

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 11 January 2007
Place: Civic Offices, High Street, Epping **Time:** 10.05 am - 1.15 pm
Members Present: Mrs R Gadsby, R Morgan, P House and Mrs P Smith
Other Councillors: None.
Apologies: K Wright
Officers Present: J Nolan (Environmental Health Manager), A Mitchell (Assistant Head of Legal, Administration and Estates (Legal)) and G J Woodhall (Democratic Services Officer)

67. SUBSTITUTE MEMBER

Following the publication of the agenda, Councillor K Wright had intimated that he would not be able to attend the meeting of the Sub-Committee, and had tendered his apologies. Prior to the start of the meeting, Councillor Mrs P Smith had kindly agreed to take the place of Councillor K Wright.

68. ELECTION OF CHAIRMAN

RESOLVED:

That, in accordance with the terms of reference for the Licensing Committee, Councillor R Morgan be elected Chairman for the duration of the Sub-Committee meeting.

69. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor P House declared a personal interest in the following item of the agenda, by virtue of the Loughton's Residents Association having made a representation. The Councillor had determined that his interest was prejudicial and would leave the meeting for the consideration of the application and voting thereon:

- Licensing Act 2003 – Application to vary a Premises Licence - The Black Deer, Poundfield Road, Loughton.

70. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business, and the terms of reference.

71. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

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 items of business set out below as they 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:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
6	Hackney Carriage Driver's Licence - Mr P Smith	1
7	Hackney Carriage Driver's Licence - Mr R Bernstein	1
8	Hackney Carriage Driver's Licence - Mr M Deacon	1

72. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR P SMITH

The Sub-Committee considered an application by Mr P Smith for a Hackney Carriage Driver's Licence. The Sub-Committee that presided over this item consisted of Councillors R Morgan, Mrs R Gadsby and P House. The Sub-Committee 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, introduced the members and officers present, and explained the procedure that would be followed for the determination of the application. His daughter, Miss T Smith, accompanied the applicant. The Environmental Health Manager informed the Sub-Committee of the circumstances under which the Licence could not be issued under delegated authority.

The applicant made a short statement to the Sub-Committee in support of his application, 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 his application in private. The Chairman invited the applicant back into the Chamber and informed him of the Sub-Committee's decision.

RESOLVED:

That the application by Mr P Smith for a Hackney Carriage Driver's Licence be granted, subject to the Council's standard terms and conditions.

73. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR R BERNSTEIN

The Sub-Committee considered an application by Mr R Bernstein for a Hackney Carriage Driver's Licence. The Sub-Committee that presided over this item consisted of Councillors R Morgan, Mrs R Gadsby and P House. The Sub-Committee 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, introduced the members and officers present, and explained the procedure that would be followed for the determination of the application. The Environmental Health Manager informed the Sub-Committee of the circumstances under which the Licence could not be issued under delegated authority.

The applicant made a short statement to the Sub-Committee in support of his application, 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 his application in private. The Chairman invited the applicant back into the Chamber and informed him of the Sub-Committee's decision.

RESOLVED:

That the application by Mr R Bernstein for a Hackney Carriage Driver's Licence be granted, subject to the Council's standard terms and conditions.

74. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR M DEACON

The Sub-Committee considered an application by Mr M Deacon for a Hackney Carriage Driver's Licence. The Sub-Committee that presided over this item consisted of Councillors R Morgan, Mrs R Gadsby and P House. The Sub-Committee 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, introduced the members and officers present, and explained the procedure that would be followed for the determination of the application. Mr P Nelson, who was the manager of the company that Mr Deacon would work for if his application were granted, accompanied the applicant. The Environmental Health Manager informed the Sub-Committee of the circumstances under which the Licence could not be issued under delegated authority.

The applicant made a short statement to the Sub-Committee in support of his application, 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 his application in private. The Chairman invited the applicant back into the Chamber and informed him of the Sub-Committee's decision. Following the determination of this application, the Sub-Committee adjourned at 10.45am and reconvened at 11.05am.

RESOLVED:

That the application by Mr M Deacon for a Hackney Carriage Driver's Licence be granted, subject to the Council's standard terms and conditions.

75. INCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the Public and Press be re-admitted to the meeting for the remaining items of business.

76. LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE - ROCKYS, QUEENS ROAD, BUCKHURST HILL

The Sub-Committee that presided over this item consisted of Councillors R Morgan, Mrs R Gadsby and P House. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr A Smith, Area Manager for Punch Taverns; and Ms P Farthing, Designated Premises Supervisor. There were no objectors present. In attendance on behalf of Essex Police was Mr S Fisher, the Divisional Licensing Officer. In attendance on behalf of the responsible authority for Environmental Protection (Pollution Control) was Mr E Davis, and on behalf of the responsible authority for Planning were Mr J Evans and Ms A Wood. The Chairman then introduced the members and remaining officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Environmental Health Manager informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of Rockys at 63 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, recorded music, live music and late night refreshment until 1.00am and to remain open to the public until 1.30am on Thursday, Friday and Saturday nights, with a revised opening time of 8.00am for non-licensable activities on Monday to Saturday and 10.00am on Sundays. An additional variation was also proposed whereby the garden area would not be used for licensable activities, including the consumption of alcohol, after 11.00pm and would be closed at 12.00am for all activities. Furthermore, all windows and doors at the premises would remain closed from 7.00pm every night.

(b) Presentation of the Applicant's Case

Mr Smith informed the Sub-Committee that the premises wished to extend their licence for music and alcohol until 1.00am on Thursday, Friday and Saturday nights, although it was not intended to allow any live music to be played beyond midnight on any given night. The request to open at 8.00am was an attempt to transform the business to being more food-orientated by providing breakfasts, whilst it was intended to only keep the garden open for smokers from 11.00pm until midnight once the ban came into effect on 1 July 2007. Mr Smith stated that the premises would be happy to agree to the requests from Essex Police to close the garden at 11.00pm every evening, and the responsible authority for Planning to close the premises at 12.00am on Thursday nights.

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

Mr Smith responded that smokers would not be permitted to take their drinks to the garden, hence they would not congregate and make any excessive noise to the detriment of local residents. However, there could be doormen in place for access to the garden from 9.00pm if the Sub-Committee so desired. The Designated Premises Supervisor would always be on site when the premises were open after 11.00pm, and two other members of staff were also currently studying for their Personal Licences. The supply of alcohol would still commence as per the current licence, whilst the premises currently had no limit upon its capacity for events.

(d) Questions for the Applicant from the Officers

Mr Smith confirmed that there would be at least two security personnel on duty from 9.00pm until the close of the premises on Thursday, Friday and Saturday nights.

(e) Questions for the Applicant from Essex Police

Mr Smith clarified that under the current licence, the garden had to be cleared by 11.00pm; it was not intended to permit any alcohol in the garden after this time.

(f) Presentation of the Police's Case

The representative from Essex Police, Mr Fisher, stated that there were no objections over possible crime and disorder, however, there was concern over the potential use of the garden area after 11.00pm. Complaints had been received from neighbours regarding both the noise emanating from the garden area and the noise generated by patrons upon leaving the premises. Fears over the use of the garden area would be allayed if licensable activities were prohibited within it after 11.00pm.

(g) Presentation of the Environmental Protection (Noise Pollution) Authority's Case

Mr Davis, representing the responsible authority for Environmental Protection (Noise Pollution), highlighted the points that had been made in the letter dated 7 November 2006 by the team's Technical Coordinator. In particular, there were two issues that had been of concern. Firstly, there was the unsuitability of the building for events that involved loud music, live or otherwise. The building had a glass front that was not particularly soundproof, and the entrance consisted of a sliding door that permitted noise to escape whenever a patron entered or exited the premises. It was accepted that there would be problems in installing a double door arrangement to prevent the escape of noise, and that consequently, it had been recommended that the extended hours for Live and Recorded music not be permitted as it was felt this generate more complaints from local residents. However, if the Sub-Committee were minded to grant this variation then it was recommended that a condition be imposed to the effect that the Designated Premises Supervisor had to ensure that any noise from the premises after 11.00pm was inaudible at the boundary of any adjoining noise sensitive properties. Secondly, an objection had been lodged to the use of the garden after 11.00pm. Although it was accepted that licensable activities would not be permitted within the garden between 11.00pm and midnight, it was still felt that use of the area for smokers after 11.00pm would cause a potential noise nuisance to local residents. Consequently, it was recommended that this variation be refused.

(h) Presentation of the Planning Authority's Case

The representative from the responsible authority for planning, Mr Evans, referred the Sub-Committee to the letter dated 17 November 2006, and in particular stated that if the conditions were amended as indicated regarding a 12.00am close on Thursdays then their representations could be withdrawn.

(i) Further Conditions Offered by the Applicant to the Sub-Committee

Mr Smith offered the following variations to the application before the Sub-Committee:

- Garden area not to be used for licensable activities after 11.00pm;
- Garden area to be closed to the public at 11.30pm on Thursdays, and 12.00am on Fridays and Saturdays;
- The supply of alcohol, live music and recorded music to be restricted until 12.00am on Thursdays; and

- Live music to remain until 12.00am as per the current licence with only the supply of alcohol and recorded music extended until 1.00am on Fridays and Saturdays.

Mr Fisher from Essex Police stated that he would be happy to accept the amended conditions from the applicant, and would withdraw their objection if the garden was only to be used for smoking after 11.00pm. Mr Evans from the responsible authority for Planning also stated that he would be happy to accept the amended conditions offered by the applicant. However, Mr Davis from the responsible authority for Environmental Protection (Noise Pollution) warned that complaints regarding the premises had continued since Ms Farthing had taken over as the Designated Premises Supervisor in September 2006.

(j) Applicant's Closing Statement

Mr Smith stated that the additional hours requested would enable the dispersion of customers to be spread out over a longer period, with a consequent reduction in noise disturbance to local residents. The premises did not plan to always use the extra hours requested, but that the application if granted would provide the premises with additional flexibility and negate the need to continually apply for Temporary Event Notices when such activities were planned. Ms Farthing contended that a letter had been received from the Environmental Protection (Noise Pollution) team stating that although noise was audible at the boundary of the premises, it had been deemed acceptable.

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

The Chairman requested that the participants leave the chamber whilst the Sub-Committee considered the application. In reaching its decision, the Sub-Committee considered the comments made by the applicant and various responsible authorities, the further conditions that had been offered by the applicant, and did not seek any advice from its officers present. The decision had been based upon the promotion of the four licensing objectives as set out in the Licensing Act 2003. The Chairman invited the participants back into the Chamber and informed them of the Sub-Committee's decision. Following the determination of this application, the Sub-Committee adjourned at 12.20pm and reconvened at 12.25pm.

RESOLVED:

That the application to vary a Premises Licence at Rocky's in Queens Road, Buckhurst Hill be granted subject to the conditions contained within the application, except where varied by the following additional conditions either agreed at the meeting or stipulated by the Sub-Committee:

- (a) that the premises be permitted to provide the following licensable activities until 12.00am on Thursday evenings:
 - (i) supply of alcohol;
 - (ii) late night refreshment;
 - (iii) live music; and
 - (iv) recorded music;

- (b) that the premises be permitted to remain open to the public until 12.30am on Thursday evenings;
- (c) that the premises be permitted to provide live music until 12.00am on Friday and Saturday evenings;
- (d) that the garden area be closed for licensable activities at 11.00pm, and be closed to all patrons at 11.30pm each evening;
- (e) that registered security personnel be required at the premises from 9.00pm until 30 minutes after the close of the premises on Thursday, Friday and Saturday evenings;
- (f) that registered security personnel be required to monitor the entrance to the garden area from 11.00pm on Thursday, Friday and Saturday evenings; and
- (g) that all doors and windows at the premises be closed from 7.00pm each evening.

77. LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE - THE BLACK DEER, POUNDFIELD ROAD, LOUGHTON

The Sub-Committee that presided over this item consisted of Councillors R Morgan, Mrs R Gadsby and Mrs P Smith. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr J Witchell, the Designated Premises Supervisor; and his wife, Mrs T Witchell. In attendance and objecting to the application was Mrs B Kelly. In attendance on behalf of Essex Police was Mr S Fisher, the Divisional Licensing Officer. In attendance on behalf of the responsible authority for Planning were Mr D Baker and Ms A Wood. The Chairman then introduced the members and remaining officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Environmental Health Manager informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of the Black Deer in Poundfield Road, Loughton, along with representations from interested parties. The application had requested permission to supply alcohol from 11.00am to 12.00am on Sundays to Thursdays, and from 11.00am to 1.00am on Fridays and Saturdays. In addition, permission had been requested for other licensable activities such as live and recorded music, indoor sporting events and the hours that the premises were open to the public to be from 11.00am to 12.30am on Sundays to Thursdays and from 11.00am to 1.30am on Fridays and Saturdays. The application had also requested permission to remain open for licensable activities until 2.30am on Christmas Eve and 1.30am on Good Friday.

The Environmental Health Manager advised the Sub-Committee that representations had been received from the responsible authorities for Environmental Protection (Noise Pollution) and Planning. Following negotiations between the applicant and the respective responsible authorities, it was confirmed that the applicant had accepted the proposed conditions regarding noise and the use of the outside areas and, as a result, both responsible authorities had confirmed the withdrawal of their representations. It was also confirmed that Essex Police had made no objections to the application.

(b) Presentation of the Applicant's Case

Mr Witchell reiterated that the application was to vary the Premises Licence as had been outlined by the Environmental Health Manager. The Sub-Committee were informed that the sale of alcohol would end 30 minutes before the other licensable activities on both Christmas Eve and Good Friday. The premises were currently licensed from 11.00am to 11.00pm on Mondays to Saturdays, and 12.00pm to 10.30pm on Sundays. The Sub-Committee were reminded that the Black Deer was a local public house primarily for local people.

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

Mrs Witchell responded that on Fridays and Saturdays, any live music, and dancing, would be unlikely to begin before 8.00pm and would probably be finished by 12.00am. Recorded music would be most likely played from 11.00am to midnight on Saturdays and Sundays, whilst the indoor sports would only take place on Mondays and Tuesdays, again from approximately 8.00pm to midnight. The hours requested within the application would permit greater flexibility for the premises to hold such events. Whilst the hours listed would be acceptable as conditions on the licence, the Sub-Committee were requested to grant the permitted opening hours as per the application.

Mr Witchell added that it was intended to purchase a canopy to erect on the side of the premises in the beer garden, subject to planning permission, in order to provide some cover for smokers when the new law became effective on 1 July 2007. Hence, it was intended for the garden area to be open until 11.30pm each evening throughout the week. A sound check had been performed on the premises, which also had automatic front doors, and a fire door was being repaired that had been badly fitted. The premises had air conditioning, so all windows could be locked during the performance of live or recorded music. No entry to the premises would be permitted after 10.30pm each evening, but it was felt that there was not a requirement to have registered security personnel on duty. There was closed circuit television within the premises, but not outside, and no children had been permitted to remain in the premises after 8.00pm since July 2006. The Sub-Committee were informed that the nearest property was at least 20 metres away from the premises.

(d) Questions for the Applicant from the Objector

Mr Witchell explained that on Friday and Saturday evenings, there would always be at least two staff working on the premises at any one time. In addition, for any functions held at the premises, there would be two members of staff in attendance plus the Designated Premises Supervisors, giving a total of four people on duty. Mr Witchell also stated that their 23-year-old daughter was also a personal licence holder, and that one of the three personal licence holders was always on the premises whilst it was open. There were currently no plans to relay music from inside the premises to the garden area.

(e) Presentation of the Objector's Case

Mrs Kelly stated that she felt that the proposed extension for licensable activities at the premises was unacceptable, as Poundfield Road was predominantly a residential area with a large proportion of young families and a school at one end. The proposed extensions would lead to increased noise disturbances until later in the evening, with customers wanting entry to the premises after other establishments had shut. The extended hours would also lead to additional parking problems in an over-parked

area, plus the possibility of increased drink driving. It was also pointed out that the proposed canopy would form an enclosed space, which would make it illegal for smokers to congregate.

(f) Questions for the Objector from the Sub-Committee

Mrs Kelly acknowledged that there had not been any recent problems at the premises.

(g) Questions for the Objector from the Applicant

There were no questions for the objector from the applicant.

(h) Closing Statement by the Applicant

Mr Witchell stated that it was not their intention to turn the Black Deer into a young person's premises with loud music until late into the night. The intention was to provide a mature establishment for adult drinkers, with extended hours for regular customers. Entry to the premises would be monitored, especially late at night, and the premises had a car park at its rear so that there should not be any parking issues for local residents.

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

In determining the application, the Sub-Committee considered the comments that had been made by both the applicant and the objector, as well as the conditions that had already been agreed by the applicant following representations by the responsible authorities for Planning and Environmental Protection (Noise Pollution). The decision had been based upon the promotion of the four licensing objectives as set out in the Licensing Act 2003, and the Sub-Committee had sought no advice from the officers present.

RESOLVED:

That the application to vary a Premises Licence at the Black Deer in Poundfield Road, Loughton be granted subject to the conditions contained within the application, except where varied by the following additional conditions either agreed at the meeting or stipulated by the Sub-Committee:

- (a) that the supply of alcohol be permitted from:
 - (i) 11.00am to 11.30pm on Mondays to Thursdays; and
 - (ii) 11.00am to 12.00am on Fridays and Saturdays;
- (b) that the premises be permitted to open from:
 - (i) 11.00am to 12.00am on Mondays to Thursdays; and
 - (ii) 11.00am to 12.30am on Fridays and Saturdays;
- (c) that on Christmas Eve, the premises be permitted to:
 - (i) supply alcohol until 1.00am; and
 - (ii) remain open until 1.30am;

- (d) that on Good Friday, the premises be permitted to:
 - (i) supply alcohol until 12.00am; and
 - (ii) remain open until 12.30am;
- (e) that all other licensable activities, such as live or recorded music, be permitted during the hours granted for the supply of alcohol;
- (f) that the hours currently in operation for Sundays be retained;
- (g) that the Designated Premises Supervisor, or representative, shall monitor the volume of music emanating from the premises and adjust the volume to ensure that any amplified sound or other music from the premises did not cause a public nuisance;
- (h) that, in order to prevent a public nuisance, such music from the premises be inaudible at the boundary of any properties where the occupiers were likely to be sensitive to noise; and
- (i) that all outside areas at the premises be closed to the public at 11.30pm each evening.

CHAIRMAN