cl;
19. There shall be no sales of beers, ales, lagers or ciders in vessels larger than 2 litres.
3. An additional condition no.20 shall be included reading:
- a. The variation of the licensable activities namely an increase in off-sales trading hours to 24 hours a day shall be permitted for a period to 15 January 2017 and thereafter the said hours shall revert to those prior to this variation with all conditions remaining;
4. There was agreement to the variation to the premises layout with a condition that no more than 15% of shelf space shall be given over to alcohol sales.

Chairman