

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 7 June 2007

Place: Council Chamber, Civic Offices, **Time:** 10.12 - 11.44 am
High Street, Epping

Members Present: Mrs R Gadsby, P McMillan and J Wyatt

Other Councillors:

Apologies: Councillor Mrs P Smith

Officers Present: J Nolan (Environmental Health Manager), L Cole (Legal Services Officer),
K Tuckey (Environmental Services), M Jenkins (Democratic Services Assistant) and Z Folley (Democratic Services Assistant)

1. ELECTION OF CHAIRMAN

RESOLVED:

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

2. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct Councillors P McMillan and J Wyatt declared a personal interest in item 8 (Rebels Diner Honey Lane, Waltham Abbey) of the agenda by virtue of knowing the objector and representing the wards concerned. The Councillors determined that their interests were not prejudicial and they would remain in the meeting for the consideration and voting on the item.

3. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee and the attendees noted the procedure agreed for the conduct of business and Terms of Reference.

4. EXCLUSION OF PUBLIC AND PRESS

That the public and press be excluded from the meeting for the item of business set out below, except for some evidence that may fall into the categories below and will be heard in private on the grounds that they would involve the disclosure of exempt information as defined below in the relevant Paragraph of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972:

**Agenda
Item No**

Subject

**Exempt Information
Paragraph Number**

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE – MR A HUSSAIN

The three Councillors that presided over this item were Councillors Mrs R Gadsby, McMillan and Wyatt.

The Sub-Committee considered an application by Mr A Hussain for a Hackney Carriage Driver's License.

The Chairman welcomed the applicant and introduced the members and officers present. The Environmental Health Manager informed the Sub-Committee of the circumstances under which the license 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 Sub-Committee considered the application in private and subsequently decided to grant the license.

RESOLVED:

That the application to issue a Hackney Carriage Driver's License to Mr A Hussain be granted.

6. PUBLIC AND PRESS

RESOLVED:

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

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION TO TRADE IN A DESIGNATED CONSENT STREET - REBELS DINER, HONEY LANE, WALTHAM ABBEY.

The three Councillors that presided over this item were Councillors Mrs R Gadsby, P McMillan and J Wyatt. The Chairman welcomed the participants and introduced the members and officers present and then requested that the participants introduce themselves to the Sub-Committee.

In attendance on behalf of the application was Mr Holland, the applicant. Councillor Ms S Stavrou and Ms J Taylor a local resident were in attendance to object to the application. The Chairman 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 for a street trading consent for the sale of food at Rebels Diner, Honey Lane,

Waltham Abbey had been received along with representations from Councillor Mrs S Stavrou, Essex County Council Highways, Waltham Abbey Town Council and one local resident.

(b) Presentation of the Applicant's Case

The applicant informed the Sub-Committee that he had reduced his opening times from 6.30p.m. to 5.00a.m. He anticipated that this would address the issues raised in the objections. The applicant commented that the objections made to his application were exactly the same as those made previously. The applicant addressed each one in turn as follows.

(i) Waltham Abbey Town Council letter dated 20 April 2007

Mr Holland claimed that there was sufficient room for manoeuvre on the highway where the van was located even when there was lorries parked on both sides of the road. He circulated photographs illustrating such circumstances.

In response to the objection that the operation attracted rodents, the applicant presented a report compiled on the issue. He advised that he had recently changed his pest control company and the latest report confirmed that there was no evidence of rodent activity on the site.

(ii) Essex County Council Highway Section letter dated 20 April 2007.

In relation to the first point about the indiscriminate parking of customer vehicles stopping the safe passage of traffic, the applicant claimed that lorries parked near his van for a maximum of 45 minutes. There had been an on-going problem of lorries parking overnight but the applicant insisted they did not use his burger van and when requested to move on, they had refused. Mr Holland had contacted Essex County Council to discuss these issues. He stated that they had advised him to submit his comments in writing. He had demonstrated a willingness to resolve them with the County.

Mr Holland referred to the claim that the unlawful use of private accesses on the vicinity was severely restrictive both in terms of physical obstruction and the obstruction of the sight lines. He said that there were two access points to the site: one from the Skillets Farm, the other from Mrs Taylor's property. He claimed that the tabled photographs showed that for 90% of the time the highway was clear. The applicant acknowledged that the pavement had been damaged by heavy vehicles and had been fixed, suggesting that perhaps the installation of bollards would prevent further pavement damage.

(iii) Letter by Jan Taylor local residents – 24 March 2007.

Mr Holland suggested that his customers would find accessing the garden at the property for use as a toilet very difficult in view of the landscape of the area. Mr Holland said that he was prepared to make arrangements for rubbish to be collected from Mrs Taylor's property and had contacted Mrs Taylor to discuss this offer and could take this issue up with his company.

Mr Holland addressed Mrs Taylor's concerns about the parking of lorries outside her property. He said that she had indicated that this was not a problem at the night as this stopped burglaries. She did however say that she had a bit of problem with it in the day although she stayed in after 7p.m so she had no problems with it after that time.

(iv) Essex Police - Letter 16 April 2007.

Reference was made to accident statistics from Essex Police. This indicated that no accidents had been attributed to the presence of the burger van.

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

Questions were asked regarding the photos submitted by the applicant. The applicant said the photos were taken at midday. There were no night time pictures as the light conditions were too bad.

The applicant responded to a question regarding toilet facilities at the burger van, the applicant informed the Sub-Committee that there were only toilets for his staff. The applicant also advised the Sub-Committee that he had a generator which was self contained and noiseless.

(d) Questions for the Applicant from the Objector

The objector had no questions for the applicant.

(e) Presentation of the Objector's Case

Mrs J Taylor, a local resident presented her concerns. She commented on the problem of rats on her property. She said despite visits from the Council and her own attempts, the problem kept coming back. The objector complained that it was easy for people to gain access to her property and use it as a toilet. The noise levels from the lorries and the van were unacceptable at night. Vehicles sometimes parked in front of her gate. There was parking on a bus stop lay-by.

There was considerable amounts of litter in the adjoining fields to her property, although Mr Holland had cleared it from time to time. There was very little room for the lorries to pass through the road even when one side was clear.

Traffic levels on the stretch of Honey Lane in the immediate vicinity of the van had increased over the past year due to the road works on the nearby stretch of M25 and the move to change Skilllets Farm into a truck stop. This had exacerbated the highways concerns and meant that the road was now even more dangerous. The customers parked their lorries in the bus stop. The parked lorries were causing real problems in terms of obstruction to the highway.

(f) Questions for the Objector from the Applicant

The applicant clarified that he only sold canned drinks and not bottled ones thus the concerns regarding the discarding of the latter could not be attributed to his van.

(g) Objectors Closing Statement

Mrs Taylor reiterated her concerns. The main one being that the van created a terrific backlog of lorries at night on either side of her driveway.

(h) Applicants Closing Statement

The applicant informed the Sub-Committee that he had managed the burger van for nine years. He had put a lot into it, the current situation with regards to complaints had not changed, the same objections had been made. He had undertaken steps to

clear rubbish at the site and was now using a new pest control company to address the concerns about these issues. He had fulfilled all of the tasks asked of him in this respect and had shown a willingness to talk further with the objectors and undertake further action. No complaints had been made during the course of this last year.

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

The Sub-Committee considered the possible dangers posed by the burger van's position and it's customers. The Sub – Committee received advise from officers on the legal issues and human rights considerations. They carefully considered the evidence presented by the applicant and the objectors and the accident statistics reported by Essex Police. They considered the concerns of the County Highways as reported in their letter dated 20 April 2007 and, as a result, felt it necessary to refuse the application.

RESOLVED:

That the application to trade in a designated consent street by Rebels Diner, Honey Lane, Waltham Abbey, be refused based on the concerns raised in the letter from Essex County Council Highways section dated 20 April 2007.

CHAIRMAN