

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 4 September 2008

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 3.20 pm
High Street, Epping

Members Present: Mrs M McEwen, Mrs P Richardson, Mrs P Smith and Mrs R Gadsby

Other Councillors:

Apologies: B Rolfe

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

26. APOLOGIES FOR ABSENCE

Councillor B Rolfe gave his apologies for this meeting. Councillor Mrs R Gadsby was kind enough to replace him.

27. ELECTION OF CHAIRMAN

RESOLVED:

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

28. DECLARATIONS OF INTEREST

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

29. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

30. 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 item 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 Item No</u> | <u>Subject</u> | <u>Exempt Information Paragraph Number</u> |
|-----------------------|---|--|
| 6 | Hackney Carriage Driver's Licence – Mr A Uddin | 1 |
| 7 | Hackney Carriage Driver's Licence – Mr M Dagdelen | 1 |
| 8 | Hackney Carriage Driver's Licence – Mr H Malik | 1 |

31. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR A UDDIN

The Sub-Committee considered an application by Mr A Uddin for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs Smith, Mrs McEwen and Mrs 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 Head 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 A Uddin, subject to the Council's standard terms and conditions.

32. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR H MALIK

The Sub-Committee considered an application by Mr H Malik for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs Smith, Mrs McEwen and Mrs 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 Head 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 Sub-Committee took advice from officers on the legal time a licence had to be held before a Hackney Carriage

licence could be granted. 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 H Malik, subject to the Council's standard terms and conditions.

33. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR M DAGDELEN

The Sub-Committee considered an application by Mr M Dagdelen for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs Smith, Mrs McEwen and Mrs 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 Head 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 Mr M Dagdelen for a Hackney Carriage Driver's Licence be refused due to the serious nature of the offences as explained to the Sub-committee and because of the uncompleted consent form for the DVLA check.

34. INCLUSION OF PUBLIC AND PRESS

RESOLVED:

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

35. LICENSING ACT 2003 - APPLICATION FOR A PREMISES LICENCE REVIEW - THE PLAYERS LOUNGE, BUCKHURST HILL

The three Councillors that presided over this item were Councillors Mrs Smith, Mrs McEwen and Mrs Richardson.

The Panel noted that Mr R Gardiner, from the Environment and Neighbourhood Group of the Epping Forest District Council had withdrawn his application to review the Licence of the Players Lounge after agreeing new conditions with Punch Taverns.

Matthew Butt, the Barrister for Punch Taverns explained the new conditions and introduced the new manager of the Players Lounge to the Sub-committee.

RESOLVED:

That the review for the Players Lounge be withdrawn due to new conditions and new management being put in place.

36. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION FOR A STREET TRADING CONSENT - MR R HOLLAND

The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs M McEwen and Mrs P Richardson. 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, who was there in support of her constituents. Ms J Taylor and Mrs F Pymont local residents who were in attendance to object to the application. Also in attendance was Mr R James, the Town Clerk for Waltham Abbey Town Council and Mr T Baker from the Highways Department of Essex County Council. The Chairman outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Assistant Head of Legal Services informed the Sub-committee that an application for a Street Trading Licence in Honey Lane, Waltham Abbey had been received from Mr R A Holland. However, representations had been received from Waltham Abbey Town Council, Essex County Council Highways Department and five local residents.

(b) Presentation of the Applicant's Case

The applicant, Mr Holland, gave the Sub-committee a brief history of the 20 years that the diner had been trading. He had been the owner of the diner for the last nine years and up until 2003 he did not need a licence. There had been objections since then and last year he was refused a licence. Since 2003 he had done everything asked of him by the licensing sub-committee. The objections from Waltham Abbey Town Council are essentially the same as it was in 2004, 5, 6 and 7. He showed the Sub-committee some photos of Honey Lane to indicate it was possible for traffic to pass in both directions. He also said that when he first took over the van there was evidence of rats; he brought in a firm to eradicate them. He then showed the Sub-committee some certificates from the firm confirming this. The report made in August 2008 showed that since he had not been there, the rats had returned. He thought it might be due to the farm across the road from the diner. He asserted that it was unfounded to say that he had a detrimental impact on the area, he kept it clean and tidy, and he also cut the grass at the verges.

Mr Holland went on to comment on the Highways representation. He had carried out a check and there had been no reported accidents on that part of the road over the last twenty years, the period over which the van had been trading. He therefore considered it to be a safe passage.

If the County Council wanted to stop lorries from parking on that road they should put restrictions on parking in that part of Honey Lane. They park there because they do not wish to pay to park in the lorry park across the road. As for pedestrians crossing the road, there is no pavement on the other side so why should there be pedestrians. As for damage to the footpath, it was still going on without the diner being there, and it is getting worse. The pavement is pulling away from the road, slipping down the embankment. The Highways letter also talked about placing obstructions on the

highway. He had only put wheeled bins, which were attached to bollards, so they were not obstructing the highway. Mr Holland showed the sub-committee various photographs to illustrate the points he made.

He noted that the police had not raised an objection.

Mr Holland then went on to cover the letters of objections received. He commented on the letter from Mrs Taylor he noted that lorries were still parking there and suggested that bollards be placed to aid access to her property. The noise that his pitch created was less than that generated by the M25 and any passing HGV. He noted that there was a CCTV camera covering the driveway and the fence line was covered with brambles and had two fences, this should stop anyone using her garden as a toilet.

Mr Holland then went on to comment on Mr Spall's and Mrs Tysterman's objections. He said that if the lorries were causing obstructions then the Police would have been here today. Traffic restrictions would solve the problem indicated. If the Lorries were double or treble parked the road would come to a standstill.

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

Councillor Mrs McEwen asked if the Police objected in 2006. Mr Holland replied that they did not.

Councillor Mrs Richardson asked if the lorries parked had sleeping and toilet facilities in their cabs. Mr Holland said that they did not have toilet facilities on board.

Councillor Mrs Smith asked how he knew that there had been no accidents on that part of the road. He replied that he got in touch with the Police in 2003 asking about this. There had been accidents during the day but not during the night when he was open for business.

Councillor Mrs Smith asked Mr Holland if there had been any more information on accidents since 2004. He replied that he had not checked, but it was available. She then asked if he held any other street trading licence, he replied that he did not.

(d) Questions for the Applicant from the Objectors

Mr James asked about the photos that were shown. They were taken in the early evening but did not show the road at 11pm when the lorries were double parked. Mr Holland agreed that when trading the lorries were parked on both sides of the road, but the road was wide enough to accommodate this.

Mr Taylor asked if a lot of Police used his van. Mr Holland said that yes they did, but any objections to his pitch would be raised from higher up the chain of command and not from the officers on the beat.

Mrs Pymont said that contrary to what Mr Holland said, drivers did walk on the far side of the road, as she had seen them. Mr Holland agreed but said they were there because they parked on that side and were crossing.

Councillor Ms Stavrou commented that it was very lucky that no accidents had happened. Mr Holland said he could not say no accidents would ever happen, just that there had been no accidents so far.

(e) Presentation of the Objector's case

Mr R James, the Waltham Abbey Town Clerk presented his concerns. The Town Council were concerned about parking on both sides of the road. The reduction in space and coupled with lorries manoeuvring causes a hazard. Lorries parking had continued but had reduced since the burger van was no longer there. They were also mindful that others might apply to the District Council for a licence to work the same area. They would like this turned into a non-consent road.

Councillor Mrs Smith asked about double parking and who in his opinion was the proper authority to address this. Mr James answered that it was Essex Police.

Councillor Mrs Richardson asked about the volume of traffic on that road. Mr Jones said that there was a considerable amount of traffic between the slip roads.

Next Mr T Baker from Essex County Highways department presented his case. They accepted that there would be parking in the lay-bys, but the problems were that of increasing number of vehicles and double parking. They had not made their objections on the grounds of accidents, as there was no history of this. There were concerns of pedestrians crossing the carriageway by the lorry drivers, as it was a wide carriageway and it was dark. Footway damage by lorries had also been an issue.

Councillor Mrs Smith asked Mr Baker who was the proper authority to deal with double parking issues and other violations. He replied that it was the Police. Councillor Mrs Smith then asked if regular inspection and maintenance happens often. Mr Baker replied that inspections happen regularly. She then asked if there was a record of separate complaints over the last 2/3 years. Mr Baker said that he would have to check, but there were not really a lot of pedestrians in that area to make complaints.

Councillor Mrs Smith asked about the accident history of this piece of road. Mr Baker said that where there was a pattern of accidents it would be identified; this site had not shown up as an accident site.

Mr Holland asked Mr Baker if the number of lorries had increased since the truck stop had been opened. Mr Baker said that they believed that they had been attracted to the burger van.

Mrs Taylor then made her case. She said that the traffic problem had got quieter since the burger van had been removed. The Lorry Park did not serve food at night. The road by the Marriot Hotel was restricted, but this road was not. You can only just manoeuvre through the lorries when they are parked on both sides of the road. She hoped that emergency vehicles could do this. She did not have any rats in her garden since the van had been removed. They still use her garden as a toilet and they use her gate to get into her garden. Noise from the M25 was not a problem but the noise from radios from parked cars using the burger van was.

Councillor Mrs McEwen asked if the number of vehicles had been reduced over the last year and did she still get noise. Mrs Taylor said they had reduced, and she got the occasional noise from some HGVs but not from the general public.

The publication of the notification was queried and the Environmental Services Officer clarified where and when the notification was published.

Mr Holland said if the CCTV camera covered the front gate why had she not caught the people using her garden as a toilet on camera. Mrs Taylor said that they had used her side gate.

Next Mrs Pymont put her case to the Sub-committee. She said that her objection were on safety grounds. As a school governor she had pressed for restriction on Honey Lane and had assumed the restrictions would apply to that entire road. The burger van was parked in a bus lane. The bus runs until 11.30 at night so where does it stop if the burger van is parked there? There are also yellow lines on the lay-by.

Mr Holland said that there were restrictions on parking in the bus lane, with no parking from 7am to 7pm. He had never seen anyone use the bus stop.

Councillor Ms Stavrou, there as a ward councillor in support of her constituents, made a short statement in support of the objectors. From her observations the lorry parking had decreased, when Mr Holland was trading there were more lorries parked there and using the lay-by will only encourage more parking.

(f) Objectors Closing Statements

Neither of the objectors had anything to add to their previous statements.

(g) Applicants Closing Statement

Mr Holland said he had met with the same objections since 2004. He wanted it noted that lorries did not double park; the objectors did not have any proof of this. Also not granting his licence would not solve the problems on the Highways.

(h) Consideration of the application by the Sub-Committee

The Sub-committee retired to consider the application in private session. They considered that the lorries were parking where they were entitled to park. That there was no evidence of major accidents in the last 20 years during the hours of trading for the burger van. They did acknowledge that the volume of parked traffic had decreased over the last year and they noted the objections raised by Essex Highways Department, Waltham Abbey Town Council and the several representations made by local residents.

RESOLVED:

That the application for a Street Trading Consent for a fast food outlet in Honey Lane, Waltham Abbey be refused based on the concerns raised by Essex County Council, Highways Department and by Waltham Abbey Town Council. That the parked vehicle problems would be exacerbated by the presence of the burger van. They also took into account the nuisance caused to neighbours by patrons using the burger van during the night and the noise coming from their vehicles.

CHAIRMAN