

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 3 April 2008

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 2.50 pm
High Street, Epping

Members Present: R D'Souza, Mrs R Gadsby, R Morgan and Mrs P Smith

Other Councillors:

Apologies:

Officers Present: K Tuckey (Environmental Services), A Mitchell (Assistant Head of Legal, Administration and Estates (Legal)), S Moran (Licensing Officer) and A Hendry (Democratic Services Officer)

83. 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.

84. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

85. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

86. 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 it 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</u>		<u>Exempt Information</u>
<u>Item No</u>	<u>Subject</u>	<u>Paragraph Number</u>

6	Application to renew a Hackney Carriage Driver's Licence – Mr S Bell	1
7	Application for a Hackney Carriage Driver's Licence – Mr T Askem	1
8	Application for a Hackney Carriage Driver's Licence – Mr J Lopes	1
9	Application for a Hackney Carriage Driver's Licence – Mr F Achab	1
10	Application for a Hackney Carriage Driver's Licence – Mr L Rose	1
10a	Application for a Personal Licence Application – Mr Tunnicliffe	1

87. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVERS LICENCE - MR S BELL

The Sub-Committee considered an application by Mr S Bell to renew a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors R Morgan, Mrs P Smith and R D'Souza. 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, and introduced the members and officers present. The Assistant Director of Legal Services 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 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 a Hackney Carriage Driver's Licence be granted to Mr S Bell, subject to the Council's standard terms and conditions.

88. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR T ASKEM

The Sub-Committee considered an application by Mr T Askem for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors R Morgan, Mrs P Smith and R D'Souza. 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, and introduced the members and officers present. The Assistant Director of Legal Services 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 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 a Hackney Carriage Driver's Licence be granted to Mr T Askem, subject to the Council's standard terms and conditions.

89. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR J LOPES

The Sub-Committee considered an application by Mr J Lopes for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors R Morgan, Mrs P Smith and R D'Souza. 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, and introduced the members and officers present. The Assistant Director of Legal Services 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 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 J Lopes for a Hackney Carriage Driver's Licence be refused as he did not meet the Council's licensing criteria in that his record from the Criminal Records Bureau revealed numerous relevant offences under the conviction criteria and that there were inconsistencies in his paper work.

90. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR F ACHAB

The Sub-Committee considered an application by Mr F Achab for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were

Councillors R Morgan, Mrs P Smith and Mrs R Gadsby. 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, and introduced the members and officers present. The Assistant Director of Legal Services 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 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 a Hackney Carriage Driver's Licence be granted to Mr F Achab, subject to the Council's standard terms and conditions.

91. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR L ROSE

The Sub-Committee considered an application by Mr L Rose for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors R Morgan, R D'Souza and Mrs R Gadsby. 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, and introduced the members and officers present. The Assistant Director of Legal Services 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 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 a Hackney Carriage Driver's Licence be granted to Mr L Rose, subject to the Council's standard terms and conditions.

92. OBJECTION TO A PERSONAL LICENCE APPLICATION - MR TUNNICLIFFE

The Sub-Committee considered an application by Mr S Tunnicliffe for a Personal Licence to sell alcohol to be granted under the Licensing Act 2003. Officers had received an objection to the granting of the licence from Essex Police. The three Councillors that presided over this item were Councillors R Morgan, R D'Souza and Mrs R Gadsby. 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, and introduced the members and officers present. Also present was Simon Fisher the Divisional Licensing Officer from Essex Police. The Assistant Director of Legal Services 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 Mr Fisher and members of the Sub-Committee. Mr Fisher then made his submission to the Sub-Committee, and answered a number of questions from the members of the Sub-Committee. The Chairman requested that the applicant and Mr Fisher leave the Chamber whilst the Sub-Committee debated his application in private. The Chairman invited the applicant and Mr Fisher back into the Chamber and informed him of the Sub-Committee's decision.

RESOLVED:

That a Personal Licence to sell alcohol be granted to Mr S Tunnicliffe, subject to the Council's standard terms and conditions.

93. INCLUSION OF PUBLIC AND PRESS

RESOLVED:

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

94. LICENSING ACT 2003 - APPLICATION TO REVIEW A PREMISES LICENCE – OZDIL FOODS, 1 FARM HILL ROAD, WALTHAM ABBEY

The three Councillors that presided over this item were Councillors R Morgan, R D'Souza and Mrs R Gadsby. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf the Licensee were Mr Erdal Ozdil and Mr G Ozdil. In attendance on behalf of Essex Police who had requested a review of the premises in question were: Mr Jonathan Austin-Jones, Counsel for Essex Police, Mr Simon Fisher, Divisional Licensing Officer, Julie Peckston, Essex Trading Standards, Sophie McKenna, Essex, Trading Standards and Sergeant Sally-Anne Davies, Neighbourhood Policing Team.

(a) The Application before the Sub-Committee

The Assistant Director of Legal Services informed the Sub-Committee that Essex Police had requested a review of a Premises Licence for Ozdil Foods, 1 Farm Hill Road, Waltham Abbey, Essex. The application to review relates to the following licensing objectives:

1. The Prevention of Crime and Disorder – as a result of complaints from the public of persons under 18 years of age purchasing alcohol, or having it purchased for them; when alcohol is consumed young people cause public nuisance, drunkenness, noise and general antisocial behaviour, in a locality.
2. Prevention of Public Nuisance – groups of intoxicated minors cause antisocial behaviour nearby.
3. Protection of Children from Harm - it is the duty of police to protect children from the harmful effects of alcohol.

(b) Presentation of the Applicant's Case

Mr Austin-Jones, the counsel for the Applicant (Essex Police), informed the Sub-Committee of the Police's objection to Ozdil Foods, based on the above three licensing objectives. The Police had continued to receive complaints from the public, with young people continuing to be problem in the area.

Mr Austin-Jones asked Ms S Mckenna a specialist Trading Standards Assistant with Essex County Council, why she had decided to visit and test purchase this particular shop. She replied that she had visited the premises in question to carry out test purchasing on the basis of intelligence received, this was on 29th September 2007. They were assisted by a 16 year old school boy who purchased a bottle of Becks beer. During the Purchase he was not challenged or asked for identification through out the purchase which she had directly witnessed. The till was to the left as you went into the shop which was a general store, and there was only one gentleman serving at the time.

No questions were asked by the proprietors of Ozdil Foods or the members of the Sub-committee.

Next Mr Austin-Jones asked Ms Julie Peckston, Trading Standards Officer, employed by Essex County Council, why she had decided to visit and test purchase this particular shop. She said there had been continuing reports of anti-social behaviour around the area of this shop. She was assisted by a 16 year old volunteer, this was on 19 January 2008. He was wearing jeans and nothing on his head as he had to be clearly identifiable. He purchased four bottles of lager. There were no other customers in the shop at the time, although there were two or three young men in the back of the shop talking. The till was on the left of the entrance.

A member of the Sub-committee asked her how she got the intelligence in the first place. Ms Peckston replied they were in contact with all licensing officers in the area. The intelligence would filter down from other organisations and the public.

Mr Ozdil asked if was fair to send in a tall child to purchase form their store. Ms Peckston replied that that he looked young and was not abnormally tall (at 1.83m). He was not allowed to wear anything that made him look older.

Mr Ozdil asked if she had noticed the amount of times that they had contacted and had tried to work with the police on this matter. Ms Peckston replied that that she had, and in her interview with Mr Ozdil she advised that he keep a log of all calls.

A Councillor asked if there were photos available of both the children used for the test purchases. Mr Fisher provided them and showed them to the Sub-Committee.

Next, Mr Austin-Jones asked Sergeant Sally-Anne Davies, from the Police Neighbourhood Policing Team at Waltham Abbey, why this particular shop was chosen. She said that they had problems with youths in the area who hang around the area from around 6pm to midnight, mostly on Fridays and Saturdays causing a nuisance.

A member of the Sub-committee asked if anyone had questioned the youths as to where they got their alcohol from. He was told that the youths could not be relied upon to reveal their real sources.

(c) Presentation of the Licensee

Mr Erdal Ozdil commented that the Police were aware of what was happening in the area on weekends. Every Friday and Saturdays there were youths hanging around Tesco's. The Police need to do something about it, to move them on. They phone the Police and ask them to move them on. They had barred some people from their shop for supplying drink to the kids and have CCTV footage of people in the shop, but the Police are not interested.

A Councillor asked if they had ever asked for ID. Mr Ozdil replied that they did, and they kept a log for a year, but no-one had asked to see this book. They ask for driving licences or the 'white card', and can tell if they are forged. The kids are not their problem.

A Sub-committee member asked if these were the same group of kids that kept coming in and trying to buy alcohol. She was told that they were and that they even knew the parents – but they tend to get their alcohol from adults, whom they ask to buy it for them. They had notified the Police that this was happening but they did not come. They had barred some people, but it's the adults that cause even more problems.

A Councillor commented that there were two formal warning letters sent, and two months after you served underage customers. Mr Ozdil replied that it was his employee who had served the underage customers. He has now left his employ. If it was him, he would not have served them. He had trained his employees on this.

He was asked how old his employee was. Mr Ozdil answered that he was twenty-three.

(d) Police Questions to the Licensee.

The Counsel representing the Police asked Ms Peckston if Trading Standards had had outlined to Mr Ozdil what should have happened. Ms Peckston replied that they went this at their interview with Mr Ozdil and advised him to keep a refused record and a record of training given.

(e) Applicants Closing Statement

Mr Austin-Jones summed up by saying that their main area of concern was the young people who had access to alcohol and were causing problems. He referred to the Police Warning letter sent and the Police report. On two occasions they proved that underage youths were being served alcohol. It would need strong action to remedy this.

(f) Licensee Closing Statement

Mr Ozdil did not wish to add anything to his previous statements.

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

The Sub-committee retired to consider the application in private session. The Assistant Director of Legal Services advised the Sub-committee on the powers available to them. They considered the application in relation to the objectives set out in the Licensing Act 2003, and accepted that indisputable evidence had been given that young people were able to get alcohol from that shop, that continual formal warnings and fixed penalty notices were given. They considered suspending the licence.

The Sub-committee returned to the Chamber and the Chairman informed the participants of the Sub-committee's decision.

RESOLVED:

That having taken into consideration the continual formal warnings and the issuing of the fixed penalty notice, the Licensing Sub-committee decided that the Premises licence for Ozdil Foods, 1 Farm Hill Road, Waltham Abbey, Essex be revoked. The Sub-committee cited the following reasons:

- In relation to the prevention of Crime and Disorder, to prevent access to alcohol to under age minors;
- In relation to the prevention of Public Nuisance – to prevent groups of intoxicated minors causing a disturbance and Anti-social behaviour in the area;
- In relation to the Protection of Children – to protect children from the adverse effects of alcohol.

95. LICENSING ACT 2003 - APPLICATION TO REVIEW A PREMISES LICENCE – FARM HILL CONVENIENCE STORES, FARM HILL ROAD, WALTHAM ABBEY

The three Councillors that presided over this item were Councillors R Morgan, R D'Souza and Mrs R Gadsby. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the Licensee was Mr Ramiz Gusoy, Counsel for Farm Hill Convenience Stores. In attendance on behalf of Essex Police who had requested a review of the premises in question were: Mr Jonathan Austin-Jones, Counsel for Essex Police, Mr Simon Fisher, Divisional Licensing Officer, Julie Peckston, Essex Trading Standards, Dean Velati, Essex Trading Standards, Gareth Miller, Essex Trading Standards and PC Nelson, Neighbourhood Policing Team.

(a) The Application before the Sub-Committee

The Assistant Director of Legal Services informed the Sub-Committee that Essex Police had requested a review of a Premises Licence for Farm Hill Convenience Stores, 93 Farm Hill Road, Waltham Abbey, Essex. The application to review relates to the following licensing objectives:

4. The Prevention of Crime and Disorder – as a result of complaints from the public of persons under 18 years of age purchasing alcohol, or having it purchased for them; when alcohol is consumed young people cause public nuisance, drunkenness, noise and general antisocial behaviour, in a locality.
5. Prevention of Public Nuisance – groups of intoxicated minors cause antisocial behaviour nearby.
6. Protection of Children from Harm - it is the duty of police to protect children from the harmful effects of alcohol.

(b) Presentation of the Applicant's Case

Mr Austin-Jones introduced the Police's case against Farm Hill Convenience Stores citing their objections against the four licensing objectives.

Mr Austin-Jones asked Mr Dean Velati, Essex Trading Standards Officer why he had chosen that particular shop to visit and carry a test purchases. Mr Velati said that they had based their visit on intelligence received. They took a sixteen year old to carry out the test purchase. He noted that the shop was not busy when they went. Apart from alcohol the shop acted as general store.

Mr R Gusoy asked Mr Velati if there were any employees on the premises apart from the cashier. Mr Velati replied that there was no one else there, just the cashier.

Mr Austin-Jones then asked PC Nelson if he witnessed the purchase. He replied that he was there when the purchase was made. The test purchaser was a white female approximately five foot four inches tall.

Mr R Gusoy asked PC Nelson who else was present when the purchase was made and did the cashier fully understand what was happening. PC Nelson replied that he did not know if there was anyone else there. The person selling was as stated in his statement, he spoke to him, and he answered coherently and understood the position.

A member of the Sub-committee asked if he was in uniform and PC Nelson answered that he was, and that he stayed outside until the purchase had been completed and they came out.

Mr Austin-Jones asked him if the store had appealed the fixed penalty notice. PC Nelson said that they had not. Mr Austin-Jones continued that if they did not contest this, then they had admitted the offence. PC Nelson agreed.

Mr Austin-Jones then asked Ms J Peckston, Essex County Council Trading Standards Officer about her trip to the Farm Hill Convenience Stores. She said that she had visited the store on 29 September 2007, with some other trading standards colleagues and a 16 year old volunteer to carry out a test purchase. We chose this store after receiving intelligence. The shop was not busy and there were no other customers. The till was on the right as you go in. I observed the volunteer buying four cans of Carlsberg, I had an unobstructed view of the sale and at no time was any form of identification asked for.

Mr Gusoy asked Ms Peckston who served the volunteer that day and did he speak English. She replied that it was not recorded but I believe that he understood and spoke English well enough for us to issue a fixed penalty notice, but really can't remember. Mr Gusoy asked if it was possible that he had difficulty with the English language. Ms Peckston replied that she could not make any assumptions about this.

Mr Austin-Jones called his fourth witness, Mr G Miller, Essex County Council, Trading Standards Officer who conducted a test purchase of alcohol by an underage volunteer on Saturday 19th January 2008. The 16 year old volunteer purchased three bottles of Corona Extra, with an alcohol content of 4.6%. Mr Miller did not recall how busy the shop was at the time. He did recall that upon interviewing the owner later, that he produced logs of refused sales and a training log (for his staff). The training occurred after the second visit.

Mr Gusoy asked who had served the underage youth and what his level of English was. Mr Miller replied that he found out that the man serving was the father of the owner of the shop; he did not know the level of his English. Mr Gusoy asked if the owner produced the logs at the subsequent interview. Mr Miller replied that he did produce the training and refusal logs but not all the papers were attached to the refusal logs.

Mr Austin-Jones then read out the statement of PC Leavett who issued a fixed penalty notice on 16 February 2008, for serving alcohol to an under aged girl.

A Councillor asked if the two fixed penalty notices had been paid or disputed. PC Nelson replied that they had not been disputed.

A member of the Sub-committee then asked who were serving at the shop on the three occasions. He was told they were:

On 29 September 2007 – Mr Kis Kanber

On 13 January 2007 – Mr Kurtmulmus

On 19 January 2008 – Mr Kis Kanber

A Councillor asked when Mr Kis Kanber started working for the store and if he had any training prior to the 2007 training period. He was told he had worked there for the last four years but they did not have their training log with them to confirm whether he had been trained prior to 2007.

(c) Applicants Closing Statement

Mr Austin-Jones summed up the case for Essex Police by saying there were problems in that area of youths with access to alcohol. Action had to be taken to stop this. The owners of Farm Hill Convenience Stores do not dispute the charges made and they have sold alcohol on three separate occasions to underage persons.

(d) Licensee Closing Statement

Mr Gusoy replied to Mr Austin-Jones that they had no issues with the evidence in the case. But the power to revoke was an extreme one and was not warranted in this case. These sales were carried out by employees of limited experience and in one case with limited English. The incidents were widely dispersed over time, although this was no excuse. They realise their responsibility and will try to change. The young men who own the shop are making their own living and are not living off the state. Their employees are being trained and a full log has been kept. When something like this happens they will contact the police and try and do the right thing.

Presently there are no conditions on the premises, this can be imposed. The owner's promise that it will not happen again, they show remorse and their lesson has been learnt. The problem has always been with their employees and not the owners. These were genuine mistakes and not a flagrant breach of the law. I ask for restrictive conditions to be placed on the store or a short suspension imposed.

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

The Sub-committee retired to consider the application in private session. The Assistant Director of Legal Services advised the Sub-committee on the powers available to them. They considered the application in relation to the objectives set out in the Licensing Act 2003, and accepted that indisputable evidence had been given that young people were able to get alcohol from that shop, that continual formal warnings and fixed penalty notices were given. They considered suspending the licence.

The Sub-committee returned to the Chamber and the Chairman informed the participants of the Sub-committee's decision.

RESOLVED:

That having taken into consideration the continual formal warnings and the issuing of the fixed penalty notices, the Licensing Sub-committee decided that the Premises Licence for Farm Hill Convenience Stores, Farm Hill Road, Waltham Abbey, Essex be revoked. The Sub-committee cited the following reasons:

- In relation to the prevention of Crime and Disorder, to prevent access to alcohol to under age minors;
- In relation to the prevention of Public Nuisance – to prevent groups of intoxicated minors causing a disturbance and Anti-social behaviour in the area;
- In relation to the Protection of Children – to protect children from the adverse effects of alcohol.

CHAIRMAN