

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 6 December 2007

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 3.15 pm
High Street, Epping

Members Present: M Cohen, R D'Souza, Mrs M McEwen and Mrs P K Rush

Other Councillors:

Apologies:

Officers Present: J Nolan (Environmental Health Manager), R Ferriera (Legal Executive),
K Tuckey (Environmental Services) and A Hendry (Democratic Services Officer)

47. 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.

48. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor M Cohen declared a personal interest in item (13) of the agenda (application to vary a premises license – The Minx, 126 High Road, Loughton), by virtue of occasionally being instructed as a freelance advocate by the applicant's Solicitors. The Councillor had determined that his interest was not prejudicial and he would remain in the meeting for the consideration of the application and voting thereon.

49. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

50. EXCLUSION OF PUBLIC AND PRESS

That the public and press be excluded from the meeting for the items of business set out below on the grounds that they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12 A of the Local Government Act 1972:

**Agenda
Item No**

Subject

**Exempt Information
Paragraph Number**

6	Hackney Carriage Driver's License - Mr Brown	1
7	Hackney Carriage Driver's License - Mr Dayall	1
8	Hackney Carriage Driver's Licence- Mr J Ali	1
9	Hackney Carriage Driver's Licence- Mr Julian	1
10	Hackney Carriage Driver's Licence- Mr Whitefield	1
11	Hackney Carriage Driver's Licence- Mr Ward	1

51. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVER'S LICENCE – MR BROWN

The three Councillors that presided over this item were Councillors Cohen, Mrs P Rush and Mrs M McEwen. The Sub-Committee considered an application by Mr G Brown for a Hackney Carriage Driver's License. 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, 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 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 a Hackney Carriage Driver's License be granted to Mr Geoffrey Brown, subject to the Council's terms and conditions.

52. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVER'S LICENCE – MR DAYAL

The three Councillors that presided over this item were Councillors Cohen, Mrs P Rush and Mrs M McEwen. The Sub-Committee considered an application by Mr R Dayal for a Hackney Carriage Driver's License. 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, 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 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 not to grant the license.

RESOLVED:

That a Hackney Carriage Driver's License not be granted to Mr Ranjit Dayal.

53. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVER'S LICENCE – MR J ALI

The three Councillors that presided over this item were Councillors Cohen, Mrs P Rush and Mrs M McEwen. The Sub-Committee considered an application by Mr J A Ali for a Hackney Carriage Driver's License. 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, 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 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 not to grant the license.

RESOLVED:

That a Hackney Carriage Driver's License not be granted to Mr Josef Ali.

54. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVER'S LICENCE – MR JULIAN

The three Councillors that presided over this item were Councillors Cohen, Mrs P Rush and Mrs M McEwen. The Sub-Committee considered an application by Mr Tim Julian for a Hackney Carriage Driver's License. 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 applicant did not attend the meeting, and therefore, on the documentation before them, the application was refused.

RESOLVED:

That a Hackney Carriage Driver's License not be granted to Mr Tim Julian.

55. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVER'S LICENCE – MR WHITEFIELD

The three Councillors that presided over this item were Councillors Cohen, Mrs P Rush and Mrs M McEwen. The Sub-Committee considered an application by Mr A Whitefield for a Hackney Carriage Driver's License. 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, 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 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 a Hackney Carriage Driver's License be granted to Mr Anthony Whitefield.

56. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVER'S LICENCE – MR WARD

The three Councillors that presided over this item were Councillors Cohen, Mrs P Rush and Mrs M McEwen. The Sub-Committee considered an application by Mr M Ward for a Hackney Carriage Driver's License. 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, 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 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 a Hackney Carriage Driver's License be granted to Mr Martin Ward.

57. INCLUSION OF PUBLIC AND PRESS

RESOLVED:

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

58. LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE – THE MINX, 126 HIGH ROAD LOUGHTON

The three Councillors that presided over this item were Councillors Cohen, Mrs Rush and D'Souza. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr James Neil, Counsel for the applicant and Mr R Maharajah the Designated Premises Supervisor for the Minx. In attendance as objectors to the application were Mr E Davis, EFDC, Environmental Health Officer; Ann Wood, EFDC Planning Services; Sarah Moran, EFDC Licensing Officer and David Baker, EFDC Planning Services.

(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 Minx, 126 High Road, Loughton along with representations 22 interested parties and also from responsible authorities. The application had requested permission to extend the existing opening hours for Fridays and Saturdays until 02.00.

(b) Presentation of the Applicant's Case

Mr Neil, Counsel for the applicant, informed the Sub-Committee that they were applying for only an extra hour on Fridays and Saturdays. He contended that the objections raised were essentially challenges to the premises and did not address the one hour extra asked for. He noted that the Police had not raised any objections under the Crime and Disorder objective. As for the Public Nuisance objective, there was always potential for public nuisance in the High Street and in the car park. However, any noise on the High Street and near by car park could not be attributed to their premises. It should also be noted that no objections had been raised from the flats at the back of their premises.

Mr Neil asked Mr Maharajah if there had been any complaints since the new times had been introduced in 2005. He replied that there were two complaints about noise but they had worked with the Environmental Health officers and had taken measures to reduce their noise output. EFDC officers had also investigated allegations of underage drinking on the premises and were satisfied that no underage drinking was going on. Asked about public nuisance matters when their customers were leaving the premises, Mr Maharajah said they had increased the number of CCTV cameras, had their security guards patrolling the area and had also put up signs asking patrons to be quiet when leaving the premises and also made announcements on their PA system to the same effect. This had all been agreed in conjunction with the EFDC Environmental Health officers.

Mr Neil asked if they had held occasional events that finished at 2am and if they had received any complaints. Mr Maharajah said they had held occasional late night events, but they had not received any complaints. The later finish enabled their clientele to disperse in a staggered manner. Mr Neil asked about any competition. Mr Maharajah said there was only the Nu Bar, which stayed open until 1am. There were no particular problems. The Minx has a later crowd that tends to come in at around 9.30pm and usually come to the Minx on foot from other establishments, some patrons use cabs or park on the High Street. In conclusion, they had always operated in a responsible manner and have worked with the responsible authority in a responsible way.

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

Asked how the CCTV would improve the behaviour of his clientele Mr Maharajah replied that it would highlight any bad behaviour by their customers who could then

be banned. Asked about their security team, he indicated that they would work an extra half an hour after closure to patrol the car parks and the other side of the High Street. They did not allow entry after 11.30pm and use only plastic glasses, although beer is still served in glass bottles. They would be happy to identify the bottles by adding stickers to them identifying where they came from.

In reply about objections received, Mr Maharajah said that people in the vicinity did not make any representations but they came from people further away and not their immediate neighbours.

In order to keep their neighbours happy, the Minx would reduce their music levels at 1.30am and change the music to a more relaxed tempo. There would also be an increase in the CCTV, the warning signage, and the use of regular taxi firms.

Asked why customers don't wait for their taxis inside, Mr Maharajah said they could not force their customers to wait inside, they can only ask.

(d) Questions for the Applicant from the Objectors

Mr Baker asked about the restaurant upstairs, does their capacity include the 150 people that the Minx can hold? He was told the 150 capacity was for the ground floor. The 1st floor restaurant could accommodate about 40 people.

(e) Presentation of the Officers case

The responsible officer for Environmental Health was worried about the potential noise level late at night, putting people and traffic on the streets in the early hours. Mr Neil commented that the noise level would be the same for 1am as 2am, but the 1am closing time had not been challenged. Also Mr Davis had not said as yet what he thinks happens at present that is unacceptable. There is no sound basis to conjecture that sound levels will increase at 2am.

The responsible authority for Planning had made a representation objecting to the extension of hours requested. Whilst it was accepted that the premises was located in a high street location, there were residential streets nearby. It was felt that customers parked in these nearby streets would cause a public nuisance to sleeping residents through vehicle noise in the early hours of the morning. It was felt that the current hours were satisfactory and that an extension would cause more disturbance to residents.

Mr Neil asked the Planning representative if he thought that the 1am closing time was acceptable then there was no basis to say that 2am was worse, there was no evidence to assume that a public nuisance would be caused. Also, his colleagues in Environmental Health had not seen fit to issue an abatement notice.

(f) Applicants Closing Statement

On behalf of the applicant, Mr Neil stated that there was no evidence to say that a 2am closing time was worse than 1am. As for objections by local residents, was it not strange that residents nearest to the premises had not objected. As for the potential for noise, we contend that there was minimal traffic from Smarts Lane, there was no causal connection to noise on the High Street. It cannot be said that the slamming of car doors or talking on the street constitutes a public nuisance. This is a High Street and some noise would be acceptable. There were no complaints received when we were granted a 1am closing time, a 2am closing time would make no difference.

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

The Sub-committee retired to consider the application in private session. The Sub-committee received no advice from officers. They considered the application in relation to the objectives set out in the Licensing Act 2003, and accepted that no indisputable evidence had been produced to link the patrons of the premises to the public nuisance problems in the neighbourhood. In addition to the application as presented, the Sub-Committee added further conditions to the Licence variation. The Sub-Committee returned to the Chamber and the Chairman informed the participants of the Sub-Committee's decision.

RESOLVED

That the application to vary a Premises Licence at the Minx, 126 High Road, Loughton be granted subject to the conditions contained within the application, that the opening hours be extended to 2am on Fridays and Saturdays nights. The following additional conditions agreed at the meeting in relation to:

- 1) No entry into the establishment after 11.30pm, or re-entry after 00.55am.
- 2) Notices to be placed at all exits and around the premises in places where they can be easily seen and read requiring customers to leave the premises and the area quietly.
- 3) A specific taxi operator/s will be nominated for staff and customer use. The company's telephone number will be advertised to customer. The operator, and all drivers will be notified that they will arrive and depart as quietly as possible, will not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily and will not cause any obstruction in the High Road.
- 4) To install a total of four video surveillance cameras, to be placed on the exterior of the building. The CCTV cameras shall be installed, maintained and operated at the location marked on the plan of the premises. All images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days. The images are to be made available to the police or local authority for inspection on request.
- 5) A minimum of three SIA registered security guards to patrol the premises to ensure that patrons leave responsibly and with a minimum of disturbance.
- 6) Roaming door supervisors registered with the SIA will patrol up to and including 38 Smarts Lane and up to and including 32 High Beach Road outside the premises for at least 30 minutes after the designated closing time of the premises.
- 7) From 1.30am music levels to be adjusted to 75% of their previous levels, to enable customers to re-assimilate their hearing to normal levels.
- 8) Named unpeelable stickers or other indelible mark to be put on all disposable containers to enable identification of the source of the container.

9) Deliveries and services are carried out between the hours of 9am to 7pm.

10) To prevent glass noise, waste bags containing bottles to be stored in garden and bins are to be filled during daylight hours during the following day.

59. LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE – CLUB EDGE, COTTIS LANE, EPPING

The Councillors who presided over this application were Councillors Cohen, Mrs Rush and D'Souza. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of Club Edge was Mr Stock the Premises Licence Holder and Mr Simon Fisher, Essex Police, Licensing Unit.

The application before the members was to consider Club Edge's application to introduce pole dancing with full nudity. Objections had been raised by a responsible authority, the Essex Police Authority.

The Sub-committee were concerned that there was not enough information to consider the application fully. The applicant's answers were peppered with "perhaps", "probably", "maybe" and the scheme for entry, invitation and control of patrons, in particular, had not been established. The full extent of proposed use of the licence was also unclear and it appeared to the panel that the application was made for a licensed period that was too wide and open. The applicant said that he did not know the answer to many of the questions as he was a last minute 'stand-in' for the person who should have been there, who had fallen ill. The applicant's representative was asked if he would consider an adjournment to enable the Sub-committee to gather more information, he declined the offer.

RESOLVED

That the application for pole dancing at Club Edge be refused on the grounds that there was not enough information upon which to base a decision. In particular there was a need for a proper operating schedule and a plan.

60. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION TO TRADE IN A DESIGNATED CONSENT STREET - MISS C TYNDALL

The Panel noted that Ms C Tyndall had withdrawn her application.

CHAIRMAN