

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

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

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 2.20 pm
High Street, Epping

Members Present: K Angold-Stephens, Mrs P Brooks, Mrs R Gadsby and Mrs P Smith

Other Councillors:

Apologies: M Cohen and J Hart

Officers Present: R Ferriera (Assistant Solicitor), K Tuckey (Senior Licensing Officer) and A Hendry (Democratic Services Officer)

88. 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.

89. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct Councillor Mrs R Gadsby declared a personal interest in agenda item 12, premises licence for 43 Highbridge Street, Waltham Abbey, by virtue of being asked to act as the representative for a residents group in opposition to the application. The Councillor had determined that her interest was prejudicial and that she would step down as a member of the Sub-committee for the consideration and determination of this item.

90. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

91. EXCLUSION OF PUBLIC AND PRESS

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

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
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6	Hackney Carriage Driver's Licence – Mr Hutton	1
7	Hackney Carriage Driver's Licence – Mr Smart	1
8	Hackney Carriage Vehicle Licence – Mr Smith	1
9	Hackney Carriage Driver's Licence – Mr Wiseman	1
10	Hackney Carriage Driver's Licence – Mr Hedges	1

92. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSES ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR P HUTTON

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

93. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSES ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR R SMART

The Sub-Committee considered an application by Mr R Smart for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs P Brooks 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 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 a Hackney Carriage Driver's Licence be granted to Mr R Smart, subject to the Council's standard terms and conditions.

94. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSES ACT 1847 - APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE - MR J SMITH

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

95. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSES ACT 1847 - RENEWAL OF A HACKNEY CARRIAGE DRIVERS LICENCE - MR D WISEMAN

The Sub-Committee considered an application by Mr D Wiseman for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs P Brooks 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 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 a Hackney Carriage Driver's Licence be granted to Mr D Wiseman, subject to the Council's standard terms and conditions.

96. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976 & TOWN & POLICE CLAUSES ACT 1847 - RENEWAL OF A HACKNEY CARRIAGE DRIVERS LICENCE - MR D HEDGES

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

97. INCLUSION OF PRESS AND PUBLIC

RESOLVED:

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

98. APPLICATION FOR A PREMISES LICENSE UNDER THE LICENSING ACT 2003 - 43 HIGHBRIDGE STREET, WALTHAM ABBEY

The three Councillors that presided over this item were Councillors P Smith, Mrs P Brooks and K Angold-Stephens.

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 Mr Erbil and his counsel Miss B Jung. Local residents Ms D Saunders and Ms W Paul who had objected to the application and ward Councillor Mrs R Gadsby who was there to represent another resident and objector, Ms R Maraldo. Also in attendance was 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 Premises license had been received for 43 Highbridge Street, Waltham Abbey. The Licensing Section had not been able to grant the licence as there had been 13 representations from interested parties.

(b) Presentation of the Applicants Case

Ms Jung started by saying that this was a new licence application to sell alcohol from 8am to 11pm Monday to Saturday. They had amended their Sunday hours to 9am to 10.30pm. These new premises had not yet opened.

Mr Erbil had a background in managing jewellery shops; he had now invested his own money into this new venture. It was intended to be like a "Tesco Express" type shop/supermarket, which included the selling of alcohol. It was intended that alcohol was only to be about 5 or 6% of their stock. Their main business would be as a supermarket. They did not intend to entice youths to use the shop or to have special offers on alcohol. Mr Erbil had been a personal license holder for five years.

They had suggested a number of conditions to meet the four licensing objectives, such as a CCTV system, lighting of exits and food and rubbish to be stored in the storeroom. They would also display signs asking customers to respect the neighbours and leave quietly.

There had been written representations from other businesses, but that was not for this Sub-committee. As for the other written representations, they were speculative on what might happen. There should be a firm example of misconduct and not just speculation. There would have to be evidence not to grant the licence. It was speculation to say it would increase crime and disorder in the area. It should be up to the Police to say this but there had been no representation from the police or from any other similar body.

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

Councillor Angold-Stephens asked if the premises was empty at present. He was told that it was. He then asked if the lease with Wimpey's restricted the sale of alcohol. Ms Jung said she did not believe it to be true, but anyway that was not a licensing matter.

Councillor Mrs Brooks asked about Mr Erbil previous business experience. She was told that his family had run a jewellery business, which had five shops of which he was involved in managing. Mrs Brooks then asked how he would handle the under 18's who wanted alcohol. She was informed that he was a personal licence holder and would ask anyone looking underage, for their ID.

Councillor Mrs Smith asked why Mr Erbil had a personal licence and was told that his uncle owned an Off Licence and Mr Erbil would run this for him from time to time. Mrs Smith then asked if there was some measure of control over the selling of alcohol. She was told that they were willing to enter into discussions over their conditions. The sale of alcohol would be limited to the shelving as specified on their amended floor plan.

Councillor Angold-Stephens asked how practical was it to ask all customers to leave in an orderly manner, as stipulated in one of their conditions. Ms Jung said the idea was to have signs asking customers to leave quietly.

Councillor Mrs Brooks asked why it was necessary to open until 11pm for the sale of food and wine. She was told it was to allow more choice and to compete with other, bigger commercial stores in the area. 11pm was not an unreasonable hour.

Councillor Mrs Smith asked if they had complied with the Public Notice requirements and was told by officers that they had.

(d) Questions for the applicant from the objectors

Councillor Mrs Gadsby asked if Mr Erbil had done a survey of the area to establish the need for a 'mini-mart' and did he know that there would be a Lidl supermarket opening up near him. Mr Erbil replied that he did make a survey of the area and there was a 15-20 minute walk between the existing business and his shop. He would not invest in this business otherwise. It would be handy for local people and not just for alcohol. However he did not know about the Aldi and the Lidl shops opening. He had only found that out today.

Asked how he would avoid closing down as other shops were. Ms Jung answered that there were no comparable shops nearby and this would be for local people.

Ms Paul said her bedroom was above the shop, and asked if the shutters would go down at 11pm as the noise would disturb her. Councillor Mrs Smith asked what sort of external security measures they had and when would the shutters go up and down. Ms Jung said they would go up between 8.30 and 9am and come down between 10.30 to 11pm. The supermarket would open and close at the same time and this would not be affected by the selling of alcohol.

(e) Presentation of the Objector's case

Councillor Mrs Gadsby began by stating she was representing Ms Maraldo, who had called a residents meeting at the Town Hall. She was surprised to see how many residents did not want to see a food store in this location. There was a lot of competition in the area, and they were worried about parking in the vicinity. They were also worried about the sale of alcohol and about the opening times; Tesco closes at 10pm. It is also a residential area, where people live, if the licence were to be granted it should be limited to 8am to 7pm or 9pm. This would also devalue the flats if they wanted to sell.

Ms Paul said her main concern was that she lived above the shop. She could hear the shutters and the buzzer as people walk in and out the shop.

Ms Saunders said that Waltham Abbey did not need another licenced premise and they should be cutting back and not increasing them.

The Licensing Enforcement Officer advised that a noise abatement order could be served on the premise if thought warranted. If the quality of life was disturbed then a noise team could look into it. But these responsible authorities had not commented on this and not made any representations.

(f) Questions for the Objectors

There were no questions for the objectors.

(g) Applicants Closing Statements

Miss Jung said the objections were not licensing objections and not enough to reject this application. The licensing hours should be in line with the opening hours.

(h) Objectors Closing Statements

The objectors had nothing more to add.

(i) 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 local residents and the ward councillor.

RESOLVED:

That the application for a premises licence for 43 Highbridge Street, Waltham Abbey be granted subject to the following amendments and additions to the conditions:

- (a) that the word 'all' be deleted from the condition asking customers to respect the surrounding and behave in an orderly manner;
- (b) the shelf spaces for alcohol be designated as shown on the altered floor plan;
- (c) that the Sunday opening hours be altered to 9am to 10.30pm; and
- (d) waste to be contained in the designated area at the rear of the shop.

CHAIRMAN