

58. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 & TOWN & POLICE CLAUSES ACT 1847 - Application for a Hackney Carriage Driver's Licence - Mr Tacim Dirgen

The Sub-Committee considered an application for a Private Hire Driver's Licence from Mr Tacim Dirgen. The three councillors that presided over this item were Councillors J M Whitehouse (Chairman), T Matthews and D Sunger. The Chairman welcomed the applicant and asked the members and officers present to introduce themselves.

The Licensing Compliance Officer, D Houghton informed the Sub-Committee of the circumstances under which the licence could not be dealt with under delegated authority.

The applicant made a short statement in support of his application before answering questions from members of the Sub-Committee. The Chairman requested that everyone, except the Licensing Sub-Committee members and advising officers left the chamber whilst they considered the application.

The Chairman invited the applicant and Licensing Officer back into the chamber and informed the applicant of the Sub-Committee's decision.

The Chairman advised that during their deliberations in private session they had received advice from officers on the Council's guidance relating to the offences and that there must be a good reason to departure from this guidance

RESOLVED:

That the application for Hackney Carriage Drivers Licence for Mr Tacim Dirgen was not granted.

59. Inclusion of Public and Press

RESOLVED:

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

60. El Cafecito Limited, Loughton Club, 8 Station Road, Loughton IG10 4NX - Application for a Street Trading Consent

The three Councillors that presided over this application were Councillor J M Whitehouse (Chairman), Councillor T Matthews and Councillor D Stocker. The Chairman welcomed to the meeting Mr Christopher Davies, the applicant. The Chairman asked the members and officers present to introduce themselves and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

On the 3 October 2022 an application to the Licensing Department had been made for a Street Trading Consent from Christopher Davies of El Cafecito Limited to trade at The Loughton Club, 8 Station Road, Loughton, Essex IG10 4NX.

The applicant sought to sell hot and cold drinks, pastries, baked goods and snacks from:

Monday to Friday	07:00 – 16:00hrs;
Saturday	09:00 – 15:00hrs; and
Sunday	10:00 – 15:00hrs.

There was no requirement in the Local Government Miscellaneous Provisions Act 1982 to carry out any consultation, but the Licensing Authority notified Essex Police, Essex Fire and Rescue Services, Environmental Health, Community Resilience, Essex County Council Highways, Loughton Town Council and the District Council's Ward Councillors. A public notice was also displayed at the site.

The Authority had received one representation of objection to this application from Loughton Town Council, on the grounds that the proposal would negatively impact on the amenity of the residents of the neighbouring properties due to the cooking odours emitted. They also raised concern for possible noise disturbance from the vehicle engine or generator and that the proposal would encourage litter in the surrounding area.

(b) Presentation Of the Applicant's Case

The Applicant, Christopher Davies outlined his application and addressed the concerns of Loughton Town Council's objections. He advised that the vehicle was a static Citroen H Van which would be situated within the curtilage of The Loughton Club, the serving hatch would face inwards so that people would have to come into the car park for any purchases. There were no cooking facilities only an oven to heat up the baked goods therefore no flue or cooking odours would be emitted. The Loughton Club would supply the electricity and therefore there were no generators or running engines as the vehicle was static and would have to be towed. There would be strategically placed bins on the site and all rubbish would be cleared during and at the end of the day.

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

The Sub-Committee asked the applicant if he would be using environmentally sustainable packaging. Mr Davies advised that he had three permanent shops and advised that he was looking into using environmentally sustainable packaging, he used paper cups and had never used polystyrene.

The Sub-Committee stated that the previous owner had complaints regarding people standing and blocking the pavement and how would Mr Davies address this. Mr Davies advised that was because the serving hatch was up against the small wall and the serving hatch was facing the pavement and therefore people queuing to purchase were queuing on the pavement, his vehicle would be turned around and people would have to come into the car park to be served.

(d) Closing Statement from the Applicant

The Applicant had nothing further to add.

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

The Chairman advised that the Licensing Sub-Committee would now go into private session to consider the application and asked everyone, apart from the Sub-Committee Members and advisory officers, to leave the Council Chamber.

The Licensing Sub-Committee considered that the application satisfied the necessary requirements in order to be considered, as it was on the prescribed form, it had been advertised and the relevant notifications given.

During its deliberations in private session the Sub-Committee received no further advice from the officers present.

RESOLVED:

That the decision of this sub-committee was that Consent would be granted for the sale of hot and cold drinks, pastries, baked good and snacks subject to the following conditions:

1. This Authority's Standard conditions as set out on pages 20 and 21 of the agenda.
2. Trading hours:
 - (a) Monday to Friday 07:00 – 16:00hrs;
 - (b) Saturday 09:00 – 15:00hrs; and
 - (c) Sunday 10:00 – 15:00hrs.
3. A sufficient number of suitable receptacles with properly fitted covers shall be provided for the purpose of receiving rubbish from customers. The receptacles shall be maintained in a clean condition and emptied on a daily basis as a minimum when the hereby permitted use is operational. The receptacles shall be constructed, maintained and located so that access to them by vermin is prevented and arrangements shall be made for regular lawful disposal of their contents by a registered waste carrier.
4. The public area immediately surrounding the premises shall be regularly cleared of waste food, food containers, wrapping etc, and left in a tidy state at the end of trading on each day. Such refuse shall be removed from the area and disposed of lawfully by a registered waste carrier.
5. The van must be situated and operated from the car park of The Loughton Club.

61. Bonhomie, 14 Forest Drive, Theydon Bois, Epping CM16 7EY - Application to vary an existing Premises Licence

The three Councillors that presided over this application were Councillor J M Whitehouse (Chairman), Councillor T Matthews and Councillor D Stocker. The Chairman welcomed to the meeting Mr A Newman (Licensing Agent), Mr C Keen, (Applicant) and Ms C Berry (Director). In attendance objecting to the application was Councillor Peter Gooch (Theydon Bois Parish Council). The Chairman asked the members and officers present to introduce themselves and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

An application had been made by Mr Chris Keen, Belgique Theydon Limited, the Premises Licence Holder for a variation to the existing premises licence at the above premises. The authority received the application on 25 November 2022. The application sets out the varied licensing activities applied for and times requested.

The applicant was requesting to extend the trading hours Monday to Sunday for the following licensable activities:

- The Provision of Recorded Music Monday to Sunday 08.00 – 22.00hrs (currently Monday to Sunday 08.00 – 18.30hrs)
- The Provision of Late-Night Refreshment Monday to Sunday 08.00 – 22.00hrs
- The Sale by Retail of Alcohol Monday to Sunday 08.00 – 22.00hrs on sales only (currently Monday to Sunday 08.00 – 18.00hrs on and off sales)

The Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014, brought about deregulatory changes of The Licensing Act 2003 and as such no licence is required for:

- Unamplified live music between 08.00 and 23.00 on any day, on any premises;
- Amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises; and
- Recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

The Responsible Authorities received a copy of the application, it was properly advertised at the premises and in a local newspaper. All residences and businesses within 150 meters radius of the premises were individually consulted.

The authority had received 1 representation of objection from Theydon Bois Parish Council objecting to The Prevention of Public Nuisance, The Prevention of Crime and Disorder and The Protection of Children from Harm and protection of the amenity of the residents living above the parade of shops.

There had also been comments submitted by the EFDC Planning Department advising that planning consent would be required for the change in opening hours as at present the premises were not allowed to trade before 08:00hrs Monday to Sunday and after 18:00hrs Monday to Saturday and 15:00hrs on a Sunday. The premises were also to remain closed on public holidays.

(b) Presentation of the Applicant's Case

Mr A Newman advised that due to the unprecedented times and local business struggling with the economic climate the Applicant was seeking to vary the conditions of the licence. Mr Keen was the previous Manager of Belgique and run an exemplary business.

Mr Newman then went on to quote Legal and Policy Points and Section 182 guidance as presented in the Supplementary agenda 1. He advised that objections needed to be evidence based and to date there had been no evidence to support the objections raised. He further added that none of the responsible authorities had raised and objections to the variation of the licence.

Mr Newman stated that all applications should be taken on their own merit and if any problems arose with the extended opening times of the premises, then the licence

could be brought back before the Licensing Sub-Committee to be amended or revoked.

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

The Sub-Committee asked if any consideration to the 10pm opening times had been given due to the situation of the premises.

Mr Newman advised that under the licensing policy guidance there was no set framework for opening times. Mr Keen stated that they were not looking for late trading hours they only wanted to create more revenue to sustain the business.

Ms Berry explained that they had asked for these times so that they could employ enough staff and be able to offer them enough hours to cover two shifts.

The Sub-Committee asked how the outside would be managed until 10pm with doors opening and closing, surely the music would spill out onto the street.

Mr Newman advised that Bonhomie was an up-market café and was well managed. Food was the priority and alcohol would be ancillary to the food. In the application there were conditions which set out a rigorous staff training programme. Mr Newman also advised that there were other neighbouring hospitality venues who all sold alcohol and opened later than 10pm.

The Sub-Committee asked where the nearest residential properties were situated. Mr Keen advised that there were flats above the premises and most of the residents used the café and were in support of their application. He went to advise that the residents had a good association with the café and if any problems did occur they would be immediately resolved.

(d) Questions for the Applicant from the Objector

There were no questions from the objector.

(e) Presentation from the Objector

Councillor Gooch advised that Bonhomie had an excellent reputation within the village. The Parish Council have an issue with opening times of the outside area, this area is not in the ownership or being leased by Bonhomie, it is owned by Essex County Council. He stated that on that side of the road in Forest Drive none of the businesses opened later than 6.30pm. There were two restaurants on the other side of Forest Drive and they did not use the outside area after 5pm and the Parish Council think this would set a precedent for the other restaurants to seek a variation to open later. The Parish Council were concerned with public nuisance, and they would like the Sub-Committee to restrict the opening times of the outside area in line with the other restaurants in Forest Drive.

(f) Questions for the Objector from the Applicant

Mr Newman asked, with regard to the potential of public nuisance, if the Parish Council had employed anyone to do studies or could provide an expert witness to show any evidence that Bonhomie would cause a public nuisance. Councillor Gooch replied that the Parish Council had not commissioned any studies they were only going on the experience with other premises. He went on to state that the Bagel Shop left their tables and chairs outside of the premises all night and the youth congregated their causing a disturbance where the Police had to attend.

Mr Newman stated that each business should be based on their own merits and objections should be evidence based.

(g) Closing Statement from the Objector

The Parish Council have no objection to Bonhomie closing at 10pm only the outside area was a concern. Serving people outside every time the door opened the music would spill out onto the street, disturbing the residents living above. Forest Road was a very quiet area in the evenings. The Parish Council were very keen to retain the ambience of the village.

(h) Closing Statement from the Applicant

Mr Newman advised that the law stated there had to be evidence to demonstrate any of the four licensing objectives. Playing of recorded music until 11pm had been deregulated and did not need to be licensed. There are other premises in the vicinity that are open much later than Bonhomie would be, I would therefore ask the Sub-Committee to grant this application to vary the licence.

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

The Chairman advised that the Licensing Sub-Committee would go into private session to consider the application and left the Council Chamber.

The Licensing Sub-Committee considered that the application satisfied the necessary requirements in order to be considered, as it was on the prescribed form, it had been advertised and the relevant notifications given.

The Licensing Sub-Committee had taken into account the relevant written and oral representations, the four licensing objectives and the Council's Licensing Policy and the Secretary of State's guidance.

During its deliberations in private session the Sub-Committee received no further advice from the officer's present

RESOLVED:

The decision of this Licensing Sub-Committee is that the application to vary the premises licence in respect of **Bonhomie, 14 Forest Drive Theydon Bois Essex CM16 7EY** be granted subject to the existing conditions on the licence.

In addition, for the prevention of public nuisance the outside area should not be used after 21:00 each day and any tables and chairs used outside the Premises shall be cleared away each night.

This Licensing Sub-Committee having considered the application to vary the Premises Licence, the representations made and the existing conditions on the Premises Licence, it was of the opinion that the application would not have an adverse effect on the promotion of the 4 licensing objectives namely, prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm and that existing and new conditions will still uphold the 4 said objectives.

The Applicants and the Objectors were reminded of their right of appeal to the Magistrates Court within 21 days of the date of the written notification of this decision.

The Applicant was also reminded that if the conditions of the Licence were breached, the matter can be reviewed by the Licensing Sub-Committee and the premises licence can be looked at again.

Although not part of the Sub Committees' Licensing considerations, the applicant is also reminded of the necessity to obtain Planning Consent for the proposed change of hours.

Chairman