

## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Licensing Sub-Committee                      **Date:** 5 April 2011

**Place:** Council Chamber, Civic Offices,                      **Time:** 10.00 am - 2.30 pm  
High Street, Epping

**Members Present:** Mrs P Smith (Chairman), J Knapman, Mrs M McEwen and Mrs M Sartin

**Other Councillors:** Ms R Brookes and L Leonard

**Apologies:** -

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

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### 98. DECLARATIONS OF INTEREST

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

### 99. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

### 100. 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 items of business set out below as they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
6	Hackney Carriage Driver's Licence – Mr. Sharp	1

### 101. HACKNEY CARRIAGE DRIVERS LICENCE APPLICATION - MR SHARP

The Sub-Committee considered an application by Mr Sharp for a Taxi licence. The three councillors that presided over this item were Councillors Mrs McEwen, Mrs Sartin and Mrs Smith.

Members noted that officers did not have delegated powers to grant this application and, as a result, the application had to be considered by the Sub-Committee. The

Chairman welcomed the applicant and introduced the members and officers present. The 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 their application, before answering a number of questions from members of the Sub-Committee. On behalf of Sadler's Taxis, Mr Smith made representations as to Mr Sharp's good character.

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 Hackney Carriage Driver's Licence for Mr Sharp be granted.

**102. INCLUSION OF PRESS AND PUBLIC**

**RESOLVED:**

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

**103. PREMISES LICENCE APPLICATION - THE BROADWAY EXPRESS, 74 THE BROADWAY, LOUGHTON**

The members who presided over this application were Councillors Mrs McEwen, Mrs Sartin and Mrs Smith.

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

In attendance on behalf of the application was David Dadds, from Dadds Solicitors, the applicant, Mr Guner Islek, his cousin and a representative from NARTS, the Turkish Traders 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 17 February 2011 for a Premises Licence for the Broadway Express, 74 The Broadway Loughton, Essex, IG10 3ST. The District Council had received one representation from Loughton Town Council on behalf of Katie Nicholson, a Town Councillor, who lives in the vicinity of the premises. The Senior Licensing Officer confirmed that the application was made in the prescribed form and had been advertised and the relevant notifications given.

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

Mr Dadds outlined the applicant's case. He highlighted that only one representation had been made by against this application and, though they were a resident of the local area, they lived a considerable distance away from the premises being discussed. He referred the Sub-Committee to a previously circulated map and demonstrated that the residence of the objector, Ms Nicholson, was so far away from the site that it was off the map. Being this far away, Mr Dadds questioned the extent

to which Ms Nicholson would be affected by this application, and therefore ventured that this was not a relevant objection and should be discounted.

**(i) Consideration of the Application by the Sub-Committee**

The Sub-Committee retired to private session in order to consider the validity of the objection.

They noted that Loughton Town Council could not object as a Council and that the objector did not live in the vicinity and therefore their objection could not be considered valid.

Given this, the application would now revert back for Officer delegation.

**RESOLVED:**

That the representations made by Loughton Town Council on behalf of Ms Katie Nicholson be disregarded and the application dealt with as normal under delegated responsibility.

**104. SEX ESTABLISHMENT LICENCE - SHOP, 72 BORDERS LANE, LOUGHTON**

The members who presided over this application were Councillors Knapman, Mrs McEwen and Mrs Smith.

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

In attendance on behalf of the application were the applicant, Deborah Flack, her solicitor, Philip Bonavero, and two associates Mr Adair and Mr Sabine.

Representing Essex Police were Mr S Fisher, Licensing Officer.

In attendance on behalf of the objectors was Councillor Mrs R Brookes, who represented Loughton Town Council, and two local residents who submitted a late petition.

Members retired to private session in order to determine whether the two local residents should be permitted to make oral representations regarding their petition relating to this application. It was agreed that as their petition had been submitted to Loughton Town Council who had not passed it to District Council Officers within the specified time period, the residents could not be allowed to give oral representations relating to this matter.

**(a) The application before the Sub-Committee**

The Assistant Director (Legal), Alison Mitchell, informed the Sub-Committee that an application had been received for Grant of a Sex Establishment Licence for Shop 72 Borders Lane, Loughton, Essex, IG10 3 QX. The District Council had received several representations from Essex Police, District Councillors, Loughton Town Council, community groups, church groups, schools and residents.

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

Mr Bonavero outlined the applicant's case. He addressed the letters of objection that had been circulated previously. These followed a similar pattern and were, Mr Bonavero argued, based on moral grounds which could not be considered relevant. He continued that some community organisations, such as the Kidz Group, had not specified their location which detracted further from the significance of their objections. It was recognised that objections from religious establishments were legitimate, but Mr Bonavero questioned whether this site was in the vicinity of places of worship. Several maps were examined by Members which highlighted the places of worship and educational institutions in the nearby area. Mr Bonavero judged the majority of these highlighted locations as not being adjacent to the application site, with the noted exception of Loughton Synagogue. Representations had been received from the synagogue, though this objected to any opening of the shop on Sundays which would coincide with Sunday School. This was being addressed as the applicant was intending to remain closed on Sundays.

Mr Bonavero argued that the schools in the vicinity were not adjacent to the application site, nor was it on any commonly used access route to schools. Parallels were drawn between the location of this application, and Michelle Fashions, an existing shop in Buckhurst Hill of a similar nature. Addressing the residents' representations relating to the family nature of this parade of shops, a map was presented to the Sub-Committee outlining the present shops included a bookmakers, off-licence and tattoo parlour; it was argued that a sex shop would be entirely appropriate in such company. Mr Bonavero explained the shop was to have a blanked out window and two sets of doors to prevent anything inside the shop being visible to the outside. A 'Challenge 25' policy would operate inside, with anyone appearing to be under that age to submit identification; anyone under 18 would not be allowed in. The word "sex" would not appear outside the shop in any instance, nor would anything of an offensive nature.

In conclusion, Mr Bonavero summarised that the majority of objections should not be considered due to their moral nature; the objections from places of worship were to be managed through proposed opening hours, and the issue of proximity to children was addressed through regulation of access and securing visual impact.

**(c) Questions from the Sub-Committee to Applicants**

Members questioned the assumption that so few children would walk past this site; they pointed out the newsagents, a popular spot to buy sweets. Mr Bonavero acknowledged this, but maintained that it would not be a significant number of children.

Members asked for further details relating to the shop façade and the name of the establishment. They were informed that the word "adult" would be used rather than "sex", though no agreements had been made with regard to the name, and the applicant was willing for this to become part of the licensing conditions, were this application granted.

Members enquired as to the percentage breakdown of licensable and non-licensable merchandise that anticipated to be on sale. The applicant responded that 80% would consist predominantly underwear, books, sex aids and stag night paraphernalia similar to that found and publically displayed in Ann Summers. Mr Bonavero stressed that this shop would not display this merchandise, nor the other 20%, which would comprise of licensable material such as DVDs and magazines. Members noted that there would be no viewing room, so DVDs would not be permitted to be previewed.

Members asked the applicant if she had any prior experience working in this industry, and were informed that she did not, though her partner had previously worked in Ann Summers.

**(d) Questions to the Applicant from Objectors**

Simon Fisher asked if the applicant had considered trading online, or in alternate locations. Mr Adair responded that the alternative sites previously examined were even closer to educational facilities or places of worship, and were therefore unsuitable.

Mr Fisher enquired, and was informed that Ms Flack had not made any similar applications before, and knew of two similar establishments in the Epping Forest District but did not know the details for the rest of the County. Mr Fisher informed them that Harlow and Chelmsford both had sex shops which were situated in industrial estates.

**(e) Objector's Case**

Simon Fisher drew the Sub-Committee's attention to his letter sent to the Senior Licensing Officer which had the support of Senior Officers, and outlined the two main objections to this application.

Mr Fisher considered the locality of this application to be inappropriate for a sex shop owing to the proximity of numerous schools and religious establishments. His second objection was based on the proposed opening times; the application sought to trade between the hours of 10.00am and 6.00pm Monday to Saturday. Mr Fisher argued that this coincided with the hours during which students would be attending Epping Forest College and the nearby schools, resulting in a reliable flow of 16-20 year-olds passing by this site.

**(f) Questions from the Sub-Committee to the Objectors**

Members felt that the flow of students would run from the station to the college, and would not pass this shop. Mr Fisher agreed, but believed that large numbers would hang around the general vicinity, socialising and waiting for buses.

Members questioned Mr Fisher's concerns with the age range he had specified; of 16-20 year old, the majority would be legally old enough to visit the sex shop. Mr Fisher replied that this was true, but his concern also lay with older students buying items on behalf of the younger ones. Members felt that this was true of alcohol and gambling, both of which were available along this parade of shops. Mr Fisher responded that they were already trading when he took up his current position.

Members asked if these objections could be dealt with through a change in trading hours. Mr Fisher was unable to answer definitively. The issue with hours of 10.00am – 6.00pm was that it covered both lunchtime and school closing time, and it would be difficult to ensure students would not be around. Mr Fisher said that he would have no objections should this site have been elsewhere.

Members enquired how close an educational or religious establishment had to be for them to be affected. Mr Fisher replied that there was no prescribed distance, but no complaints are received concerning appropriately situated establishments. He had experience of people demonstrating against applications, and stressed again his only objection was to the proposed location.

**(g) Questions from the Applicant to the Objectors**

On behalf of the applicant, Mr Bonavero asked if there were any complaints about Michelle Fashions in Buckhurst Hill, and was informed that there were none to Mr Fisher's knowledge. Mr Bonavero then enquired as to why this application would be different. Mr Fisher told him that it was primarily the location and its proximity to young people.

Mr Bonavero drew Mr Fisher's attention to the previously circulated maps showing the schools and places of worship around this application site and Michelle Fashions, and suggested that the latter was far closer to these establishments. Mr Fisher was unable to comment on this point, as the scales on each map were different, and he therefore felt unable to compare the two.

Mr Bonavero asked as to Mr Fisher's personal experience of the area, and was informed that he believed there were more shops along the Broadway than this site.

**(h) Second Objector's Comments**

Councillor Mrs R Brookes spoke on behalf of Loughton Town Council. She was very familiar with this area, and knew it as a residential area. She believed the application site was on a local parade of shops used by families and students. Her main concern was the proximity to Epping Forest College; this was attended by approximately 2000 full-time students, the majority of whom would be aged 16-18. She was worried about the prevalence of counterfeit IDs amongst teenagers, and the high proportion of children frequenting the newsagents with and without their parents.

Councillor Mrs Brookes spoke of the religious and community groups that used the nearby facilities, some of which helped vulnerable people, such as a youth centre run at Murray Hall and Loughton Synagogue during the week. She highlighted the quantity of public objections, and believed this site was wholly inappropriate for such an establishment, particularly when such paraphernalia could be obtained online.

**(i) Questions from the Applicant to Second Objector**

On behalf of the applicant, Mr Bonavero asked why concern for those under 18 was higher for this application than it was for other sex shops. Councillor Mrs Brookes responded that it was the location that made this application different; she believed under 18 year-olds were only at greater risk due to the popularity of the location.

Mr Bonavero questioned the belief that this was a family parade of shops when it included a tattoo parlour. Councillor Mrs Brookes believed that this shop was also a hairdressers.

**(j) Questions from Members to Second Objector**

Members asked Councillor Mrs Brookes if the Youth Centre at Murray Hall was held in the evenings, and were informed that some sessions were also held during the day including one for young carers groups and, in the past, a teenage mothers group.

Members queried the concern over students, as the previously discussed college age range would occur elsewhere, and primary school children would be unable to go or see into this shop. Councillor Mrs Brookes responded that the goods may not be on display, but a tone was being set that the local schools were unhappy about. As this was not a high street there was not an immediate risk, but the curiosity of children

and the family market being generally targeted by these shops made the application unsuitable. Members then asked why this shop was unsuitable considering sex education was being taught to school children from the age of six. Councillor Mrs Brookes replied that these objections were not against sex education, and she was attempting to reinstate sexual counselling previously offered in this area.

Members enquired if there were young children going to the sweet shop unaccompanied, and were informed that it was very easy for children to walk to this shop without crossing a main road, and therefore it was common for them to go there unescorted.

Members asked and were informed that, to the knowledge of Councillor Mrs Brookes, the street lighting provision in this area was good.

**(k) Objector's Closing Statement**

Mr Fisher had nothing more to add to his earlier statement.

Councillor Mrs Brookes stressed that Loughton Town Council's objections were not based on moral grounds but on the location of this site, due to the proximity to religious and educational establishments, and the access for unescorted young people. These objections were not just on behalf of the Christian community, but of the area as a whole.

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

Mr Bonavero stated that the risk to college students was minimal, considering they could not see anything, and would not be allowed in. He pointed out that they would be more likely to see more explicit images in magazines in the newsagents than the blank façade of the proposed shop. He acknowledged that explicit material was available online, which surely provided easier access for minors. In that respect, he argued, it was safer to have this shop.

**(m) 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.

**RESOLVED:**

That the application be refused, as it was deemed unsuitable in regard to the family character of the residential locality, and was in sufficiently close proximity to religious and educational establishments.

**CHAIRMAN**