

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 4 February 2010

Place: Council Chamber, Civic Offices, **Time:** 10.10 am - 5.55 pm
High Street, Epping

Members Present: Mrs P Smith (Chairman), D Dodeja, Mrs M McEwen and J Wyatt

Other Councillors: J Hart and A Lion

Apologies: Mrs P Richardson

Officers Present: A Mitchell (Assistant Director (Legal)), K Tuckey (Senior Licensing Officer),
D Baker (Planning Officer), R Gardiner (Environmental Health Officer),
Ms N Glasscock (Licensing Enforcement Officer) and G J Woodhall
(Democratic Services Officer)

103. 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.

104. APOLOGIES FOR ABSENCE

Councillor Mrs M McEwen had agreed to stand in for Councillor Mrs P Richardson, who had tendered her apologies for this meeting.

105. DECLARATIONS OF INTEREST

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

106. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

107. 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	Applications for Hackney Carriage Drivers' Licences	1

108. APPLICATIONS FOR A HACKNEY CARRIAGE DRIVER'S LICENCE

(a) Mr M M Qasim

The Sub-Committee considered an application by Mr M M Qasim for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs M McEwen and J Wyatt. 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 (Legal Services) informed the Sub-Committee of the circumstances for 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 applicant then made a short closing statement to the Sub-Committee before 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.

(b) Mr M O Ayyaz

The Sub-Committee considered an application by Mr M O Ayyaz for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs M McEwen and J Wyatt. 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 (Legal Services) informed the Sub-Committee of the circumstances for 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 applicant then made a short closing statement to the Sub-Committee before the Chairman requested that the applicant leave the Chamber whilst the Sub-Committee debated his application in private. The Sub-Committee invited the Applicant back into the Chamber to answer further questions before requesting the Applicant to leave again whilst his application was debated in private. The Chairman invited the Applicant back into the Chamber and informed him of the Sub-Committee's decision.

(c) Mr F Ahmed

The Sub-Committee considered an application by Mr F Ahmed for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs M McEwen and J Wyatt. 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 (Legal Services) informed the Sub-Committee of the circumstances for 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 applicant then made a short closing statement to the Sub-Committee before 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.

(d) Mr Tuffs

The Sub-Committee considered an application by Mr Tuffs for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Mrs P Smith, Mrs M McEwen and J Wyatt. 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 Director (Legal Services) informed the Sub-Committee of the circumstances for which the licence could not be issued under delegated authority, and that the Council had received correspondence from Mr Tuffs stating he would not be able to attend the Sub-Committee meeting. The Sub-Committee felt that the application should be deferred until the next scheduled meeting so that Mr Tuffs could attend.

RESOLVED:

- (1) That a Hackney Carriage Driver's Licence be granted to Mr M M Qasim, subject to the Council's standard terms and conditions;
- (2) That a Hackney Carriage Driver's Licence be granted to Mr M O Ayyaz, subject to the Council's standard terms and conditions and the production of a valid International Driving Licence in the Applicant's name;
- (3) That a Hackney Carriage Driver's Licence be granted to Mr F Ahmed, subject to the Council's standard terms and conditions; and
- (4) That the application for a Hackney Carriage Driver's Licence by Mr Tuffs be deferred until a future meeting of the Sub-Committee.

109. INCLUSION OF PUBLIC & PRESS

RESOLVED:

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

110. BREACH OF TAXI INTERIM TEST

The Sub-Committee was informed that the Council's Hackney Carriage Vehicle Licence conditions required vehicles to be submitted for interim examinations at testing premises approved by the Council. A number of Drivers were in breach of this condition, despite two reminders, and had been referred to the Sub-Committee for consideration.

The Sub-Committee noted that, following publication of the agenda, inspections had been satisfactorily completed for five of the Applicants so their licences could continue, one Applicant would be out of the Country until 21 February 2010 and had not been working so this application could be deferred pending the Applicant's return, whilst the vehicle of one Applicant had been 'written off' and the plate surrendered to Licensing Officers.

The Chairman adjourned the meeting for ten minutes at 11.30am.

RESOLVED:

(1) That the Hackney Carriage Vehicle Licences for the following Applicants be continued as inspections had now been satisfactorily carried out:

- (a) Mr Shah Ali;
- (b) Mr J Tew;
- (c) Olympic Taxis;
- (d) Mr Firth; and
- (e) Mr Bashir;

(2) That the Hackney Carriage Vehicle Licence for Mr Ahmed be suspended pending the return of the Applicant to the United Kingdom and the satisfactory completion of an inspection; and

(3) That the Hackney Carriage Vehicle Licence for Mr Uddin had been revoked following its 'write-off' by the insurance company and the return of the vehicle plate to the Council.

111. REQUEST TO REVIEW A PREMISES LICENCE - THE MINX, 126 HIGH ROAD, LOUGHTON

The Sub-Committee considered an application from the Police for the Premises Licence at the Minx Bar in Loughton to be reviewed. This item was presided over by Councillors Mrs P Smith, D Dodeja and J Wyatt. The Chairman welcomed the participants and requested that they introduced themselves to the Sub-Committee. In attendance on behalf of Essex Police were Mr. N Sykes (Barrister) and Inspector T Simons. In attendance on behalf of the Premises were Mr. T Shields (Solicitor), Mr. R Laws and Mr. K Ireland (Trust Inns), Mr. N Din (Designated Premises Supervisor) and Mr. A Hayles (Premises Duty Manager). Also in attendance were D Baker (Planning Officer), R Gardiner (Environmental Health Officer), R Nigam and Ms S Caruth (Child Protection Officers). The objectors in attendance, who had all made representations prior to the meeting, were: Mr. M Brown; Mr. M Pigeon; Mr. D Linnell (Loughton Residents Association); and Mr. R Griffiths. Councillor J Hart was in

attendance as the District Council Ward Member for Loughton High Road. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Assistant Director (Legal) informed the Sub-Committee that an application from Essex Police to review the Premises Licence had been received for the Minx Bar in Loughton following a number of incidents of disorder at the Premises since 1 September 2008. It was explained that only twelve of the 30 representations received had been published in the agenda as permission had not been forthcoming from the other 18 representations. The Solicitor for the Minx Bar was concerned about the large number of representations that had not been published as part of the agenda, as the Premises Licence Holder had not had an opportunity to examine the nature of these objections.

(b) Presentation of the Police's Case

Mr. N Sykes on behalf of Essex Police stated that there had been 31 incidents of crime and disorder linked to the Premises since 1 September 2008. The Designated Premises Supervisor at the Premises had initially agreed to have a number of conditions voluntarily imposed on the Licence in October 2009, these principally being: an incident book to be maintained for all incidents of crime and disorder occurring in or around the Premises; CCTV to be working and made available to the Police upon request; high visibility jackets to be worn by security staff when outside the Premises; no glassware to be allowed on the Premises; and the Licensing Authority to be informed in writing of any changes in particulars of the Designated Premises Supervisor. The Police believed that the Premises Licence Holder had failed to adhere to these conditions and consequently had requested a review of the Premises Licence under section 51 of the Licensing Act 2003.

It was further stated that the Police was not seeking a suspension or revocation of the Licence, but a reduction of the hours that the Premises could serve alcohol. In particular, the Sub-Committee would be requested to restrict the sale of alcohol hours on a Friday and Saturday night to 12.30am, with the premises to be closed by 1.00am, as there had been eleven incidents of crime and disorder after 12.30am. In addition, the Police would request that: an incident book should be kept of all incidents in or around the Premises; no glasses to be taken off the Premises; and the smoking area to be moved to the rear of the Premises. Whilst, the Police was seeking a permanent application for the hours stated, it was emphasised that the Premises Licence Holder could enter a new application to further extend these hours in the future if the establishment kept to the revised hours for a suitable period of time with a subsequent reduction in crime and disorder at the Premises.

(c) Response of the Premises Licence Holder

The Solicitor representing the Premises Licence Holder, Mr. T Shields, advised the Sub-Committee that the current Licence conditions for the Premises were sale of alcohol until 2.00am on Fridays and Saturdays, and 1.00am on Thursdays and not as it was stated on the agenda. It was also stated that the Premises Licence Holder believed the representation from Councillor Hart had been received outside of the consultation period and should be disregarded. In addition, no evidence had been received by the Licensing authority regarding the representation from Mr. Brown and this should also be disregarded. The Committee's attention was then drawn to the contents of the Supplementary agenda which formed the basis of the Premises Licence Holder's case, and included photographs of the Premises along with the

policies in place at the Premises and numerous items of correspondence with the Police and Environmental Health Officers.

(d) Questions for the Police from the Premises

Inspector T Simons answered a number of general questions from Mr Shields, the Solicitor acting for the Premises Licence Holder:

- Inspector Simons was in charge of policing Loughton & Buckhurst Hill, and had been in situ for approximately a year.
- The first formal meeting with Mr Din had taken place in October 2009 regarding alcohol related problems at the premises, although Inspector T Simons had previously attended the premises for operational reasons.
- The Intelligence Report had compiled by P.C Lisle, and was a synopsis of the incident or STORM reports.
- There had been 28 reported incidents at the premises during the period September 2008 to December 2009; the number of convictions from these incidents was not known, although there had been various cautions issued.
- Complaints reported by the public were accepted unconditionally until they were proven to be false.

Mr. Shields now asked a number of questions of Inspector Simons relating to specific incidents at the Premises:

- It was accepted that the incidents which had occurred on 24 & 25 December 2009 were not necessarily linked.
- It was confirmed that the incident listed for 22 November 2009 occurred outside of the Marks & Spencer store opposite the Premises, but that it had involved two patrons of the Premises earlier that evening.
- The STORM (incident) report for the incident on 3 October 2009 had been compiled 11 days later.
- It was confirmed that the incident listed for 4 October 2009 had occurred at the Premises.
- It was accepted that the incident on 6 August 2009 listed as "...opposite the *Minx Bar*" had occurred on the opposite side of the road.
- The investigation of the sexual assault that was alleged to have occurred at the Premises on 9 August 2009 was still on-going.
- The location of the grassed area mentioned in the report for the incident which occurred on 3 October 2009 was confirmed as being adjacent to the Premises.
- It was confirmed that the incident listed for 18 April 2009 at the Premises had been withdrawn by the complainant
- For the incident on 9 August 2009 involving an assault on an underage drinker, it was confirmed that the 16 year-old complainant had walked past two other establishments when making his way to the Police station, and it was felt that the complainant was unlikely to have made up the story.
- The location of the incident for 29 November 2008 was confirmed as being near to the Premises.

(e) Presentation of the Children's Safeguarding Service's Case

The Chairman permitted Mr Nigam from the Essex Children's Safeguarding Service to present their case as their Legal Officer, Ms Caruth, had to attend Court in the afternoon.

Mr Nigam reiterated the Service's concerns that had been expressed in their representation regarding the sale of alcohol to persons under the age of 18. At least one serious incident involving children had occurred at the Premises when an

underage drinker had been the victim of an alleged sexual assault. The Service supported the proposed conditions to the Premises Licence from the Environmental Health Officer, and in particular the two relating to operating a proof of age scheme at the Premises and ensuring that children were supervised at all times when on the Premises.

In response to questions from the Premises Licence Holder's representative, Mr Nigam confirmed that the Service was not an investigative service and the only representation received about the Premises had been from the Police. The Service had not had any previous concerns regarding the Premises.

The Chairman adjourned the meeting at 1.10pm, and it reconvened at 1.50pm.

(f) Questions for the Police from the Objectors and Interested Parties

Inspector Simons confirmed that 56% of the alcohol related incidents in the Loughton High Road were attributable to the Minx Bar, in the opinion of the Police.

(g) Questions for the Police from the Sub-Committee

Inspector Simons confirmed that there had been several breaches of the additional Licence conditions that had been agreed with the Designated Premises Supervisor in October 2009. It was not known which CCTV system was in use at the Premises, but access to the footage had become acceptable since Mr Hayles had become the Duty Manager; the previous Duty Manager was considered to be obstructive towards the Police.

(h) Presentation of the Case from Environmental Health

Mr R Gardiner, an Environmental Health Officer from Epping Forest District Council, stated that the Council had received 32 complaints in relation to noise and public nuisance from the Premises over a period going back to 2008. On a number of occasions, a Duty Noise Officer had visited the vicinity of the Premises but a statutory noise nuisance had not been established. However, noise levels had caused concern on occasion. It was concluded that the Premises had the potential to cause a public noise nuisance and should be tightly controlled to control the level of disturbance. Environmental Health Officers were of the opinion that the current Licence conditions should be consolidated and corrected to ensure that they were clear and enforceable. Consequently, the Sub-Committee had received proposed clarified and corrected conditions for the Premises, along with a map to be attached to the Licence that clearly showed the patrol area for security staff at closing time.

(i) Questions for Environmental Health from the Premises

Mr Gardiner confirmed that he had visited the Premises himself on occasion and that the Premises had close scrutiny from Environmental Health due to the number of complaints received. Environmental Health Officers accepted that they had not compiled enough evidence to take action against the Premises, but there were serious concerns.

(j) Presentation of the Case from the local Planning Authority

Mr D Baker, a Planning Officer from Epping Forest District Council, stated that the Planning Authority was very concerned that the Premises caused public nuisance to many local residents through:

- patrons talking or shouting in the surrounding streets during the early hours of the morning;
- car doors being slammed and car radios switched on;
- patrons making noise whilst waiting for taxicabs; and
- other anti-social behaviour such as litter and urinating in gardens.

It was acknowledged that not all the public nuisance in the vicinity would be caused by patrons of the Minx but it was felt that they did contribute significantly to the problems in the locality. The local Planning Authority had objected to the extension of the Premises opening hours to 2.00am in November 2007 and now proposed that the opening hours of the premises should be restricted to 1.00am in order to reduce the public nuisance in the early hours of the morning.

(k) Questions for the Local Planning Authority from the Premises

It was acknowledged that there were other establishments in the area serving alcohol, but they were considered to be Public Houses rather than Club premises like The Minx. Queuing for entry to the Premises by patrons had been observed and hence the Premises was considered a Club establishment. The local Planning Authority felt that the level of complaints received about the Premises had vindicated its objections to the extension of the Licence over two years ago.

(l) Presentation of the Objectors' Cases

Mr. M Pigeon summarised his representation dated 31 December 2009, alleging numerous incidents of unacceptable noise and fighting in the early hours of the morning and unreasonable amounts of litter in both the nearby streets and his garden, including glass, cigarette packets and vomit. It was requested to restrict the Licence of the Premises to midnight for the sale of alcohol.

In response to questions from the Premises, Mr. Pigeon indicated the location of his residence, behind Forest Hall in Connaught Avenue, and confirmed that the frequent nature of the public nuisance in the nearby public car park.

Mr. M Brown summarised his two representations, which had been made on behalf of his tenants in Smarts Lane. The disturbances that had been reported included:

- noise disturbance in the early hours of the morning;
- smoking and drinking outside of the club by the entrance to the flats;
- broken glass littered across the private parking bays; and
- overflowing bins from the Premises left on the pavements or in the road.

It was felt that the owners of the Premises had taken no action to prevent these incidents and the establishment should not be permitted to remain open after midnight.

When questioned by the Premises Licence Holder's representative, Mr. Brown stated that he owned four flats in "The Triangle" in Smarts Lane, all of which had now been occupied for periods of between 6 and twelve months. The families previously in occupation had moved out because of the disturbances from the Premises and all the flats were now occupied by single tenants. None of the current tenants had made their own representations, although previous tenants had, and complaints had been frequently raised with the local Environmental Health authority. It was confirmed that there was a private five-space car park behind the flats, which were also being used as a smoking shelter for patrons of The Minx.

Mr. D Linnell, representing the Loughton Residents Association outlined his objections, which were being made of behalf of several local residents. The Association had received many reports from residents of crime and disorder, which had made local residents fearful of coming home late at night along the High Road. It was highlighted that Loughton High Road should be considered as a residential area rather than a town centre as all of the surrounding streets were comprised of houses and flats rather than shops and offices. Therefore, the Association objected to the renewal of the Licence, and urged the Sub-Committee to impose further conditions limiting the opening to midnight at the latest and relating to the control of patrons upon leaving the Premises. Mr. Linnell confirmed the identity of the three residents listed on the letter had requested the Association to make a representation on their behalf, but also added that the Association had received many more reports about the Premises. The basis for membership of the Association was also clarified for the benefit of all, including its annual subscription of £5 for membership.

(m) Presentation of the Premises' Case

Mr. Shields stated that he was representing two different parties at the hearing: Trust Inns, who had ownership of over 600 public houses and rented them out to tenants; and the Tenant, Mr. N Din, who had been in situ since 2004. Trust inns had owned the Minx since 2006 and felt that Mr Din was a good tenant as they had had no difficulties with him. Mr Din had felt that he had maintained a good relationship with the authorities until October 2009, as evidenced by the correspondence that had been provided for the Sub-Committee's consideration. The current permitted hours for the sale of alcohol had previously been confirmed, and it was added that the Premises currently did not open on a Sunday.

Mr Shields declared that the Premises was situated in Loughton High Road, which was a busy high street, opposite the Loughton BBQ take-away restaurant and near to Loughton London Underground Railway Station. The Hollybush was just along the street and the Nu Bar, which also opened until 2.00am was also in the vicinity. Attention was drawn to a series of photographs, which illustrated the location of the Premises within Loughton High Road, the fact that it only had one entrance and the proximity of other establishments. The grassed area adjacent to the Premises was known as The Triangle.

Mr. Shields disputed that the Premises was the sole cause of the issues being experienced late at night in Loughton High Road as there were three other bars and a late-night take-away restaurant in close proximity. For example, customers of the Loughton BBQ take-away restaurant would often use The Triangle to sit and eat their food. The Premises was a landmark that was often used as a reference. Similarly, not all the users of the nearby public car parks would be patrons of the Minx, as they could be going to either the Nu Bar or the Hollybush.

The Premises Licence Holder felt that it had had a good working relationship with the Police. Plastic glasses had been used for a number of months now, the CCTV system had been recently upgraded and "Challenge 21" was being operated to curb underage drinking. Environmental Health Officers had not prosecuted over noise issues, and the Premises Licence Holder strongly disputed that they were in breach of their licence conditions.

Mr. Shields stated that the Premises Licence Holder had no objection to including the extra three conditions requested by the Police on its licence in respect of keeping an Incident Book, retaining glasses within the Premises, and situating the smoking area at the rear of the Premises. In particular, it was emphasised that the smoking area

was already at the rear of the Premises and enclosed, therefore there was no reason for smokers at the Premises to leave the establishment as previously alleged.

With regard to the extra conditions requested by the Environmental Health Officer, it was emphasised that there was no explicit evidence of any noise nuisance emanating from the Premises. The following additional points were also made by Mr. Shields:

- a queue management policy was already in place;
- the Premises was already a member of the local Pubwatch scheme;
- it was felt that three external CCTV cameras would be sufficient to record the Premises whilst it was open;
- agreed to make announcements over the Public Address system to encourage customers to leave quietly;
- the Premises Licence Holder was happy to regularly patrol the perimeter of the Premises, and welcomed the reduction in size of the stipulated patrol area;
- the Premises would not allow children to enter the Premises unaccompanied or approach the bar;
- the Premises Licence Holder still requested the extra hour for trading on bank holidays and other special days listed;
- it was felt that the condition stipulating that four out of every ten customers should be requested to leave quietly was neither enforceable or practical;
- to maintain contact with the Police was considered too prescriptive;
- all other proposed amendments by the Environmental Health Officer were either already on the licence or the Premises would not oppose their imposition.

With reference to the representation made by the Safeguarding Children's Service, Mr Shields stated that Essex County Council had not communicated any issues with the Premises Licence Holder. The alleged sexual assault on a minor was unsubstantiated and the victim had delayed approaching the Police to make their complaint. No direct evidence against the Premises had been offered by the local Planning Authority.

With regard to the representations made by the local residents, Mr. Shields reminded the Sub-Committee that the Premises was in close proximity to two busy public car parks, and that the Premises could not be responsible for all of the anti-social behaviour occurring there. The guidance for the Licensing Act 2003 clearly stated that premises could not be held accountable for the behaviour of patrons once they had left an establishment and that any subsequent anti-social behaviour was the personal responsibility of patrons. The Premises Licence Holder did all he could to prevent crime and disorder and anti-social behaviour in the immediate vicinity.

The Designated Premises Supervisor, Mr. Din, stated that he was disappointed that the review was taking place as he had been working with the Police over a period of time to reduce the number of incidents. Constructive discussions had taken place with the Police's Divisional Licensing Officer, Mr. S Fisher, in the past, but Mr. Din's first meeting with Inspector Simons in October 2009 had been the first indication of any problems. The Premises had implemented the additional conditions requested by the Police at that meeting but still perceived a hostile attitude from the local Police. Attention was drawn to an article that had been published in the local newspaper where Inspector Simons had attributed 60% of the incidents occurring in Loughton High Road to the Premises, which had a detrimental effect on business. Mr. Din stated that he felt victimised, the position adopted by the local Police was unfair, and the review was unwarranted.

A letter had been written to Chief Inspector Ray dated 15 December 2009 outlining Mr. Din's grievances, and this was brought to the notice of the Sub-Committee. Mr. Din stated that the Premises was a fairly small venue, which was run in compliance with all the legal obligations that had been placed upon it.

Mr. Shields then asked Mr. Din a number of questions, to which the following responses were given:

- it was confirmed that the first meeting between Mr. Din and Inspector Simons had occurred on 26 October 2009;
- the first floor of the Premises was a function room, but it was very rarely used;
- the second floor of the Premises contained offices and a storeroom;
- was not aware of the proposed restriction on the opening hours of the venue until approximately a week ago;
- reiterated the circumstances around the second proposed meeting with the local Police scheduled for 2 December 2009 and that an alternative time for that afternoon was offered to the Police.

(n) Questions for the Premises from Environmental Health

In response to questions from Environmental Health, Mr. Shields declared that while the Premises Licence Holder would comply with any conditions laid down, there were issues of enforceability in preventing Security Staff from patrolling too far from the Premises. Mr. Din confirmed that the security staff had been supervising the specified area, a log of kept of all patrols, and that the security staff always wore high-vis jackets.

(o) Questions for the Premises from the Police

Mr Din indicated the proximity of Loughton London Underground Station to the Premises and confirmed that the Premises had joined the local "Pubwatch" scheme. Mr Din had previously spoken to Chief Inspector Ray by telephone and had stated his agreement of the extra conditions that had been imposed on the Premises following their first meeting with the local Police in October 2009. Mr. Din reiterated his desire to work in partnership with the local Police.

Mr. Sykes quoted from a letter written by Chief Inspector Ray indicating his support for the review under progress.

(p) Questions for the Premises from the Sub-Committee

Mr. Din asserted that the Premises employed a Disc Jockey three days per week, and there were restrictions on the volume levels of the music played. It was pointed out that both the Nu Bar and Hollybush nearby played music, and no link had been established between music at the venue and anti-social behaviour. The extra conditions agreed at the meeting with the local Police in October 2009 had been implemented immediately, although consultation had to take place with Trust Inns to actually amend the Premises' Licence. A Licence check had taken place on 28 November 2009 and found that all conditions were being observed. Mr Din stated that although the Premises was managed by Mr. A Hayles, he was in attendance at the Premises every weekend.

Mr. Shields stated that the Premises Licence Holder would not oppose the condition to have regular contact with the local Police every four months if it was agreed by the Sub-Committee. Mr. Din added that he had always done his best to comply with Police requests for footage from the CCTV cameras, and that footage was always kept for at least 31 days afterwards.

Mr. K Ireland from Trust Inns confirmed that the group had purchased the Premises in October 2006. Regular visits or telephone calls were made to the Premises and Mr. Din was considered a model tenant.

Mr. A Hayles, the Manager of the Premises, confirmed that he would be outside with the Security Staff when the Premises closed to ensure customers left the establishment quietly. Mr. T Shields assured the Sub-Committee that customers were encouraged to leave the Premises quietly, but felt that the proposed condition to specifically ask four out of every ten customers that left the Premises was arbitrary and left the Premises at risk of prosecution. Mr. Shields confirmed that the Premises Licence Holder wished to retain the existing hours for their licensed activities.

(g) Closing Statements

Mr. Brown, one of the Objectors, urged the Sub-Committee to restrict the hours of opening for the Minx and have it close at a reasonable time, as this would be both measurable and enforceable.

Mr. Shields, for the Premises, acknowledged that this was a difficult case however the Tenant had been in place for six years and had previously worked in partnership with the Police. No evidence had been provided for any breach of a Licence condition for the Premises, and the Sub-Committee were reminded to consider proportionality and personal responsibility for individuals when they were away from the Premises. Following the first meeting with Inspector Simons in October 2009, the Designated Premises Supervisor had complied with the additional licence conditions agreed, but there had been a delay in formally amending the Licence because of Trust Inns. It was because of this delay that the Police had requested the Licence review.

Mr. Shields stated that the local Police appeared to have a "if it's anywhere near the Minx then it must be the Minx" attitude, despite there being two other bars and a take-away restaurant in the vicinity, all of whom opened late at the weekend. Undoubtedly some incidents did occur at the Premises, but not all the incidents alleged by the Police. In addition, Environmental Health had not pressed any charges against the Premises.

The Sub-Committee were reminded that the nearby car parks were public car parks and not car parks solely for the Premises. There had been no complaints from the current tenants in the flats nearby, and there was no reason for smokers from the Premises to smoke by the flats as previously alleged. The last permitted entry to the Premises was at 11.30pm, so there could not be any migrating customers from the Hollybush or Nu Bar when both establishments closed at 1.00am.

Mr. Shields had concerns over how the matter had been dealt with. He contended that the Police report was somewhat confusing, with one incident listed as occurring at the Marks & Spencer store in Loughton High Road, not the Premises, whilst another incident was not reported until eight days later. A third incident had occurred at 7.00pm in the evening, before the Premises had opened. The evidence presented had been compiled after the decision to review the licence had been taken, which the Premises Licence Holder felt was not the correct procedure.

Mr. Shields concluded by stipulating that the level of incidents directly attributable to the Premises did not warrant a restriction of its opening hours, and any such decision by the Sub-Committee would be inappropriate based upon the evidence presented. The Premises Licence Holder would not object to the imposition of all other suggested conditions onto their Licence.

Mr. Sykes argued that the Police was of the opinion they had secured a voluntary agreement with the Premises, but felt that the new conditions had not been observed and hence the request for a review of the licence. Incidents at other nearby premises were not as bad or as frequent as those that occurred at the Minx, and the Police felt that 28 incidents out of a possible 42 were directly attributable to the Premises. The Minx Bar was considered the worst premises in Loughton High Road and the large number of incidents after midnight was the reason for the request to restrict the hours on Friday and Saturday nights. The Police were pleased that the Premises Licence Holder had agreed to the imposition of the three additional conditions on the its licence and the Sub-Committee was requested to restrict the Sale of Alcohol hours to 12.30am with a 1.00am closing time on both Friday and Saturday nights.

The Sub-Committee retired to consider its verdict in private session.

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

The Sub-Committee considered the application on its own merits and based its decision on: the application for a licence review submitted by the Police; the Policy of the Licensing Authority; the relevant representations that had been received; the Licensing Objectives contained within the Licensing Act 2003; and the provisions within the Human Rights Act 1988. During its deliberations, no further advice was given by the Officers present.

The Sub-Committee found that there was sufficient submitted information to establish concern that Crime and Disorder had been committed in, on and in the vicinity of the premises, and that there had been sufficient cases to warrant a change in the reduction in the licensing hours and the amended conditions. The Sub-Committee agreed to the reduction in hours, both for sale of alcohol and open to the public, requested by the Police and the amended conditions proposed by Essex Police, Environment Health and the Safeguarding Children's Service.

The Sub-Committee returned to inform all interested parties of its decision.

RESOLVED:

(1) That, following the application to review the Premises Licence at The Minx Bar in Loughton High Road, the sale of alcohol hours be varied to 10.00am to 12.30am on a Friday and Saturday;

(2) That the opening hours to the public be varied to 10.00am to 1.00am on a Friday and Saturday;

(3) That the following conditions consistent with the Operating Schedule be applicable to the licence with immediate effect:

(a) The Prevention of Crime and Disorder:

(i) Suitable and sufficient external lighting shall be installed to adequately light the façade and immediate footpath adjacent the façade of the premises as agreed and approved by the Police (within 3 months of the date of this condition being imposed), to be maintained and used after 21.00 hours;

(ii) Radio pagers on EMR frequency to be used by door supervisors;

(iii) No entry granted to persons who appear to be intoxicated;

- (iv) No pricing or promotions that encourage excessive drinking;
- (v) Staff trained on drug awareness, under age drinking and other issues regarding crime and disorder on induction and at regular staff meetings;
- (vi) Queue management policy in operation to be approved by the Police within 3 months of the date of this condition being imposed;
- (vii) The premises will participate in the local recognised pub watch or equivalent scheme;
- (viii) The Designated Premises Supervisor (DPS) shall contact the Police Licensing Officers every 4 months to review compliance with conditions and discuss any incidents that have been recorded;
- (ix) The premises is to keep and maintain an incident book which is to detail all incidents of crime and disorder both inside and directly outside the premises;
- (x) No glassware to be taken off the premises by the patrons;
- (xi) The smoking area is to be positioned at the rear of the premises and patrons are not to be allowed to smoke outside the front of the premises;
- (xii) SIA supervisors to wear hi-visibility when outside the premises;
- (xiii) Closed Circuit Television (CCTV) surveillance cameras to be placed on the exterior of the building. The CCTV cameras shall be installed, maintained and operated at the location marked on a plan of the premises as approved by the Police within 3 months of the date of this condition being imposed. All images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days. The images are to be made available to the Police or Local Authority for inspection on request. The CCTV system shall continually record whilst the premises remain open for licensable activities and during all times that customers remain on the property. All equipment should be in accordance with Code of Practice BS/EN50132 -7 & BS8495/2007; and
- (xiv) A minimum of three SIA registered security guards to patrol the premises to ensure that patrons leave responsibly and with a minimum of disturbance between 21.00 hours and closing;

(b) Public Safety:

- (i) Capacity of 150 as calculated by the Fire Authority;
- (ii) Premises to have a Fire Certificate;
- (iii) Fire Action Notices to be displayed and fire evacuation procedure in place;
- (iv) Emergency lighting system maintained and in operation;
- (v) Staff trained fully in all safety issues;
- (vi) Weekly alarm, fire risk and health and safety checks carried out; and

(vii) Escape routes are monitored and maintained and fire action notices on display;

(c) The Prevention of Public Nuisance:

(i) The Designated Premises Supervisor or door supervisors will ask all customers to leave quietly;

(ii) PA announcement made to encourage customers to leave quietly at the end of the licensed hours;

(iii) The Designated Premises Supervisor (or representative) shall monitor the volume of music emanating from the premises and adjust the volume to ensure that any amplified sound or other music from the licensed premises does not cause a public nuisance;

(iv) The Designated Premises Supervisor (or representative) shall carry out a daily check of the near vicinity of the premises (shown as the patrol area on the attached plan marked LN210002365 - plan) and arrange for clearance of any litter including any glass bottles discarded by customers or associated with the Minx;

(v) Notices to be placed at all exits and around the premises in places where they can be easily seen and read requiring customers to leave the premises and the area quietly;

(vi) A minimum of two roaming door supervisors registered with the SIA will patrol outside in the near vicinity of the premises, shown as the patrol area on the plan marked LN210002365 for a minimum of 1 hour before closing and at least 30 minutes after the designated closing time of the premises. The patrolling supervisors shall wear high visibility jackets or vests. The patrolling supervisors shall cooperate with the police and any other enforcement agencies and will ask patrons of the Minx to leave the area quietly;

(vii) An appropriate automatic noise control device must be used for any amplified sound. The device should be set so that the volume of any amplified sound emanating from the premises does not cause a public nuisance;

(viii) A specific taxi operator/s will nominate for staff and customers use. The company's telephone number will be advertised to customers;

(ix) Named unpeelable stickers or other indelible mark to be put on all disposable containers to enable identification of the source of the container;

(x) Deliveries and services are carried out between the hours of 9:00am and 7:00pm;

(xi) To prevent glass noise, waste bags containing bottles to be stored in garden and bins are to be filled during daylight hours during the following day;

(xii) No entry into the establishment after 23.30 hours or re-entry after 00.55 hours. All customers intending to re-enter the property must be provided with a pass or other means of proving that they are re-entering the property; and

(xiii) the requested additional hour refused on 1 January, Valentines Night, Burns Night, St David's Day, Halloween, Boxing Day, 27 December, 28 December and 30 December;

(d) Protection of Children from Harm:

- (i) Proof of age scheme in operation. The scheme to be submitted and approved by the police within 3 months of the date of this condition being imposed; and
- (ii) Children are welcome provided they are supervised at all times and do not approach the bar area.

CHAIRMAN