

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 12 January 2016

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 12.20 pm
High Street, Epping

Members Present: K Angold-Stephens (Chairman), G Shiell and B Surtees

Other Councillors: -

Apologies: -

Officers Present: L Cole (Legal Services Officer), K Tuckey (Licensing Manager) and G J Woodhall (Senior Democratic Services Officer)

58. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

59. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business.

60. EXCLUSION OF PUBLIC AND PRESS

Resolved:

(1) That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption was considered to outweigh the potential public interest in disclosing the information:

Agenda Item No	Subject	Exempt Information Paragraph Number
7	Application for a Hackney Carriage Driver's Licence – Mr R Wilkinson	1

61. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AS AMENDED & TOWN & POLICE CLAUSES ACT 1847 - DRIVER LICENCE MR WILKINSON

The Sub-Committee considered an application by Mr R Wilkinson for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors K Angold-Stephens, G Shiell and B Surtees. Members noted that Officers did not have delegated powers to grant this application and, as a result, the application had to be considered by the Sub-Committee.

The Chairman welcomed the Applicant and introduced the Members and Officers present. Ms N Glasscock was also in attendance on behalf of the Environment &

Neighbourhoods team. The Senior Licensing Officer informed the Sub-Committee of the circumstances by which the licence could not be issued under delegated authority.

The Applicant made a short statement in support of this application, and produced two character references for the Sub-Committee to consider, before answering a number of questions from Members of the Sub-Committee. The Applicant then made a short closing statement to the Sub-Committee before the Chairman requested that the Applicant leave the Chamber whilst the Sub-Committee debated the application in private.

The Chairman invited the Applicant back into the Chamber and informed him of the decision of the Sub-Committee.

Resolved:

(1) That the application for a Hackney Carriage Driver's Licence for Mr R Wilkinson be granted; and

(2) That the Applicant be given a stern warning over any future transgressions of his Licensing conditions.

62. INCLUSION OF PUBLIC AND PRESS

Resolved:

(1) That the public and press be invited back into the meeting for the remaining items of business.

63. VARIATION OF PREMISES LICENCE - IL BACIO CAVES, 160 QUEENS ROAD, BUCKHURST HILL

The three Councillors that presided over this item were Councillors K Angold-Stephens as Chairman, G Shiell and B Surtees. The Chairman welcomed the participants and requested that they introduce themselves. In attendance on behalf of the application were: Mr J Alonso, Operations Manager for the Il Bacio restaurants; and Mr L Funedda, the owner of the Il Bacio restaurants. There were five Objectors in attendance: Mrs F Conway; Mr S Conway; Mr K Lucas; Mrs Y Wilson; and Mr D Wilson. Also in attendance were: Mrs J Owen, Licensing Officer; Mr P Jones, Essex Police; and Mr M Richardson, Environment & Neighbourhood Officer. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Licensing Officer informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of Il Bacio Caves at 160 Queens Road in Buckhurst Hill, along with representations from interested parties. The application had requested permission to: extend the hours for the Supply of Alcohol, for both the internal and external areas, from 8.00pm to 10.00pm; and replace the previously proposed condition "*Customers shall not be permitted to smoke at the front of the premises*" with "*smoking is permitted within the designated smoking area provided for patrons*".

The Licensing Officer highlighted that, as the application was for a variation of an existing Licence and not a new Licence, paragraph 11 of the report should read:

“11. In determining this application the Sub-Committee may take any of the following steps as it considers necessary for the promotion of the licensing objectives, namely:

- to modify the conditions of the licence; or
- to reject the whole or part of the application.

For the purposes of the Licensing Act 2003 the conditions of the licence are modified if any of them are altered or omitted or a new condition added.”

(b) Presentation of the Applicant’s Case

Mr Alonso stated that the premises had been trading for twelve months now and there had been liaison with the Environment & Neighbourhoods team at the Council over any issues that had arisen.

It was accepted that there had been technical breaches of the Licence when the front door had been left open, but there had been mitigating circumstances for this. It was highlighted that there had been no objections from either Essex Police or Environment & Neighbourhoods team concerning the proposed extension of the Supply of Alcohol hours to 10.00pm.

Mr Alonso highlighted the confusion over some of the representations submitted as they mentioned potential problems for the nearby Children’s Nurseries, but no representations had been received from them. In addition, potential noise issues from taxi cabs were not a Licensing issue. In the last twelve months, there had only been two instances of crime in the immediate vicinity, and neither were connected with the premises as they had occurred at the either end of Queens Road. In addition, staff did not dump rubbish to the right of the premises. The business did have an off street wheeled bin at this location, but the other three wheeled bins situated there were used by other establishments.

Mr Alonso reassured the Sub-Committee that there were no plans to change the premises from its current use as a small delicatessen / tapas style restaurant. In any case, the current Licence conditions would prevent the conversion of the premises into a Wine Bar as the serving of alcohol was only ancillary to the serving of food. The majority of the premises’ trade came from young families in the evenings and mothers enjoying coffee during the day. The premises simply did not attract the sort of clientele that would be liable to cause disturbances after drinking alcohol.

Mr Alonso stated that customers were not permitted to smoke outside the front of the premises, and staff did not allow glasses to be taken to the outside areas either. The rear garden area had high walls and was constantly monitored by members of staff, so there would be no noise issues emanating from this area. As the paperwork had indicated, there had been no agreement reached yet as to the maximum number of customers permitted to use the designated smoking area after 9.00pm; it was suggested that five would be a reasonable number. The staff at Il Bacio Caves were well trained and would immediately deal with any incidents that arose at the premises.

In summary, Mr Alonso reiterated that the Police and Environment & Neighbourhood teams had not objected to the extension of the Sale of Alcohol Hours, and that the requested variations would not cause unnecessary disturbance to neighbours. Mr Alonso was always happy to discuss any concerns arising from the operation of the business with residents.

(c) Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Mr Alonso again confirmed that the Premises was a small delicatessen / tapas style restaurant and that the premises would not be converted into a Wine Bar. The premises had a small sized kitchen area, situated behind the bar area and a delicatessen counter, which provided pasta and a few other hot dishes, plus some paninis and small pastries for breakfast. Alcohol was only ever served with a meal and alcohol would not be served to a customer standing at the bar area. The premises usually had two kitchen staff and two waiting staff on duty at any one time, and had seven tables inside the premises. There was space for a further eight tables in the rear garden area. The premises had a maximum capacity of 30 people inside, but the most ever in attendance at one time had been approximately 22.

Mr Alonso also clarified that there had been no public order incidents at the premises; 70% of the customers were female and 50% of the customers were over the age of 30. Customers were not permitted to smoke directly outside the front of the premises, although it was accepted that there had been some rare instances when customers had smoked in the passage way to the right of the premises that led to the flats behind the restaurant. The front doors had only been left open on three occasions in contravention of the Licence conditions. There had been no problems encountered with the Waste Contractor; collections were made on Mondays, Wednesdays and Fridays between 12.00pm and 2.00pm.

Mr Alonso confirmed that, as the key holder, the premises had never stayed open later than the permitted hours, with the exception of the two occasions in December 2015 for which the Premises had been granted a Temporary Event Notice. The premises often closed earlier than 10.00pm, especially during the week.

(d) Questions for the Applicant from the Objectors

In response to questions from the Objectors, Mr Alonso proclaimed that there was no evidence of any noise disturbance to neighbours in the last twelve months, and that the objections were based on potential problems not actual problems. There were no plans to change the character of the premises, it would remain as a family restaurant; the application did not seek to extend the current opening hours, it was simply seeking to extend the supply of alcohol hours to match the current opening hours to prevent the over ordering of alcohol by customers before 8.00pm.

Mr Alonso explained that, with the current 8.00pm limit for the supply of alcohol, customers had a tendency to over order before this time to ensure that they had enough wine and other drinks to last until the end of their meal. The request for the extension of the supply of alcohol hours to match the opening hours would prevent this, and also allow customers to book tables after 8.00pm. It was acknowledged that the premises had a responsibility to promote responsible drinking, but the current 8.00pm limit for the supply of alcohol was adversely affecting the customers' enjoyment of their evening. The extension of the hours for the supply of alcohol would not, in the experience of Mr Alonso, defer the current over ordering of alcohol problem from 8.00pm to 10.00pm. Other premises nearby catered for a different type of customer.

Mr Alonso cited the two parties held at the premises in December, for which Temporary Event Notices were obtained in advance. At both events, customers were kept inside the premises until their minicabs arrived to minimise the disturbance to residents. The premises wanted to trade on an equal basis with the local competition.

(e) Presentation of the Objectors' Cases

Mrs Conway informed the Committee that she was a Director of RichRoch Investment Limited, which owned the premises next door at 162 Queens Road, Buckhurst Hill, and the two houses that had been built behind it. It was intended to sell the two houses and lease the adjacent shop unit and residential unit. The rear garden of Il Bacio was very pleasant, but it was very close to the two houses and there were concerns that events in the summer would continue until a late hour. Mrs Conway drew the Sub-Committee's attention to the concerns expressed by the Environment & Neighbourhoods Officer regarding the rear garden. It was accepted that customers would want to enjoy themselves on an evening out, but residents should be allowed to enjoy the quiet of their premises.

Mrs Wilson felt that the requested extension was not necessary for a family restaurant. The bedroom of her nine-month-old daughter was at the front of their house facing Il Bacio, and Mrs Wilson did not want customers standing outside the front of the premises smoking. The level of objections received from residents living within 150 metres of the premises was highlighted to the Committee, and customers would generally only be outside in the rear garden when they were smoking. The Sub-Committee was implored to not agree to the requested extension of hours when the current issues with the premises had not been resolved. Mr Wilson added that there was no discernible area to the front of the premises, and certainly not enough space for al fresco dining. There were concerns over the future use of the premises, and Mr Wilson felt that the extended Licence, if granted, would change the character of the premises from its current small delicatessen. Complaints had been made to the premises in the past, and there was a fear that the character of the premises would change.

Mr Lucas reiterated the points made in his written representation and stated that the requested extension would increase the potential for local residents to suffer further noise disturbance from the premises. Mrs Conway added that it was a dense urban area in the vicinity of Il Bacio, and the doors and windows of the premises would be left open during the summer. The Sub-Committee was entreated to consider the desire of local residents who wanted to enjoy the quietness of their residences.

(f) Presentation of the Officer's Case

Mr Richardson from the Environment & Neighbourhoods team at Epping Forest District Council highlighted the points that had been made in his written representation, which had summarised the complaints received by the Environment & Neighbourhoods team regarding the premises, along with the four suggested conditions if the Sub-Committee was minded to grant the variation to the Licence. The Environment & Neighbourhoods Officer added that there had been no public nuisance arising from the doors to the premises being left open in August 2015, and there were currently no ongoing issues with noise at the premises.

(g) Applicant's Closing Statement

Mr Alonso reassured the Sub-Committee that there were no plans to change the nature of the business; it would not become a Wine Bar type of establishment because the licence conditions would not allow it. Alcohol would continue to only be served to a customer sitting at a table and having a meal. There would be no smoking or drinking to the front of the premises and the designated smoking area would be to the rear of the premises. The Licence conditions had been adequately policed during the previous twelve months and this would not change if the extension

to the Licence was granted; residents could always discuss any issues directly with the management of the premises. The objections were more concerned with potential problems in selling their properties at a future date, which was not a Licensing issue.

(h) Consideration of the Application by the Sub-Committee

The Sub-Committee left the Council Chamber to consider the application.

The Sub-Committee noted that both the Police and the Environment & Neighbourhoods team had not raised any objections to the extension of the hours for the supply of alcohol, only the proposed extension to allow food and drink in the rear garden. Therefore, the Sub-Committee saw no reason to refuse the extension of the hours for the supply of alcohol inside the premises to 10.00pm.

However, the Sub-Committee noted that there was a number of concerns regarding the use of the rear garden by customers, both from nearby residents and the responsible authorities. As a result, it was felt that the rear garden should close earlier than the restaurant, and that after this time no food or drink was to be served outside and only those customers using the designated smoking area should be permitted to enter this area. The Sub-Committee felt that it was reasonable for the rear garden to be closed to customers at 9.00pm, and that only a maximum of five customers be permitted to use the designated smoking area at any one time.

The Sub-Committee noted that the proposed change of condition regarding smoking would prevent customers from being permitted to smoke at the front of the premises, and agreed to this amendment.

The Sub-Committee returned to the Council Chamber and informed the participants of their decision.

Resolved:

(1) That the application to vary a Premises Licence at Il Bacio Caves, 160 Queens Road in Buckhurst Hill be granted in accordance with the following conditions, which the Sub-Committee considered were appropriate and necessary for the promotion of the licensing objectives:

(a) supply of alcohol inside the Premises be permitted until 10.00pm, Monday to Sunday, in accordance with the other existing conditions of the Licence;

(b) supply of alcohol outside the premises in the rear garden area be permitted until 9.00pm, Monday to Sunday, in accordance with the other existing conditions of the Licence;

(c) the existing condition "*Customers shall not be permitted to smoke at the front of the premises*" be replaced with "*Smoking is permitted within the designated smoking area provided for patrons*", which is situated in the rear garden area;

(d) the rear garden area to be closed at 9.00pm, Monday to Sunday, with the exception of a maximum of five customers to be permitted to use the designated smoking area at any one time;

(e) no food or drink to be consumed in the rear garden area after 9.00pm, Monday to Sunday;

(f) The Designated Premises Supervisor, or representative, to be stationed in the rear garden area from 7.30pm until 9.00pm, Monday to Sunday, and carry out regular inspections of the designated smoking area between 9.00pm and 10.30pm, Monday to Sunday, when customers were present in the rear garden area; and

(g) The Designated Premises Supervisor, or representative, stationed in the rear garden area shall ensure that any patrons eating, drinking and/or smoking outside the premises do so in an orderly manner and do not cause a public nuisance.

CHAIRMAN