

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 2 August 2007

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 1.15 pm
High Street, Epping

Members Present: K Chana, M Cohen, Mrs R Gadsby and J Wyatt

Other Councillors:

Apologies: Mrs P Smith

Officers Present: K Tuckey (Environmental Services), R Ferreira (Legal Executive), S Harcher (Environmental Services) and A Hendry (Democratic Services Officer)

15. ELECTION OF CHAIRMAN

RESOLVED:

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

16. APOLOGIES FOR ABSENCE

Councillor Mrs P Smith gave her apologies for this meeting. Councillor J Wyatt was kind enough to replace her.

17. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor K Chana declared a personal interest in item (7) of the agenda (Application for a Premises Licence – Chigwell Row Post Office, Lambourne Road), by virtue of living close to the application premises. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the application and voting thereon.

Pursuant to the Council's Code of Member Conduct, Councillor M Cohen declared a personal interest in item (8) of the agenda (Application to vary a Premises Licence – Royal Oak, Forest Road, Loughton), by virtue of being the ward member. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the application and voting thereon.

18. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

19. 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 is 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 J Perry	1

20. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR JOHN PERRY

The three Councillors that presided over this item were Councillors M Cohen, K Chana and Mrs R Gadsby.

The Sub-Committee considered an application by Mr J Perry for a Hackney Carriage Driver's License. Members noted his CRB check had revealed offences that did not allow officers to grant this license under delegated authority.

The Chairman welcomed the applicant and introduced the members and officers present. The Environmental Principal Team Leader 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 John Perry be granted.

21. PUBLIC AND PRESS**RESOLVED:**

That the Public and Press be invited back into the meeting for the remaining items of business.

22. LICENSING ACT 2003 - APPLICATION FOR A PREMISES LICENCE - CHIGWELL ROW POST OFFICE, LAMBOURNE ROAD.

The three Councillors that presided over this item were Councillors M Cohen, K Chana and Mrs Gadsby. Also in attendance were Mr and Mrs Balakumar. Mrs C Balakumar being the nominated licence premises supervisor.

The members of the Sub-Committee considered an application for a Premises Licence for Chigwell Row Post Office, Lambourne Road. Officers could not grant this under delegated authority because a representation from an interested party had been made to the Council.

Presentation of the Applicants Case

Mr Balakumar began by saying that people tend to arrive after 6pm (when the other shop that sells alcohol closes) looking to buy beer and wine, hence the reason they are looking to sell alcohol from their post office until they close at 22.00 hours. Mrs Balakumar added that they have another shop and have never had any complaints or experienced any problems with under age persons trying to buy alcohol.

Councillor Mrs Gadsby asked if they sold alcohol at present. Mr Balakumar replied that they did not. Another small shop nearby sells alcohol up to 6pm.

Councillor Chana commented that as they were new to the area, had they experienced any trouble with the young people of the area. Mr Balakumar replied that if you treated them nicely and got to know them they posed no problems. If you tell them once that you could not sell them alcohol, they would not come back.

Councillor Chana asked how they would ensure that they did not sell alcohol to underage persons through someone else. Mr Balakumar replied that they would observe the people waiting outside the shop.

Councillor Cohen asked if they had a club elsewhere and who would run the off licence. Mrs Balakumar replied that they had a Banqueting Hall with a bar, in East Ham and that she would be the licence holder, as she is the postmaster. Councillor Cohen then asked how many other staff would they have. He was told three, including a sub postmaster.

Applicant's Closing Statement

Mrs Balakumar said they would not encourage the youths. So far there had been no problems with any of the youths in the area.

Consideration of the Application by the Sub-Committee

The Sub-Committee retired to discuss the application in private, where they considered the experience of the applicants, the area concerned and that only one objection was received. They did not ask for any advice from the officers.

RESOLVED:

It was agreed to grant the application for a Premises Licence for Chigwell Row Post Office, Lambourne Road.

23. LICENSING ACT 2003 - APPLICATION FOR A PREMISES LICENCE - THE ROYAL OAK, FOREST ROAD, LOUGHTON

The three Councillors that presided over this item were Councillors M Cohen, K Chana and Mrs Gadsby. Also present were Mr D Baker from Planning Services, Mr E Davis, from the Environmental Health Services, Mr M Witham a Licensing Enforcement Officer, Mr M Beckett the applicant, Mr K Hoddinott his agent, Councillor Janet Woods from Loughton Town Council and approximately 18 members of the public.

The members of the Sub-Committee considered an application to vary the Premises Licence for the Royal Oak, Forest Road, Loughton. Officers could not grant this under delegated authority because the application had attracted representations from the responsible authorities for Planning, Environmental Control and a number of interested parties. They also heard from the Licensing Enforcement Officer that he had visited the premises on Friday, 27 July and had observed, what in his opinion, a DJ playing music. This was at 9.30pm. He stayed for approximately 15 minutes.

Presentation of the Applicants Case

Mr Hoddinott presenting the applicants case started by saying that this was an application to provide live music. The premises had this under the 1963 act but lost it under the 2003 act. It was thought that this would be transferred over with their 'grandfather rights', but it was not. Therefore this application was just to reinstate the provision that had been lost.

Councillor Cohen asked why this had not been included with the original application. Mr Hoddinott replied that they had assumed that their 'grandfather rights' included this provision. When they realised it did not, they decided it was better that they applied for it. Mr Beckett added that when it was drawn to his attention in April, he applied.

Councillor Cohen asked why was a DJ playing music at his premises on Friday. Councillor Cohen referred to the Council Officer, Mr Witham, who had attended the pub on 27 July and witnessed a DJ playing music. Mr Beckett said that their normal CD system had broken down and they had to bring in a temporary system, which may have looked like a DJ system. There was no DJ there. Also his sister was in charge that day as he was on holiday.

Asked about the type of Pub he ran by Councillor Cohen, Mr Beckett said that they had a restaurant and showed sports, they tend to cater for 30-45 year olds. They had a survey done. He was also asked about how many of his clients lived in the roads around the pubs. Mr Beckett replied that there are a lot of Loughton residents some of which live in the roads around the pub who frequent his establishment. Councillor Cohen then asked how he explained the number of objections received; the numbers of objections were unusual. Mr Beckett replied that they were not all about the music; some were about the parking, litter and damage to property. Where does it stop being his responsibility? We do ask people to be quiet on leaving, arrange for taxis to come to the back and try to stop people taking glasses and bottles out of the pub after 12 midnight.

Councillor Cohen pointed out that Council Officers said his proposals are inadequate. Mr Hoddinott said he had spoken to Mr Davis, from Environmental Services. They had an acoustic report completed and have installed or will install various devices to limit noise within the next few months. They have a calibrated noise-limiting device and may install secondary glazing if necessary. The music system is now controlled

from behind the bar. The rule of thumb is that if the bar staff or member of public can't hear each other then it is too loud. The new system will ensure the music can't be raised past a certain level. Also noise seals are being attached to the doors.

Councillor Cohen asked what provision was made to stop people from coming in from other venues. Mr Beckett replied that it was usually the other way around, they leave them to go to other later opening venues.

Councillor Mrs Gadsby commented that people going in and out the doors at the front would let the noise out. Mr Hoddinott explained that when music was being played, people come and go via the back exit.

Councillor Chana observed that they had said that they could control glasses and bottles and noise on leaving the premises. But the kind of crowd that the pub attracts tends to take their glasses and bottles outside and cause disturbances; how can you control this? Mr Beckett replied that although they allow people to take drinks to the garden or smoking area, they try to stop people taking glasses and bottles out at closing time. Mr Hoddinott added that at night they have door staff that stop people leaving with glasses and bottles and to ensure that no one comes and goes through the front door.

Councillor Chana asked if they had a family clientele and how did the pub benefit the local community. Mr Beckett replied that families use the garden and the restaurant. No children are allowed in the pub during the evening. The pub also had about 200 signatures in support of their application and it should be noted that there was no objection raised by the Police.

Councillor Cohen said he had some concerns around the licensing objective that dealt with Crime and Disorder and the surrounding streets. We have asked other premises to patrol their surrounding streets for up to a half hour after closing time. Mr Beckett replied that if they were instructed to do so then they would comply.

Councillor Cohen enquired that as they had a noise limiter why is it not used. Mr Hoddinott said that they do have one but it was not lockable, so it could be tweaked. Councillor Cohen asked if the settings had been moved and had Mr Beckett ever had to reset it. Mr Beckett replied that the settings could be moved but no, he had never had to reset it.

Questions from Objectors

Councillor Mrs Woods (Loughton Town Council) asked why it was necessary to attract customers who cause residents trouble. Mr Beckett replied that he did not believe that they this did attract that type of customer.

Mrs J Woodman (local resident) said that on 19 June the Royal Oak was asked to stop live music, why did you not comply, I have witnessed this (from outside) on several occasions. Mr Beckett said that they have not had a DJ. Mr Hoddinott added that anyone from the outside could not see into the area where the music is kept and so could not tell if it was recorded or live.

Norman Taylor (local resident) said he thought that there was a link between entertainment and the amount of alcohol consumed. Do you have any control on consumption? Mr Beckett said that they do not serve people who are drunk. Also once outside residents could not be sure that that they came from the Royal Oak.

Mr R Bryant (local resident) said your licence tells you what you can or can't do. So why did you not apply for this in 2003. Mr Beckett said there was a grey area over grandfather rights and they made a mistake. Mr Bryant asked as the landlord had been there for about eight years why had he only now installed acoustic bafflers. Mr Beckett replied that the Council have now set the limit on their sound system. Mr Bryant asked what form of acoustic fittings does your doors take. Mr Beckett responded that he was not qualified to answer that, but they had changed the doors completely and were looking to stop these problems soon.

Presentations of Objectors Case

Mr E Davis from Epping Forest District Council's Environmental Health Services reported that he had written to Mr Hoddinott on 17 July 2007 asking that a noise limiter is fitted and used for any amplified sound, set to be inaudible at the nearest noise sensitive premises, to which he agreed. He would also suggest that live music is played up to 23.00 hours. Following his letter they employed an acoustic consultant who has provided a report, in which it was noted that the secondary glazing requires improvement and door seals need to be fitted, which he understands is being done today.

Mr D Baker from Epping Forest District Council's Planning Services, were objecting under the prevention of Public Nuisance. They would like the playing of live music to cease at 23.30. They noticed that the surrounding area leading to the public house has narrow roads and tight access. There is concern about public nuisance external to the pub, with noise and disturbance arising from a large number of people attracted to the live music, which seems to be an intensive type of music with a DJ. There is not much parking in the area; if the music were to cease at 23.30 it would allow a large number of people to leave earlier.

Mr Hoddinott asked if they were more likely to be less noisy at 23.30? Mr Baker replied that more people were likely to be asleep at 12 midnight than at 23.30. It was noted that he had visited the site the day before this meeting.

Mrs J Woods (Loughton Town Councillor) said that Loughton Town Council strongly objected. It is in the middle of a residential area, which already suffers from noise and disturbance. She strongly urged the committee to reject the application.

Mr Hoddinott asked if she was aware that the premise has had the ability to provide music over the last eight years? She replied that she was aware of this, as there had been numerous complaints received.

Mrs Woodman (local resident) said that when the licence was acquired the landlord knew it was in a residential area. She disputed the age range that was said to frequent the pub; she put it in the 20 to 30 age group. The landlord has a duty to prevent public nuisance. We are not making the disturbances up, as they do not happen when music is not played in the pub.

There is a wide age range in the area. I live seven doors away and can still hear the music. We cannot trust Mr Beckett to run a quiet decent pub; it attracts a lot of young people.

We have had problems with delivery vehicles in the past and have problems with taxis that sit outside beeping their horns. There are houses at the back of the pub so there is no difference in asking them to go round the back to make their pickups.

Human Rights legislation say that we have a right to have a peaceful enjoyment of our possessions.

Mr Hoddinott reminded her that they now had a noise limiter installed.

Mr Taylor (local resident) supported Mrs Woodman's comments. The music causes a lot of trouble, especially on Friday and Saturday nights. We would like the pub to fit in with the area.

Mr Bryant (local resident) also disputed the clientele's age, putting them in the 20 to 30 age group. They were woken every Friday and Saturday night throughout the year. This can also happen during the day. On Ascot Day they had a live singer in the garden all day. The pub next door the 'Vic' has a different clientele. Mr Beckett continues to have a DJ and he is in ignorance of the environmental guidelines for this type of premises.

People are here for peace and quiet not profit. The Council has a responsibility to keep a residential area quiet.

Mr Hoddinott asked if Mr Bryant was woken at night by music and by people passing by in the street. Mr Bryant replied that he was woken by the music and by drunks passing by. They had broken his fence three times now. This always coincides with the closing times of the pubs.

Applicants closing statement

Mr Hoddinott gave his closing address. He said this was just an application to reinstate live music on the hours and days indicated on the application form. They are currently installing the recommended equipment that would not increase the noise emissions from the premises. He believed it would not increase the numbers attending. All equipment would be installed within one month. They would maintain contact with residents on a regular basis as long as they are kept informed of the meetings that are being held. They would also provide a telephone number (a mobile phone so it could take messages) as a direct means of contact. No glassware would be allowed to be removed from the premises after closing time and they would agree to extend this to the outer curtilage.

Consideration of the application by the Sub-Committee

The Sub-Committee discussed the application in private. They considered the arguments made by the representatives from Planning Services and Environmental Health and the local residents, both in person and in writing. They took into consideration the historical evidence on noise and disturbance and the acoustic changes that were being undertaken to the premises. They also noted that the residents had given reasonable credible evidence to indicate that the disturbances originated from the Royal Oak. This was relevant since it gave an indication of disorder that might occur if the licence were granted.

RESOLVED:

It was agreed that the application to vary the premises licence be refused on the following grounds:

- i) On grounds of Crime and Disorder and Public Safety that there was credible evidence, on the balance of probability, of noise and disorder originating from the Royal Oak.

- ii) On the grounds of Public Nuisance, the need to comply with the acoustic consultant's report and also in particular on 27 July 2007 when an officer of the Council witnessed a DJ playing music in that establishment.
- iii) That the applicants be reminded that they could reapply in the future once remedial action had been taken and that they had the right of appeal against the decision of the Sub-Committee.

CHAIRMAN