

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 24 August 2015

Place: Council Chamber, Civic Offices, **Time:** 10.10 am - 2.45 pm
High Street, Epping

Members Present: M Sartin (Chairman), A Boyce, H Mann and B Surtees

Other Councillors:

Apologies:

Officers Present: A Mitchell (Assistant Director (Legal Services)), K Tuckey (Licensing Manager), N Clark (Licensing Compliance Officer) and M Jenkins (Democratic Services Officer)

15. DECLARATIONS OF INTEREST

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

16. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business.

17. CHURCH HILL SERVICE STATION, 117 CHURCH HILL, LOUGHTON IG10 1QR

This item had been brought forward on the agenda because the individual concerned with Agenda Item 5 had not yet arrived. The three Councillors that presided over this item were Councillors M Sartin, A Boyce and B Surtees. The Chairman introduced the members and officers present and outlined the procedure that would be followed for the determination of the application. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were Mr R Botkai, solicitor and Mr K Hourihan, Area Manager for Rontec Watford Ltd, the company owning the premises in question.

In attendance as objectors were a number of people, 6 of whom indicated that they would like to speak. It was confirmed that they had made written representations to the Council in regard to this application, the objectors were as follows:

- Mr D Linnell, Loughton Resident's Association (LRA);
- Mr D Wilding, resident living local to the application site;
- Mrs E Walsh, Town Clerk for Loughton Town Council;
- Mr J Hurley, resident living local to the application site;
- Ms R May, resident who lived opposite to the application site; and

- Mr White, resident living local to the application site.

(a) The Application before the Sub-Committee

The Licensing Officer, Mrs N Clark, introduced the application. The application concerned had been received at the District Council on 2 July 2015 and was made by Rontec Watford Ltd for a variation to the premises licence for Church Hill Service Station, 117 Church Hill, Loughton IG10 1QR. The variation was to extend the hours of alcohol sale to 24 hours daily, adding late night refreshments from 23:00 hours to 05:00 hours, 7 days a week. In addition, the applicants were seeking to remove any embedded restrictions in the premises licence and remove all current conditions contained in Annex 2 of the licence and instead include in Annex 2 the conditions in boxes (b) to (e) of Section M of the operating schedule.

It was noted that the responsible authorities had received a copy of the application, it had been advertised at the premises, in the local newspaper and all residencies and businesses within 150 metres radius of the premises had been individually consulted.

The authority had received a response from Essex Fire and Rescue Service who had no objections plus one letter of support from a local resident. In addition there were 48 objections received, one from Essex Police who had subsequently withdrawn their objection on provision that a change in the conditions be made, and an objection from Loughton Town Council. The remaining 46 objections were from local residents.

(b) Presentation of the Applicant's Case

Mr R Botkai outlined the application. This was a variation of a premises licence, sale of alcohol being already permitted from 6.00a.m. to 11.00p.m., the Licensing Act allowed 24 hour sale of alcohol. Unless there was a good reason otherwise, trading hours could be matched to licensing hours.

In cases where a Cumulative Impact Zone existed, the burden of proof was on the applicant to demonstrate that a change in licensing hours would not cause harm locally. However, this was not the case in Epping Forest as no such zone existed. If granted, this licence could be the subject of a review brought at any time if it caused problems.

Mr R Botkai referred to the police objection, now withdrawn. He had spoken to their licensing officer, Mr P Jones, and agreed a new condition regarding the entrance door to the shop being closed to customers between 12 midnight and 5.00a.m. Sales between these hours would be made through the night pay window. Rontec operated 138 petrol stations on a 24 hour basis and no reviews had been called.

Mr R Botkai commented on the representations made by objectors, some had commented on the area around Church Hill, Loughton being quiet at night with few issues. The concern centred around what may occur if the licence was granted, a deterioration to the quality of life here. It was felt that drunkenness would increase, particularly amongst youths frequenting local night clubs a short distance away, which would lead to anti-social behaviour. The applicant's solicitor felt that these concerns were not based on evidence, in particular there was no evidence from the police. He advised that residents could use a review, a powerful tool if problems developed later on.

He thought that the proposed licence variation to the store would bring benefits to the local area.

(c) Questions for the Applicant from the Sub-Committee

The Sub-Committee asked about the withdrawn police representation. A trade union had recently expressed concern about the welfare of their members who were working in service stations and had been subjected to assaults by customers or during robberies. What measures would be taken by Rontec to protect staff?

The solicitor replied that it was customary for service stations to install secure windows and for these to be used, particularly at night, so that customers could not enter the premises. The solicitor reminded the Sub-Committee that the police representation, now withdrawn, did not form part of the agenda.

The Sub-Committee asked for further details on the night pay window, how large was it?

The applicant, Mr K Hourihan, advised that the night pay window dipped downwards so that goods could be transferred to the customer, there were hundreds of such installations at service stations. The Sub-Committee suggested that this policy would lead to queues of customers which may in turn lead to problems. The applicants replied that there was no expectation of this variation in the conditions leading to a much greater number of customers using the petrol station. There was no issue with other stores having such problems.

The Chairman drew attention to the agenda documents which showed that a condition would be for police officers or other authorised officers to access any books/registers of the station for checking refusals of sale. The applicant confirmed that he was happy with this.

The Chairman mentioned the night pay window again, was this a small hatch? How could large or bulky goods be transferred to the customers? The applicant replied that the hatch was quite large and could cope with big objects, there was no issue. There was also a microphone to speak with customers as well.

The Chairman asked about the procedures for locking doors at the service station. The applicants were unclear on procedures as the shop was currently being re-fitted. There would probably be a panic button available.

(d) Questions for the Applicant from the Objectors

Mr D Linnell of the Loughton Resident's Association (LRA) asked if the licence for refreshments concerned off-premises or the fore court. The applicants confirmed that the application schedule should state off-premises. They added that they did not want customers consuming on the premises.

Mr D Linnell asked about the staff levels at the site, was there just one person on duty? The applicants confirmed this, they did not want staff leaving the premises at any time to sort out situations on the fore court.

Mr D Linnell asked if there was an expectation that more drivers would be using this service station if these conditions were agreed. The applicants said that they weren't expecting a large amount of traffic, but they did not expect the late night refreshment or alcohol to increase night sales.

Mr D Wilding, local resident, said that he used the service station himself for buying milk and bread, he argued that it would be impossible to transfer 2 pint bottles of milk

through the current night pay window. The applicants said that a 2 pint bottle would not cause difficulties but larger items probably would. They went on to say that a condition would be imposed regarding staff leaving the premises.

Mr D Wilding felt that the staff member currently there had sometimes closed early because they were alone. He added that there were occasions when the service station was not quiet and arguments sometimes developed with angry customers. The applicants replied that the volume control of the staff microphone could be adjusted.

Mr J Hurley, local resident, said that there was not much trade in the area currently, why was this licence necessary when alcohol trade was sparse. The applicants said that some trade was expected.

Mr J Hurley was concerned about high volume alcohol content being sold at the service station, particularly spirits. The applicants confirmed that they were already selling spirits at the service station. The applicants were not attempting to sell high strength beers and ciders up to 6.5% volume.

Mrs E Walsh, Town Clerk of Loughton Town Council said that the street lights at Church Hill were amongst those switched off early by Essex County Council. The applicants were unclear as to the status of the street lights but they confirmed that the forecourt of the petrol station was floodlit, there were also neon lights installed there.

Mrs E Walsh was concerned about crime prevention, the applicants advised that they had no control over this.

Ms R May, resident living opposite the petrol station, complained of noise coming from the site particularly oil tankers who came very early in the morning at around 3.00-4.00a.m. Ms R May said that she had complained to the service station's Head Office frequently about noise levels but no action had been taken. The applicants said that Rontec had recently taken over from Esso, the previous owners, they were willing to pass onto the resident contact details of the new owners for making complaints.

Mr H White, local resident, asked if the applicants had a business plan for the petrol station. What projections had been made for a sales increase? He next asked about correspondence with Essex Police who had originally objected to this application. The email from Essex Police's local Licensing Officer, which advised of the withdrawal of his objections, was handed around the applicants and objectors. The applicants were not aware of a business plan in connection with this application, Mr R Botkai said he was not privy to this in any case, however Rontec was serious about their business interests. Service stations were in danger as they were closing all the time.

Mr P Sherman, local resident, asked the Chairman if he could speak, he confirmed that he had submitted a written representation which was in the agenda document. He expressed concern that the objections made by Essex Police were not addressed by the current application, why would the police withdraw their objection. The applicants said that they had amended conditions regarding the night pay window it was not possible to extend communication with the police at the current time as to their intentions.

The Licensing Officer advised that the council did not have the authority to force Essex Police to attend the meeting but they could make a request for further information.

(e) Presentation of the Objector's Case

Mr D Linnell of the Loughton Resident's Association (LRA) began by stating that under the Licensing guidelines adopted by the authority, good reasons would be needed for granting applications. The area around the service station was residential with the main route through Loughton running past this site. Patrons of nearby nightclubs and night time economy establishments would pass this service station, the proposed licence would increase business. There was concern about one person being on duty at the station, relying on the police to deal with disturbances was not always practical as they had suffered cutbacks. He was troubled by Essex Police withdrawing their objection.

There were no questions from the Sub-Committee for Mr D Linnell.

The next objector was Mr D Wilding who began by mentioning the 49 letters of objection received by the authority. He was also concerned about the seemingly contrary police position in withdrawing their objection.

He felt that the single staff member on duty was not adequate for the site as the car park nearby was a trouble spot for local youths, this application would make the situation worse. He stated that there was considerable public nuisance in Loughton already saying that at 12.30a.m. people leave the service station and sit on benches. He was advised that the police did not record all of the occasions when they were called out they only recorded arrests. Mr D Wilding complained that his garden had been urinated on and he had found disused drink and gas cans in his garden as well. He asked why was there a 24 hour alcohol culture? He added that there were problems with street lighting and the area was getting worse. He had lived there for 35 years. He asked the Members to refuse the licence.

The Chairman asked the objector how frequently were the police called as there did not appear to be any records. Mr D Wilding replied that he was a frequent complainer. The police, when they arrived, usually came half an hour after people had dispersed. He believed he had made over 35 complaints, he suggested that there were 2-3 incidents per week. He stated that this was not necessarily caused by the service station. He added that under-resourcing of the police would make the situation there worse.

There were no questions for this objector from the applicants.

The next objector to speak was Mrs E Walsh of Loughton Town Council. She acknowledged the weaknesses in licensing legislation which the authority were bound by, however she suggested it was best to minimise the potential impact of this application by permitting the sale of hot drinks only at late times. She felt that no advertising should be permitted on site regarding 24 hour licensing. Mrs E Walsh concluded with the proposal that due to the lack of Essex Police representation the decision could be deferred to get clarification from them on this point.

Councillors queried the level of disruption currently in the area. Mrs E Walsh was unclear, she said that problems were escalating in the High Road part of Loughton, some of this was due to inadequate police resources.

There were no questions from the applicants for this objector.

Mr J Hurley spoke in objection to the sale of alcohol, this was a quiet area and he was concerned about the application drawing people into the neighbourhood.

Ms R May spoke about the noise caused by oil tankers making deliveries. The applicants advised that this was not a relevant representation to make as the application was concerned primarily with the sale of alcohol.

Mr H White was concerned about intoxicated people having access to more alcohol and committing acts of vandalism. The bus station had been vandalised last weekend, his car windscreen had been broken and another resident had their tyres cut. People in the area were rowdy and aggressive. The applicants had undertaken no study of Loughton in order to understand the situation there. He did not want to attract more people to the area. Mr White stated that the night pay window was not a particular issue, the main issue were the alcoholic goods which would be sold here. He was unclear as to why the police had changed their position.

The Chairman asked if he would favour the sale of alcohol through a hole in the wall. Mr White replied that he did not want alcohol being sold at all.

There were no questions from the Sub-Committee for this objector.

The Chairman asked the applicants about sales to drunken patrons and sales to underage persons. The applicants confirmed that it was illegal to sell alcohol to drunken people and those customers who were underage.

(f) Closing Statement from the Objectors

The objectors chose not to make a closing statement.

(g) Closing Statement from the Applicant

Mr R Botkai stated that the service station was currently open for sales of drink and food at night, it was their intention that they should be able to sell alcohol and hot drinks during this time. It was not incumbent on the applicants to demonstrate that sales would increase if this application were granted, there was no expectation of significant traffic passing through the station if the application was granted. There should be a police record of all calls outs concerning this site, but there was no record.

The decision needed to be based on the evidence before the Sub-Committee. Residents had said in their representations that they lived in a quiet area, the applicants had not said that they would have extra business which would affect the area. There was no police evidence for a crime problem in the area of the service station. The applicants were willing to comply with the Loughton Town Council proposed condition in the sale of hot food. However there were difficulties on limiting the advertising, perhaps a condition could be imposed regarding external publicity.

He reminded everybody that the licence was not permanent but could be called in for review if trouble developed. Staff at the site could not sell alcohol to drunken people and in any case there was no evidence that such sales had occurred. The concerns raised were about the future, there was no current evidence for problems here. The applicant would try and establish better communications with residents in the future.

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

At midday, the Members withdrew from the meeting to consider the application in private. During their deliberations the Sub-Committee received no further advice from the officers present.

(i) Meeting Reconvened

At 12.53p.m. Members returned to the Chamber and the meeting was reconvened.

The Chairman stated that as the police were the main source of information on crime and disorder issues it would be advantageous to receive information on any concerns they may have had on this application. The police licensing officer email tabled at the meeting, gave notice of the objection being withdrawn but there was a certain amount of ambiguity in stating that concerns still remained about the applications' potential impact. The Chairman indicated that the Sub-Committee was minded to adjourn the meeting to a future date in order to obtain greater clarity on the police's position and to undertake a site visit of the service station.

Mr R Botkai made a point of order, he complained that the police were no longer involved in this process as they had withdrawn their objection, it would be wrong to adjourn based upon inadmissible evidence. The Legal Officer explained that there were doubts regarding the police's position, what were the concerns that they had? Mr R Botkai again emphasised that the police were no longer a party as their objection had been withdrawn, there was no legal basis for further consideration of their original submittal. However he suggested that an officer could contact Mr P Jones and obtain the clarification needed over the telephone for the benefit of the meeting. The Sub-Committee agreed with this suggestion and asked the Licensing Officer, Mrs N Clark to contact Mr P Jones. The meeting was then adjourned at 1.05p.m.

At 1.20p.m. the meeting reconvened and the Licensing Officer, Mrs N Clark, advised the Sub-Committee that she had contacted Mr P Jones who had sent her an email confirming the police's position. The email was tabled at the meeting, it stated that as this application would have a condition that night pay window sales were only permitted, customers could not enter the premises, in addition there was no visibility of an open off-licence to passers by. The police still had concerns about the increase in vehicular traffic which could potentially happen, but this was not enforceable. However the police would monitor the situation.

Mr D Linnell of the Loughton Resident's Association (LRA) made a point of order regarding the conduct of the meeting. He felt that a Sub-Committee decision to adjourn the meeting for new information concerning the police's position and to conduct a site visit had been taken, furthermore he felt that the email tabled from Mr P Jones could be classed as additional information which required an adjournment. The Legal Officer replied that officers were given permission through the applicant's solicitor to contact the police and clarify their position. The Chairman advised that no decision had been made as yet, they would adjourn for deliberation. Mr D Linnell confirmed his objection to this process and requested that it be minuted.

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

Members adjourned at 1.35p.m. for deliberation. At 2.40p.m. the Sub-Committee reconvened. During their deliberations the Sub-Committee received no further advice from the officers present.

RESOLVED:

That the application for a variation to the Premises Licence in regard to Church Hill Service Station, 117 Church Hill, Loughton IG10 1QR, be granted subject to the following conditions:

- (1) That the conditions contained in Annex 2 of the premises licence be delated;
- (2) That the conditions from Section M of the operating schedule in boxes (b) to (e) be included in Annex 2, subject to the following amendments:
 - (a) Under Section M, (b) prevention of crime and disorder, insert “or other authorised officer” after “police” in paragraphs 3 and 4;
 - (b) Under Section M, (b) prevention of crime and disorder, insert “or other authorised officer, including those authorised by the Licensing authority” after “police officer” in paragraph 8;
 - (c) Under Section M, (e) protection of children from harm, insert “notices informing customers shall be displayed referring to Challenge 25 policy” under (e) (1); and
 - (d) Under Section M, (e) protection of children from harm, insert “authorised” after “other” in the penultimate line of paragraph (e) (2).
- (3) That in regard to the prevention of crime and disorder, the following conditions shall be adhered to:
 - (a) That the external door shall be closed between 12 midnight and 05:00 hours and locked to prevent customers obtaining access to the shop, but members of staff shall be permitted to access the forecourt when necessary using these doors; and
 - (b) No hot food shall be sold from the premises, hot drinks can be sold at the times specified in the application and in Schedule I the word “both” shall be deleted and the box for Outdoors ticked.

18. CONSIDERATION OF CURRENT PRIVATE HIRE DRIVER'S LICENCE IN REGARD TO MR SEELEY

The holder of the Private Hire Driver's Licence which was to be discussed, Mr Seeley, failed to attend the meeting. The Members therefore decided to defer this item.

RESOLVED:

That the item concerning the Current Private Hire Driver's Licence in regard to Mr Seeley be deferred to the next meeting of the Licensing Sub-Committee.

CHAIRMAN