

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 7 December 2010

Place: Council Chamber, Civic Offices, **Time:** 10.50 am - 5.15 pm
High Street, Epping

Members Present: Mrs M McEwen (Chairman), Ms J Hedges, J Knapman and A Lion

Other Councillors: L Leonard

Apologies:

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

52. DECLARATIONS OF INTEREST

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

53. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

54. 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>
5	Hackney carriage Driver's Licence – Mr M Ward	1
6	Hackney carriage Driver's Licence – Mr N Feher	1
7	Hackney carriage Driver's Licence – Mr JB Mathuranayagam	1
8	Hackney carriage Driver's Licence – Mr R Pluck	1
9	Hackney carriage Driver's Licence – Mr F Akar	1

55. HACKNEY CARRIAGE DRIVER'S LICENCE

The Sub-committee considered the renewal of a Hackney Carriage Driver's Licence for Mr M Ward. The three Councillors that presided over this item were Councillors Mrs M McEwen, Mrs J Hedges and A Lion. 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 renewed 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.

RESOLVED:

That a Hackney Carriage Driver's Licence be granted to Mr M Ward, subject to the Council's standard terms and condition.

56. HACKNEY CARRIAGE DRIVER'S LICENCE

The Sub-committee considered the application for a Hackney Carriage Driver's Licence for Mr N Feher. The three Councillors that presided over this item were Councillors Mrs M McEwen, Mrs J Hedges and A Lion. 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 granted 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.

RESOLVED:

That a Hackney Carriage Driver's Licence be granted to Mr N Feher, subject to the Council's standard terms and condition with an additional condition that he undergo a CRB check on the renewal of his licence next year.

57. HACKNEY CARRIAGE DRIVER'S LICENCE

The Sub-Committee considered an application for a Hackney Carriage Driver's Licence for Mr JB Mathuranayagam. The three Councillors who presided over this

item were Councillors Mrs M McEwen, Mrs J Hedges and A Lion. 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 granted 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 decision.

RESOLVED:

That the application by Mr JB Mathuranayagam for a Hackney Carriage Driver's Licence be refused as he did not meet the Council's Licensing Criteria in respect of his record from the Criminal Records Bureau, which had revealed relevant driving offences.

58. HACKNEY CARRIAGE DRIVER'S LICENCE

The Sub-committee considered the renewal of a Hackney Carriage Driver's Licence for Mr F Akar. The three Councillors that presided over this item were Councillors Mrs M McEwen, Mrs J Hedges and A Lion. 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 renewed 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.

RESOLVED:

That a Hackney Carriage Driver's Licence be granted to Mr F Akar, subject to the Council's standard terms and condition.

59. HACKNEY CARRIAGE DRIVER'S LICENCE

The Sub-Committee considered an application for a Hackney Carriage Driver's Licence for Mr R Pluck. The three Councillors who presided over this item were Councillors Mrs M McEwen, Mrs J Hedges and A Lion. 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 applicant was not present and the Sub-committee considered his application in his absence. The Legal Officer informed the Sub-Committee of the circumstances under which the licence could not be granted under delegated authority.

RESOLVED:

That the application by Mr R Pluck for a Hackney Carriage Driver's Licence be refused as he did not meet the Council's Licensing Criteria in respect of his record from the Criminal Records Bureau, which had revealed relevant criminal and driving offences.

60. INCLUSION OF PUBLIC AND PRESS

RESOLVED:

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

61. VARIATION OF A PREMISES LICENCE - 246-250 HIGH ROAD, LOUGHTON, ESSEX

The members who presided over this application were Councillors Mrs M McEwen, J Knapman and A Lion.

The Chairman welcomed the participants and introduced the members and offices present and the requested that the participants introduce themselves to the Sub-committee.

In attendance on behalf of the application was Mr R Taylor, Solicitor, and Mr D Haines, General Manager, Morrisons, Loughton.

In attendance on behalf of the objectors was Dr D Taylor, a local resident, Councillor R Barrett, ward councillor and local resident and Councillor L Leonard, speaking on behalf of David Linnell of the Loughton Resident's Association.

(a) The Application before the Sub-committee

The Assistant Director (Legal), Alison Mitchell, informed the Sub-committee that an application had been received on 15 October 2010 for a variation of an existing premises licence for Morrisons Supermarket, 246-250 High Road, Loughton.

The District Council had received representations from 18 interested parties; 3 in favour and 15 against. Due to the objections received, the application could only be decided by Sub-committee.

(b) Presentation of the Applicant's Case

Mr R Taylor introduced the applicant's case, saying in essence it was a straightforward case to enable the supermarket to sell alcohol from 6am onwards and to remove embedded conditions. At present they have a licence to sell alcohol from 08.00 to 23.00, with variations for Sunday (10.00 to 22.30); Good Friday (08.00 to 22.30); and Christmas Day (12.00 to 15.00 and 19.00 to 22.30). In busy times, such as the run up to Christmas, they would be able to open up a bit earlier (7am) as they did last Christmas, but were not able to sell alcohol until 8am. They were not seeking

to use it all year round, but only for busy peak trading times. Similar applications had been made around the country for all Morrisons' stores to get them into line. They were also seeking to remove the embedded conditions as they were anachronistic.

As for the representations received, he wanted to emphasise that they were not seeking to extend opening hours into the night. As for Crime and Anti-social Behaviour, the extension of hours would only be used occasionally; there would be no change to the delivery schedules so there would not be any increase in noise levels. They would look into the complaint about the Warburtons early delivery noises. As for Sunday trading, they were only allowed six hours trading on a Sunday and the Christmas Trading Act says that they cannot open at all on Christmas Day. The proposal that drunken youths would cause trouble, well, that would be a late night problem, and they were not asking for a late night extension. As for selling alcohol to under age patrons, Morrison's had never been prosecuted for underage selling of alcohol. They operate a 'Challenge 25' system and the group uses 'secret shoppers' to check out its stores.

In conclusion this was an application for flexibility.

(c) Questions from the Sub-committee to Applicants

Members asked what was the stores current opening times and were told that they opened on Monday, Tuesday and Wednesday from 8am to 9pm; on Thursday and Friday from 8am to 10pm; on Saturdays from 8am to 9pm; and on Sundays from 11am to 5pm and on Christmas Eve until 7pm. Members then asked why they did not align the hours asked for to sell alcohol to their current opening hours. Mr Taylor said that this was an operational point for uniformity across their estate. As for the other days asked for, on Sundays and Christmas day, other laws apply.

Members were concerned about a possible opening time of 6am, will there be extra noise generated? Mr Haines said they would not open at 6am as it would make no business sense. Mr Taylor added that they were willing to keep the Sunday hours exactly as they were. In the past they have made application of extensions just for the month of December. If any problems occur then a review could always be called for. But, he stressed that Morrisons had never been reviewed.

Members queried the removal of the embedded conditions, what were these? Mr Taylor replied that they were the different hours for Good Friday and Christmas Day. They were seeking to keep them all the same and tidy up the conditions.

Asked if they had any plans to change their opening hours other than for the December period, Mr Haines said that they did not.

(d) Questions to the Applicants from the Objectors

Councillor Leonard said that Supermarkets follow different policies for where they are situated, what was your policy here? Mr Taylor replied that Morrisons only wished to have the ability to open earlier on the run up to Christmas.

Councillor Leonard said that their Loughton Store was in the centre of town with a large residential area and you are now saying that everything in your estate has to match, why do you have to do this? Mr Taylor said they had to go back to Hansard, when it talked about flexibility of opening hours, that premises should have flexibility. We just want that flexibility; we have no hidden agenda, but would like to be able to open earlier when it was needed.

(e) Objectors Case

Dr Taylor, a local resident, said that an extension of hours was bad for the community in regards of alcohol consumption. The flexibility asked for was capable of infinite interpretation, extra trading hours was damaging. A 2006 EU report indicated that this was a cause for damage to youths and young people because of the increased use of alcohol. The price of alcohol had declined over the 50 years and there were links between affordability and consumption, creating a higher risk for drinkers. The consequence of relaxed trading was recognised internationally. Also there was the added risk that young people would purchase alcohol by sending in older friends or relatives to purchase it for them.

Councillor Barrett, Ward Councillor and local resident, pointed out that out of the 18 representations received, 15 were objections to the application. Morrisons were a good company and he lived close to the store. There was noise from vehicles and dustbins etc. and this was a residential area and he did not want to add further to this by increasing their hours. People who back on to the store did not want any noise at night. There was also the temptation to young people to buy alcohol. He had to listen to his residents and they are against this application and he asked that the Sub-committee refuse this application.

Councillor Leonard added that the public were against this and also asked that this be refused.

(f) Questions to the Objectors

Mr Taylor asked if it was clear the objectors were objecting to early mornings or late night opening. Councillor Leonard said that they had picked out different aspects to object to.

Mr Taylor asked Dr Taylor if he had any evidence that extended opening hours of a Morrison's Supermarket had caused any problems anywhere. Dr Taylor said that there was no particular evidence, but the EU had issued a report on the dangers on the increased availability and use of alcohol.

Mr Taylor said that the Police had no objections under Crime and Disorder, do you object to that? Dr Taylor said the Police were perhaps not doing their job properly.

(g) Objector's Closing Statement

Councillor Barrett said as a Councillor he had to listen to the local residents. There was a need to look at cheaply sold alcohol in this country. Loughton is a small village and Morrisons were only looking to their profits. The main concern was that they wanted to sell alcohol from 6am to 11pm and alcohol was a dangerous substance that people got addicted to.

(h) Applicant's Closing Statement

Mr Taylor reiterated that this was an application for flexibility to sell alcohol when it deemed suitable. Home Office guidance was to enable shops to sell alcohol when they were open to sell food. There was no evidence given today against this application but they talked about late night problems and noise, but this application was for the earlier selling of alcohol; and no statutory bodies had made any objections against it.

This was a good store and a responsible company seeking to service its customers, and there was no reason why we should not have it. I ask that you grant this application.

(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 representation made by the applicant, the local Councillors and the local residents.

RESOLVED:

- (1) That the application for the variation of a Premises licence to supply alcohol, for 246-250 High Road, Loughton, Essex be granted just for the month of December with the hours of 06.00 to 23.00;
- (2) That the hours for the supply of alcohol on Good Friday and Christmas Day be altered to 08.00 to 22.30; and
- (3) All embedded conditions to be removed.

62. STREET TRADING CONSENT - RECTORY LANE, JUNCTION OF BORDERS LANE, LOUGHTON

The members who presided over this application were Councillors Mrs M McEwen, J Knapman and A Lion.

The Chairman welcomed the participants and introduced the members and offices present and the requested that the participants introduce themselves to the Sub-committee

In attendance on behalf of the applicant was Mr M Cohen, advocate, and Mr R Burns the applicant. No objectors were present.

(a) The Application before the Sub-committee

The Assistant Director (Legal), Alison Mitchell, informed the Sub-committee that an application for a Street Trading consent (and not a licence, as Mr Cohen had argued) at the junction of Borders lane and Rectory lane, Loughton had been received.

The District Council had received representations from Loughton Town Council, Loughton Residents Association, the authority's Environment and Neighbourhood Officer and a local resident.

A tabled note from the Environment and Neighbourhood Officer had indicated that he had come to an agreement with the applicant about litter and the area it should be collected from and had, as a consequence, withdrawn his representation.

(b) Presentation of the Applicant's Case

Mr Cohen started by saying that if the Sub-committee did not agree with granting of a licence then he would be content with asking for consent for street trading.

He addressed the objections received. One of the points raised was that it was to be sited in an inappropriate location. This was a slip road alongside Rectory Lane and has a grass verge used for parking. The serving hatch of the trailer would be facing

the pavement and not the road and would not interfere with the traffic passing. The Town Council had said this was where a cycle lane would go, but there was no budget provision for a cycle lane and no certain plans for its placement. The submission from the LRA said it would attract youngsters; well, it is to be placed outside a college. It would allow people to stop and rest, which was a good thing. There would be no lights facing out onto the traffic side, and the trailer would be painted a dark green to blend in. As for the people who might park illegally, the applicant could not be held responsible for this, but there would be no passing traffic as it was a lay-by.

The applicant, Mr Burns had agreed with the Environment and Neighbourhood Officer that he would adopt his three conditions along with the plan for litter collection. Arrangements for waste removal had already been made, including waste water, food and packaging.

As for any noise pollution, this was already a busy road.

(c) Questions to the Applicant

Members asked to be shown exactly where the trailer was to be parked. Mr Cohen said that consent did not have a marked pitch, unlike a licence. The Council cannot lawfully mark a spot. It will be parked on the left hand side of the slip road and it could be conditioned to be, for example, no less than 6 feet from the junction of Borders Lane. As the applicant would arrive early they would always have places to park.

Asked who the target customers were Mr Cohen said that it was primarily the college students, the E15 acting school and the trading estate.

It was noted that the college did not have to be consulted except via a notice in a newspaper.

As the applicant was working alone he could not leave the trailer during the day to clean up the surrounding area, he could only do this at the end of the day.

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

The Sub-Committee asked the applicant to retire so they could consider the application in private session. They received no advice from officers. They noted the representation made by the applicant, the Town Council, the LRA and the local resident.

RESOLVED:

- (1) That the application for street trading consent be granted;
- (2) That the trailer must be at least 20 metres away from the junction of Borders Lane and Rectory Lane lay-by; and
- (3) That the trailer be parked on the side of the road adjacent to College land.

CHAIRMAN