

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Licensing Sub-Committee                      **Date:** 5 March 2009

**Place:** Council Chamber, Civic Offices,                      **Time:** 10.00 am - 4.50 pm  
High Street, Epping

**Members Present:** Ms J Hedges, B Rolfe, Mrs R Gadsby and Mrs P Smith

**Other Councillors:**

**Apologies:** Mrs P Brooks and Mrs S Clapp

**Officers Present:** A Mitchell (Assistant Director Legal Services), K Tuckey (Senior Licensing Officer) and A Hendry (Democratic Services Officer)

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### **70. APOLOGIES FOR ABSENCE**

Councillors Mrs P Brooks and Mrs S Clapp gave their apologies for this meeting. Councillors Mrs P Smith and Mrs R Gadsby were kind enough to take their place.

### **71. 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.

### **72. DECLARATIONS OF INTEREST**

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

### **73. PROCEDURE FOR THE CONDUCT OF BUSINESS**

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

### **74. 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 H Butt	1
7	Hackney Carriage Driver's Licence – Mr F Fernandez	1
8	Hackney Carriage Driver's Licence – Mr M Charge	1
9	Hackney Carriage Driver's Licence – Mr S Paget	1
10	Hackney Carriage Driver's Licence – Mr A Gokmen	1

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

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

**76. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR F FERNANDEZ**

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

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

The Sub-Committee considered an application by Mr M Charge for a Hackney Carriage Driver's Licence in his absence. The three Councillors that presided over this item were Councillors Mrs Gadsby, B Rolfe and Mrs P Smith. 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 Assistant Solicitor 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 Charge for a Hackney Carriage Driver's License be refused as he did not meet the Council's Licensing Criteria in that his record from the Criminal Records Bureau revealed relevant driving offences under the conviction criteria.

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

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

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

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

**80. INCLUSION OF PUBLIC AND PRESS**

**RESOLVED:**

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

**81. LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE - BAYLISS NEWS, 159 HIGH STREET, LOUGHTON**

The three Councillors that presided over this item were Councillors Mrs Smith, Mrs Hedges and B Rolfe. 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 Kilic, the applicant's agent from the National Association of Turkish Restaurants, Takeaways and Supermarkets (NARTS); Mr Gulal the applicant and Mr Coskun. Mr Simon Fisher was there to represent Essex Police who had objected 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 Assistant Head of Legal Services informed the Sub-committee that an application to vary the hours of the premises licence for Bayliss News, 159 High Road, Loughton. She also presented the Sub-committee with a late petition in favour

of the application. Representations had been made by Essex Police and four local residents.

**(b) Presentation of the Applicant's Case**

Mr Kilic gave the Sub-committee an outline of the application. The application was initially for twenty four hours a day, seven days a week, but they had amended it to 06.00 to 23.00 hours from Sunday to Thursday, and from 06.00 to 02.00 hours on Friday and Saturday, to sell alcohol. This was amended after they had received representations from the Police. In their representation the Police had mentioned the prevention of crime and disorder and the prevention of children from harm (under age sales). The applicants had been at these premises for about four and a half years. In that time they had never had any crime and disorder issues. As for underage sales, they had been subject to a number of test purchases in the past. They did fail the first couple and had now given the staff training on this issue. They had received a number of letters from Trading Standards who had stated that they would carry out more tests purchases.

The petition had 254 signatures in support of the application, nine of which are from people who live close to the premises.

The licence was for consumption of alcohol off the premises and not on. The planning authority did not make any objections; and the representation from 9 Station Road was for the 24 hour application and not the amended one. The objection from 14 Smarts Lane was about parking and this has no bearing on the shop or the application. If the link is proved they would be happy to ban the drivers parked illegally from their premises. There had been no underage sales issues for the past 22 months.

**(c) Questions for the applicant from the Sub-committee**

Councillor Rolfe commented that some of the addresses on the petition were very random, some of addresses were a mile or two away from the premises. Mr Kilic said there were a few that were near to them such as, 15, 21, 29, 39, Smarts Lane. There were also some from Station Road.

Councillor Rolfe asked if they were in favour of the shop selling alcohol up to 2am. Mr Kilic said that they were, but that the need for this service was not the responsibility of the licensing committee but was a matter for planning.

Councillor Rolfe then asked where their market would come from at that time of the night. He was told it would come from local residents.

Councillor Mrs Hedges said she thought that their clientele would come from the clubs at that time of the morning and under the prevention of public nuisance this may affect the neighbourhood. Mr Kilic did not believe it would have an impact on the community.

Councillor Mrs Smith asked for clarification on exactly what hours were being asked for in the revised application. Mr Kilic confirmed it was amended to 06.00 to 23.00 hours from Sunday to Thursday, and from 06.00 to 02.00 hours on Friday and Saturday to sell alcohol.

Councillor Mrs Smith then asked who undertook the staff training. She was told that they would be trained by the licence holder and their national association (NARTS).

Councillor Mrs Smith asked if the proprietors were members of the local 'shop watch' or similar association. Mr Kilic said that they were not, as 'pub watch' was for properties that allowed consumption of alcohol on the premises.

Councillor Mrs Smith then asked how their CCTV operates. It was, she was told, a digital system that ran 24 hours a day. The images were available on request to the proper authorities. Mrs Smith asked how many times they had to supply CCTV images on request and had they ever used the panic alarm. Mr Kilic said they had to supply some CCTV footage last September, after a fight occurred around 6pm. They had never used the panic alarm, which went straight to the local police station.

Councillor Rolfe asked what action the staff would take if faced with a serious situation. He was advised that they had the panic alarm and the CCTV. On Friday's they always had an extra member of staff on the premises. If they noticed anything unusual they would phone the police. They were always vigilant and worked with the other bars in the area. Councillor Rolfe said that they did not mention refusing to serve some people. He was told that they would try and calm down the customer and would try not to argue and cause further problems.

**(d) Questions for the Applicant from the Objector**

Mr Fisher asked if a customer had been drinking, what arrangements they had about serving them. He was informed that if the customer was very drunk they would refuse to serve them and try and explain to them why.

Mr Fisher asked if any of the staff or proprietors had been trained in conflict management. He was told that they had not.

Mr Fisher asked what experience the staff had with dealing with drunken people. He was told that they had experience built up over the last three years. They try to be very passive. Mr Fisher asked if peaceful persuasion was the road to success and was told that it depended on the situation.

Mr Fisher then asked if they would consider employing security staff. He was informed that they never had incidents to make them believe they needed security staff. If they face any problems in the future they may change their minds. They were only three or four minutes walking distance from the local police station.

Mr Fisher asked if they had submitted a second amending application and sent a copy to the Police. He was told that they had done so. Mr Fisher said that the Police had not received it. The Chairman then asked if the licensing officer had received the amended application. The officer said that they had not. Mr Kilic said the amendment had been done by letter and not by a new application form.

The Chairman then adjourned the meeting at 1.20pm for a lunch break. The meeting resumed again at 2pm.

**(e) Presentation of the Objector's case**

Mr Fisher said that they were not making any allegations on Crime and Disorder, although the standard of behaviour on Loughton High Road late at night was appalling. To have an Off Licence open at that hour was a serious thing to do. There was also the past experience of having underage sales. Officers at a high level had asked that he objected to this application.

Councillor Rolfe asked if other Off Licences in that area were open past 11pm. He was informed that only Sainsbury's was open to sell alcohol, until 12 midnight.

Councillor Mrs Smith said the premises was near to a Police station. What was known about this? Mr Fisher replied that it was about three to four hundred yards from the station. Bayliss News had come under scrutiny at other times regarding underage sales. Asked if there had been any follow up work on this since 2007, Mr Fisher replied that he was not aware on any.

Mr Kilic asked who instructed Mr Fisher to object. He was told it was the Chief Inspector.

Mr Kilic asked that even with the security staff at Sainsbury's, had not shoplifting as a whole risen recently? Mr Fisher said it was difficult to answer. Mr Kilic said they thought security staff was not necessary and anyway the staff at Bayliss would go on a training course in the near future.

Councillor Mrs Smith asked if there was anything in the Licensing Act about training. The Licensing Officer replied that as long as the four licensing objectives were satisfied it was up to them how they did it.

**(f) Objectors Closing Statement**

Mr Fisher had nothing further to add.

**(g) Applicants Closing Statement**

Mr Kilic said that they would achieve the four licensing objectives and that they had been subject to further tests from trading standards. The applicants had undergone considerable training and they would also get conflict management training.

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

The Sub-committee retired to consider the application in private session. They had received officer advice that they should look at each case on its merits and not have regard to the opening times of other similar premises. They noted the representations from the Police and other objectors.

**RESOLVED:**

That the application to vary the hours of a premises licence for Bayliss News at 159 High Road, Loughton be refused based on the concerns raised by the Police and other representations. They took into account that public disorder would be likely to increase during any additional hours of opening.

**82. LICENSING ACT 2003 - APPLICATION FOR A NEW PREMISES LICENCE - FOREST WINES, FOREST DRIVE, THEYDON BOIS**

The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs J Hedges and B Rolfe. 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 applicant was Mr Brown counsel for the applicant and Mr C Khetiya, applicant.

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 licence for the sale of alcohol for Forest Wines, 19b Forest Drive, Theydon Bois. However, a representation had been received from a local resident.

**(b) Presentation of the Applicants Case**

Mr Brown said that the objector lives above the property next to the application address. There were also three letters from local shop keepers who support the application. Other businesses on Forest Drive had been informed. The letter of complaint had made a number of points that do not relate to licensing such as parking, which is not specific to this shop.

There has always been an Off Licence on these premises (up to nine months ago) and this application would maintain the status quo. They refute the level of youths that are said to loiter; and no objections have been made by the Police. As it was situated in a parade of shops no one shop could be blamed for the amount of litter in the area.

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

Councillor Mrs Smith asked how long the applicants had occupied the premises. She was told that they had not moved in as yet as it would depend on the licence.

**(d) Applicants Closing Statement**

The applicant had nothing to add to his previous statement.

**(e) Consideration of the application by the Sub-Committee**

The Sub-committee retired to consider the application in private session. They did not receive any advice from officers.

**RESOLVED:**

That the application for a licence for the sale of alcohol for Forest Wines, 19b Forest Drive, Theydon Bois be granted subject to the usual conditions.

**83. LICENSING ACT 2003 - APPLICATION TO A VARIATION OF A PREMISES LICENCE - LOVE IT, 63 BUCKHURST HILL**

The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs J Hedges and B Rolfe. 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 Phipps, counsel for Punch Taverns, Mr Milligan from Punch Taverns and Mr Sally, the applicant.

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 variation of an existing licence by Punch Taverns for Love it (previously Players Lounge), 63 Queens Road, Buckhurst Hill. However, representations had been received from local residents.

**(b) Presentation of the Applicant's Case**

Mr Phipps told the Sub-committee that they sought to create a first floor to the premises. The Players Lounge had a mixed history and had its hours restricted. The former operator had now been removed from the site.

The new site would be a "food led" premises, not a restaurant. The ground floor was to have an open plan kitchen with a bar. The first floor would have two dining rooms and no bar.

Mr Sally has a background in catering; his family operates all the food concessions at Crystal Palace Football ground.

There had been objections that this was an opportunity to create a night club, they were not seeking an entertainment licence, but seek to mirror the alcohol licence of the ground floor.

The entertainment on the ground floor might be occasional, if they have any. There will be no live music played on the first floor. There will be no door staff as it will be a restaurant, but the DPS and staff would supervise customers leaving the premises.

No statutory respondents had objected to the licence.

Mr Sally added he had been in catering all his life; he had studied it at college and had worked in hotels and with his family at Crystal Palace. He had also done weddings and banqueting. This new premises will have a theatre style restaurant with an open kitchen. He was not interested in opening a bar or a night club.

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

Councillor Mrs Smith commented that the history of the premises was outside the scope of the application.

Councillor Mrs Hedges asked if there would be any music and was told that they would have background music for atmosphere.

Councillor Mrs Smith asked what their existing hours were. Mr Phipps said that currently they are open from 10.00 to 23.00 Monday to Wednesdays, and from 10.00 to 00.30 Friday and Saturdays.

Councillor Mrs Smith commented that one of the current conditions was that there should be a noise limiter. Mr Phipps said the premises was to have one installed.

Councillor Mrs Smith asked if there was to be any private members and was told that there would not be any.

Councillor Mrs Smith asked if there were to be no new entries after 11pm. Mr Phipps said it would be self regulating as there would be no new customers once the kitchen closed.

Councillor Mrs Smith pointed out that one of the existing conditions was that there should be SIA registered doormen at the premises on Thursdays, Fridays and Saturdays. Mr Phipps said that they had missed that, there should be no door staff as it was a restaurant and there would be no need for any security staff. Unfortunately they were currently stuck with this and would apply for it to be removed shortly.

**(d) Applicants Closing Statement**

Mr Phipps said in conclusion that they were seeking to reconfigure the first floor. There will be no entertainment on that floor.

**(e) Consideration of the application by the Sub-Committee**

The Sub-committee retired to consider the application in private session. They did not receive any advice from officers.

**RESOLVED:**

That the application to vary the existing licence for Love it (formerly Players Lounge) be granted subject to the usual conditions.

**84. LICENSING ACT 2003 - APPLICATION TO A PREMISE LICENCE - 162 HIGH STREET, ONGAR**

The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs J Hedges and B Rolfe. 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 was the applicant was Ms Hazel Scott. An objector, Mr Mckenzie was also in attendance.

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 premise licence for 162 High Street Ongar, Essex had been received. However, representations had been received from 11 local residents and Ongar Town Council.

**(b) Presentation of the Applicant's Case**

Ms Scott said that this was the first time that she had done something like this. It was to be a cross between a coffee shop, a café and a Bistro. They would sell wines and bottled beers to patrons. The premise would have background music, no live amplified music, but may have some soft jazz for Sunday lunch. The opening hours are to be from 9am to 11pm. She noted that the representations received mentioned waste and parking, these were not relevant to the application in hand.

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

Councillor Mrs Smith asked Ms Scott to confirm that the premise would be opened seven days a week. Ms Scott said she had applied for seven days but would use it

only if it was needed. She had not applied for late night opening hours, which was a mistake on the application forms. She also did not want a licence to sell hot food after 11pm.

When asked if she wanted to confirm that she wanted a licence for live music from 9am to 11pm, Ms Scott said that she did, but would not use it for all that time, but would like the opportunity to use it when she wanted to. She also wanted the ability to play recorded music (as background music) between the hours of 9am to 11pm., and also to supply alcoholic drinks during those hours at the tables to be situated outside the café. Ms Scott confirmed that she was to be premises supervisor.

Asked if she had meant to apply for an off sales licence, Ms Scott said that she had been confused about the various licences and their applications. All she wanted was to be able to serve alcohol to her patrons sitting on tables outside the café. She agreed that she did not want the ability to do off sales.

Mr Mckenzie said the tables on the pavement were new to him, but he was pleased to hear that there would be no amplified music.

**(d) Presentation of the Objector's Case**

Mr Mckenzie said that he represented a number of neighbours in that area. He lived close to the proposed premise and was worried that the proposed live entertainment would be held at the rear of the property where it would be audible to him. There were also some six residential properties close by. The area was very quiet in the evening and the music would be clearly audible. The premise should have a sound limiter installed with a level set that was agreeable to all parties. He would also like all the windows closed when they were cooking.

Councillor Rolfe asked if a guitar or a saxophone was a suitable instrument for live music. Mr Mckenzie said he was using a saxophone as an example. He would like the premises to have a sound inhibitor installed.

**(e) Objectors Closing Statement**

Mr Mckenzie said he understood that new businesses needed to develop, but felt that opening for seven days was just too much and would like to see a compromise.

**(f) Applicant's Closing Statement**

Ms Scott said that she was willing to compromise on timing. She was a responsible citizen and would only play background music.

**(g) Consideration of the application by the Sub-committee**

The Sub-committee retired to consider the application in private session. They did not receive any advice from officers.

**RESOLVED:**

That the application for a premise licence for 162 High Street, Ongar be granted subject to the usual conditions; that live music only be allowed on Friday and Saturdays; and that no off sales of alcohol be allowed.

**CHAIRMAN**