

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 3 September 2009

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 1.05 pm
High Street, Epping

Members Present: Mrs P Brooks, Mrs R Gadsby and Mrs P Smith

Other Councillors: R Bassett

Apologies: Mrs S Clapp and J Hart

Officers Present: K Tuckey (Senior Licensing Officer), L Cole (Legal Services Officer) and
A Hendry (Democratic Services Officer)

37. ELECTION OF CHAIRMAN

RESOLVED:

That, in accordance with the Terms of Reference for the Licensing Committee, Councillor Mrs Gadsby be elected Chairman for the duration of the Sub-Committee meeting.

38. APOLOGIES FOR ABSENCE

Councillor J Hart had given his apologies for this meeting. Councillor Mrs Gadsby was kind enough to take his place on the Panel.

39. DECLARATIONS OF INTEREST

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

40. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business, and the Terms of Reference.

41. 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:

Agenda

Subject

Exempt Information

<u>Item No</u>		<u>Paragraph Number</u>
6	Hackney Carriage Driver's Licence – Mr A Mohamed	1
7	Hackney Carriage Driver's Licence – Mr Frid	1
8	Hackney Carriage Driver's Licence – Mr J Chowdhury	1
9	Application for Private Hire Licence – Mrs L Childs	1
10	Various Breaches in the Authority's Licensing Conditions.	1

42. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSE ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR A MOHAMED

The Sub-Committee considered an application by Mr A M Mohamed for a Hackney Carriage Driver's Licence. Mr Mohamed was accompanied by his son, Mr S Mohamed.

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 Legal Officer 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 Mohamed 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 and he did not possess a UK driving licence for the required three years.

43. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSE ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR FRID

The Sub-Committee considered an application by Mr C M Frid for a Hackney Carriage Driver's Licence.

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 Legal Officer 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 C M Frid, subject to the Council's standard terms and conditions.

44. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSE ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR J CHOUDHURY

The Sub-Committee considered an application by Mr J B Chowdhury for a Hackney Carriage Driver's Licence.

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 Legal Officer 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 Chowdhury 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.

45. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSE ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MRS L CHILDS

The Sub-Committee considered an application by Mrs L S Childs for a Private Hire Licence. Mrs Childs was accompanied by Mr C Brown from LCB Travel Ltd.

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 Legal Officer 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 her 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 her application in private. The Chairman invited the applicant back into the Chamber and informed her of the Sub-Committee's decision.

RESOLVED:

That a Private Hire Licence be granted to Mrs L S Childs, subject to the Council's standard terms and conditions.

46. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSE ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - VARIOUS

The Licensing Unit had identified a breach in the licence conditions of the individuals listed in the agenda. The Sub-Committee noted that their inspections had, as yet, not been completed in two cases but in respect of five other cases inspections had been satisfactorily completed and the licences would continue.

RESOLVED:

(1) That the Hackney Carriage Vehicle Licences for Mr R Burns be revoked.

(2) That Mr B Hodges had surrendered his plate to Officers that day.

(3) That the Hackney Carriage Vehicle Licences for the following continue, as inspections had been satisfactorily carried out:

- Miss C Lawson;
- Mr T Gregory;
- Mr M Firth;
- Mr C Ellis; and
- Mr Wooster

47. INCLUSION OF PRESS AND PUBLIC

RESOLVED:

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

48. LICENSING ACT 2003- STREET TRADING CONSENT - NAZEING PARADE, NAZEING ROAD, WALTHAM ABBEY

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 were the applicant Ms S Bozkurt and her agent Mr Moustafa. Mr Simon Fisher was there to represent Essex Police who had objected to the application, Councillor R Bassett, local ward councillor and Sarah Moran a Licensing Enforcement Officer from Epping Forest District Council.

The Chairman outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Legal Services Officer informed the Sub-committee that an application for a Street Trading Consent for a stationary vehicle at Nazeingbury Parade, Nazeing Road, Nazeing had been received. Representations had been made by Essex Police, the Highways Authority, local residents, Nazeing Parish Council, two District ward councillors and from Epping Forest District Council's Environment and Neighbourhood manager. A petition against the application had also been received.

(b) Presentation of the Applicants Case

Mr Moustafa pointed out that the Police and other objectors had raised substantially the same objections. Following this the applicant was willing to reduce the opening hours if thought necessary. As for anti social behaviour, there are three other food outlets already there, another trader would not cause too much disturbance. After 5pm the area was known to be quite empty. As for the Highways objections, there was a fish mongers there on a Saturdays who takes up about 4 parking spaces. The Police had raised the problem of noise; we think that most of this has been eliminated. We will also have litter patrols within the parade.

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

Councillor Mrs Smith asked if Ms Bozkurt was in receipt of any other licence from any other authority. Mr Moustafa replied that she was not.

Councillor Mrs Smith then asked what research she had done to establish the need for a fast food van in this area. Mr Moustafa said that the applicant had been looking at alternative venues. She had established that there were no other kebab outlets nearby, and she had a gut feeling for that position. She had recently sold her fish and chip shop in Waltham Abbey to start this venture. If necessary, she could be given a trial period of four to six months.

Councillor Mrs Smith asked when the application had been made how was the public notice displayed. Mr Moustafa replied that it was by a newspapers advert as there was no requirement for a notice to be displayed on the parade. Ms Moran, the Licensing Enforcement Officer, confirmed that the applicant only needed a newspaper notice. Officers had spoken to nearby shops to tell them what was happening.

Councillor Mrs Brooks said as there would be residents nearby would there be a noisy electric generator? Mr Moustafa said the cooking would be done on charcoal and gas. New generators are efficient and have noise dampeners. He disputed that they would be near residential properties. Councillor Mrs Brooks replied that there were flats above the shops.

Councillor Mrs Gadsby asked who and how many people would be manning the van. She was told that it would mainly be the applicant and one other, a minimum of two persons.

Councillor Mrs Gadsby asked about the Highways objections. Mr Moustafa said that the van would take up two spaces with the hatch on the side facing the shops. Councillor Mrs Smith said that the parade that the van would be located in was also available for other vehicles to park. Was there any measures taken to have the space made available exclusively to them? She was told that after about 5pm the area was usually deserted. Between 5 and 7pm there was minimum traffic. They did not see the need for a dedicated parking space. Councillor Mrs Smith asked if there were any waiting restrictions in the car park. Ms Moran said that she was not aware of any, but there was not a guarantee that the applicant would get a parking space.

(d) Questions for the Applicant from the objector

Mr Fisher asked if the applicant was aware that there were flats above the shops. Mr Moustafa said they were aware. He then asked what sort of food the van would be selling. He was told that it would be mainly kebabs. Mr Fisher then asked if the applicant had any experience in operating a mobile food outlet. He was told that she had done so in Canterbury and Islington.

Mr Fisher then asked how successful did she expect the venture to be. Mr Moustafa replied that the applicant was willing to invest her money into the venture.

Mr Fisher said if she was successful she would attract people and bring a lot of noise into the area. Mr Moustafa said that the area was mostly deserted in the evenings, but it would give a choice to people. Mr Fisher asked that with a closing time of midnight on Friday and Saturdays would this not cause a lot of noise problems. Mr Moustafa said that the other shops in the parade closed between 9.30 and 10pm, and his applicant was willing drop her opening hours to match the shops. Mr Fisher said that a lot of their customers would travel to the van by car and this would generate a lot of noise. Mr Moustafa said that would be the same for the Fish and Chip shops, he did not see why it would generate any more noise.

(e) Presentation of the Objector's case

Mr S Fisher referred to the letter sent by him to the Council on 27 July 2009, objecting to the application. He emphasised that he was objecting to the location of the outlet. The Police had objected to similar applications made in similar locations because they had thought that the location was unsuitable for such a venture. They were looking to the safety and comfort of the residents and not just to the crime and disorder aspects.

Councillor Mrs Brooks asked if there had been similar problem areas in the past and had these types of van been the cause? Mr Fisher said they had. In their experience there was a tendency for young people to congregate at these places. There are residents above the shops and to the right and left. They would not like any fast food outlets there.

Councillor Mrs Smith said that the applicant was willing to amend her opening hours, would this help? Mr Fisher replied it was possible but he was under instructions to object to this application.

Mr Moustafa asked Mr Fisher what his view would be if the opening hours were amended to 17:00 to 21:30 hours. Mr Fisher said his objections were made on the hours first applied for. Mr Moustafa asked what were the opening hours of the other shops, Mr Fisher said he did not know. He then asked if there was any evidence of other anti social behaviour. Mr Fisher said that there had been some three years ago,

but less in the last few months as there had been increased activity by Police Community Support Officers etc.

Councillor R Bassett, attending the meeting as the local ward representative said that there was some anti social behaviour last week, between a lot of youths and some migrant workers. He had called the Police twice in the last few months. There were also some boy racers coming from over the county border. It has been said that there are no other fast food outlets in the area, but there are, there is a lot in the immediate area. As it is a village there are not that many police around. The average response time was about 20 minutes.

Mr Fisher confirmed that there was some difficulty in responding in rural areas, there were not many police men compared to the distances. The police had been stepping up patrols to deal with this problem, which had declined recently.

Councillor Bassett said there were a lot of people with concerns; a petition had been raised by villagers. There were concerns that a village like Nazeing was not regularly policed and that people would gather and hang around. There were more than enough food outlets in the area.

Councillor Mrs Smith asked the officer what was being licensed, the location or the trading hours. Mrs Kim Tuckey, the Senior Licensing Officer, replied that it was a consent for the van, there was no entitlement for a pitch. It was consent to trade on that street. In regard to the timing, there was no right to leave the van overnight they would usually take it with them.

(f) Objectors Closing Statement

Mr Fisher and Councillor Bassett had nothing further to add.

(g) Applicant's Closing Statement

Mr Moustafa said in regard to the petition, very few people on it lived in the village itself.

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

The Sub-committee retired to consider the application in private session. They received no advice from officers. They noted the representations from the Police, the Highways Authority, local residents, Nazeing Parish Council, two District ward councillors and from Epping Forest District Council's Environment and Neighbourhood manager.

RESOLVED:

That the application for a street trading licence in a designated consent street be refused based on the concerns raised by the Police and other public bodies in relation to the prevention of crime and disorder and public nuisance.

CHAIRMAN