

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Licensing Sub-Committee                      **Date:** 1 March 2016

**Place:** Council Chamber, Civic Offices,                      **Time:** 10.00 am - 12.05 pm  
High Street, Epping

**Members Present:** M Sartin (Chairman), R Morgan and B Surtees

**Other Councillors:** -

**Apologies:** R Gadsby

**Officers Present:** L Cole (Legal Services Officer), K Tuckey (Licensing Manager), L Turner (Licensing Compliance Officer) and G J Woodhall (Senior Democratic Services Officer)

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### **72. DECLARATIONS OF INTEREST**

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

### **73. PROCEDURE FOR THE CONDUCT OF BUSINESS**

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

### **74. VARIATION OF PREMISES LICENCE - MOLENS CAFE/RESTAURANT, 209D/E HIGH ROAD, LOUGHTON**

The three Councillors that presided over this item were Councillors Sartin, Morgan and Surtees. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr M Timur, the owner of Molens Café/Restaurant; and Ms M Allison, the Applicant's Agent. In attendance and objecting to the application were: Mr P Brogan; Mr C Elliott; and Mr P Hinds. Also in attendance was Mr P Jones from Essex Police. 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 Licensing Officer informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of Molens Café/Restaurant at 209D/E High Road in Loughton, along with representations from interested parties. The application had requested permission to vary the Premises layout with the inclusion of a single storey extension at the rear to provide additional seating area for dining and toilet facilities. There had also been an outbuilding constructed at the rear of the property to provide storage and cold rooms, plus a smoking area.

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

Ms Allison informed the Sub-Committee that it was intended for the area shaded yellow on the map on page 37 of the agenda pack to become the new licensable

area for the Premises. The further application to include the garden and outbuildings had been withdrawn following discussions with Licensing Officers. There were no other variations requested to the existing Licence.

(c) Questions for the Applicant from the Objectors

Mr Brogan thought that the plan supplied with the application showing the location of the Bar area was at variance with the planning application for the Premises; however, the Chairman ruled that this was not relevant as the Bar area was within the area already licensed.

Ms Allison stated that customers could smoke at the front of the Premises, with alcohol at the tables positioned on the High Road. The Chairman enquired if this area to the front of the Premises had been licensed; after checking the paperwork for the Premises, the Licensing Manager stated that the front of the Premises was not currently licensed and had not been included in the paperwork accompanying the application. Mr Jones from Essex Police commented that the front of the Premises was not deemed to be a problem area and had thought that it had been included as part of the application. The Legal Officer advised that, in fairness to the Objectors, the licensing of the area to the front of the Premises should be the subject of a separate application.

Mr Timur informed the Objectors that he was the owner of Molens Café/Restaurant, but was not in attendance at the Premises all of the time as he owned two other Cafes as well. Mr Timur stated that his brother was the Premises Manager at Molens.

Ms Allison added that the bi-fold doors at the rear of the Premises would be the boundary for licensable activities and no drinks would be allowed beyond this point. The doors would, mostly, be kept closed. The garden itself had an upward slope from the rear of the Premises and there was a row of young trees at the back of the garden, so there would be no overlooking of adjacent rear gardens from the Premises. The Sub-Committee was reminded that the rear garden area was not part of the application and there would not be customers sitting in the garden area smoking and drinking. The smoking area was to the front of the Premises, and there would be signs informing customers that they could not enter the rear garden area. There would be no tables placed in the rear garden area of the Premises for customer use. The rear garden area would be for staff use only, including the toilets.

Ms Allison stated that the Premises would be agreeable to a condition being added to the Licence for the bi-fold doors to be kept closed from 8.30pm each evening. Ms Allison informed the Sub-Committee that planning permission for the use of the requested additional areas had been granted in 2014.

Mr Jones added that Essex Police would still seek a restriction of use for the smoking area, regardless of whether it was at the front or rear of the Premises.

(d) Presentation of the Objectors' Cases

Mr Brogan referred the Sub-Committee to his representation on page 43 of the agenda pack, and that he was speaking on behalf of a number of residents in Priory Road whose properties were adjacent or near to the rear garden area of Molens. Residents feared that the intention of the Applicant was to eventually use the rear garden as an outside service, bar and eating area for customers. The Sub-Committee were reminded that there was already a condition on the Licence for any lights in the rear garden area to be directed downwards, so as to not cause a nuisance to neighbours. However, the rear garden was brightly lit and the trees were

upwardly illuminated by spotlights until at least 11pm most evenings. Residents were also worried about the loss of privacy in their rear gardens from the bi-fold doors at the back of the Premises. Mr Brogan also enquired whether staff training records could be kept on site and made available for inspection on request by the appropriate authorities.

The Licensing Officer agreed that the downward direction of spotlights in the rear garden area was a condition on the original Licence (page 36 of the agenda pack, 'Prevention of Public Nuisance' refers), and that a standard condition regarding staff training records could be added to the Licence.

Mr Elliott referred the Sub-Committee to his representation on page 50 of the agenda pack. Mr Elliott stressed that his main concern was the noise and public nuisance that his family would be subjected to during the summer months if Molens was permitted to use the rear garden area to serve customers. It was highlighted that this could be the first of many such applications by the Premises. Mr Elliott stated that he had a young family, who enjoyed living in Priory Road.

Mr Hinds referred the Sub-Committee to his representation on page 49 of the agenda pack and highlighted that he valued quiet and privacy. The Applicant was already in breach of one condition of the original Licence through the use of uplighting in the rear garden area, and the rear glazed doors allowed light pollution to emanate from the Premises. In addition, when the rear doors were open during the summer months, the noise from customers until 11pm each evening would cause disturbance to the neighbours. Mr Hinds was concerned that the Applicant generally did first and then applied later. It was felt that the long term intention of the Applicant was to use the rear garden area as an outside bar and service area, and that the necessary application to the Licensing Committee would not be made until after the first use of the rear garden area when the complaints from neighbours were received. Mr Hinds was of the belief that the Applicant would be back before the Sub-Committee within twelve months requesting permission to use the rear garden area for the serving of customers.

(e) Questions for the Objectors from the Sub-Committee

Mr Brogan confirmed that the Premises was approximately 30 metres (100 feet) from nearby residential properties.

(f) Questions for the Objectors from the Applicant

Mr Hinds acknowledged that there were no major problems at the moment with noise disturbance from the Premises as it was Winter and the doors were kept closed; however, when the rear doors were open in the Summer then it was inevitable that neighbours would suffer noise nuisance. Even without any live music at the Premises, customer noise would escape the Premises and it would be difficult for staff to 'police' customers.

Mr Hinds opined that the Premises had started as a Café open until 5.00pm each evening; it was now a Café/Restaurant open until 10.30pm each evening.

(g) Closing Statement by the Applicant

Ms Allison stated that she understood the concerns expressed by the Objectors, both in their written representations and verbal statements to the Sub-Committee. However, the Café was situated in the High Road and was being improved as an ongoing business serving very good food to a high standard. The Sub-Committee

was reminded that the rear garden area was not part of the application, and that it was approximately 20 metres in length with trees at the far end. The Premises was already content to have a condition added to the Licence requiring the bi-fold doors at the rear of the Premises to be closed from 8.30pm each evening, and a blind could also be fitted to improve the privacy for the neighbours at the rear of the Premises. The Premises already had signage reminding customers to be quiet when leaving the Premises.

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

The Sub-Committee left the Council Chamber to consider the application.

The Sub-Committee noted that the Applicant had offered to keep the rear bi-fold doors closed after 8.30pm, as well as to fit blinds for this door and keep them closed after 8.30pm. Given the concerns raised by the Objectors, the Sub-Committee felt that 8.00pm would be a more appropriate time for the bi-fold doors to be kept closed and the blinds to be pulled down.

The Sub-Committee noted that there were a number of concerns raised by the Objectors and Essex Police regarding the potential use of the rear garden area by customers. As a result, it was felt that the rear garden area should be closed to customers at all times.

The Sub-Committee noted the further representation made by Essex Police, regarding the smoking area, and agreed that the maximum number of persons permitted to use the bona fide smoking area (at the front of the Premises) should be restricted to five at all times.

The Sub-Committee returned to the Council Chamber and informed the participants of their decision. The Chairman reminded the Applicant that they could appeal the decision of the Sub-Committee to the Magistrates Court, and that the Objectors could request a review of the Licence if the conditions were not adhered to.

**Resolved:**

(1) That the application to vary a Premises Licence at Molens Café/Restaurant, 209D/E High Road in Loughton be granted in accordance with the following conditions, which the Sub-Committee considered were appropriate and necessary for the promotion of the licensing objectives:

- (a) the rear bi-fold doors to be kept closed from 8.00pm each evening;
- (b) blinds to be fitted to the rear bi-fold doors and to be pulled down at 8.00pm each evening;
- (c) the rear garden area to be closed to customers at all times; and
- (d) a maximum of five customers to be permitted to use the bona fide smoking area at any one time.

**75. VARIATION OF PREMISES LICENCE - WM MORRISON SUPERMARKETS PLC, 246-250 HIGH ROAD, LOUGHTON**

The three Councillors that presided over this item were Councillors Sartin, Morgan and Surtees. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the

application were: Ms C Johnson, Solicitor for WM Morrison Supermarkets PLC; and Ms K Nicholls, Licensing Compliance Officer for WM Morrison Supermarkets PLC (hereafter referred to as Morrison). There were no objectors in attendance. 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 Licensing Officer informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of the branch of Morrison Supermarkets at 246-250 High Road in Loughton. The application had requested permission to sell alcohol between the hours of 6.00am and 12.00pm Monday to Sunday and January to December inclusive, and to remove the existing restrictions for the sale of alcohol on Good Friday and Christmas Day. Currently, the Premises was permitted to sell alcohol between 8.00am and 11.00pm Monday to Saturday and 10.00am to 10.30pm on Sunday; 8.00am to 10.30pm on Good Friday and Christmas Day; and 6.00am to 11.00pm on Monday to Saturday during the month of December. The Premises was permitted to open between 6.00am and 12.00pm Monday to Sunday. Some additional conditions had also been suggested, should the application be successful.

(b) Presentation of the Applicant's Case

Ms Johnson stated that Morrison operated over 500 supermarkets across the country and 95% of these had permission to sell alcohol between 6.00am and 12.00pm. The reason for the application was to match the Sale of Alcohol hours to the permitted Opening Hours of the Store, and the removal of the restrictions currently in place for Good Friday and Christmas Day was a tidying-up process. The Sub-Committee was informed that a Morrison Supermarket had never had a Licence reviewed, and there was an extensive training programme in place for staff.

Ms Johnson highlighted that no objections to the application had been received from an Environmental Health Officer, or anyone connected to public safety; the four conditions listed on page 83 of the agenda pack had been agreed with Essex Police by the Applicant.

Ms Johnson acknowledged that two objections had been received in respect of the application. The first from Loughton Town Council could be considered as a speculative objection, which could be dealt with by the use of notices outlined in condition 4 agreed with Essex Police. No evidence of an increase in anti-social behaviour and disturbance to neighbouring properties had been produced by the Town Council. In respect of the second objection, there had been no complaints received from the Belton family by the Store; in fact, that had been no complaints received by the Store from any neighbours in the previous twelve months. This could be considered as a general objection as there were no specifics within. It was inevitable that the neighbours would hear the occasional car door being slammed when they lived next door to a supermarket, but the Store already had permission to open from 6.00am to 12.00pm, so there was no relevance to the Sale of Alcohol from this representation. Again, this objection could be dealt with by the signage condition already agreed with Essex Police.

Ms Johnson concluded that this was an application by a responsible operator.

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

In response to questions from the Sub-Committee, Ms Johnson stated that the

current Sale of Alcohol hours for the store were: 8.00am to 11.00pm Monday to Saturday and 10.00am to 10.30pm on Sunday; 8.00am to 10.30pm on Good Friday and Christmas Day; and 6.00am to 11.00pm on Monday to Saturday during the month of December. It was reiterated that 95% of Morrison's outlets were licensed to sell alcohol until 12.00pm. Ms Nicholls added that the store in Loughton did have CCTV, recordings from which could be issued to responsible authorities on request, and that the Store was currently opening to match the Sale of Alcohol hours rather than the licensed opening hours, which were slightly longer (6.00am to 12.00pm Monday to Sunday).

(d) Closing Statement from the Applicant

Ms Johnson reminded the Sub-Committee that the Law allowed supermarkets to have the same hours for Sale of Alcohol and Opening unless evidence was produced to demonstrate the Sale of Alcohol hours should be restricted under one of the four Licensing Objectives. In addition, the Licence could be reviewed if evidence of public nuisance or disturbance was produced by residents.

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

The Sub-Committee left the Council Chamber to consider the application.

The Sub-Committee returned to the Council Chamber and informed the participants of their decision.

**Resolved:**

(1) That the application to vary a Premises Licence at WM Morrison Supermarkets PLC, 246-250 High Road in Loughton be granted in accordance with the following conditions, which the Sub-Committee considered were appropriate and necessary for the promotion of the Licensing Objectives:

(a) the Premises shall install and maintain a comprehensive CCTV system covering the internal and external entrance of the Premises. It will also cover all entry and exit points. The CCTV system shall continually record whilst the Premises is open to the public and during all times when customers remain on the Premises. All recordings will be kept in an unedited format for a period of not less than 28 days with time and date stamping. Recordings shall be made available immediately upon lawful request of Essex Police or other Responsible Authority. Download or export of CCTV should be in the native file format with the native player;

(b) a staff member from the Premises who is conversant with the operation of the CCTV system shall be available at all times when the Premises are open to the public. This staff member must be able to show Essex Police or another responsible authority recent data or footage with the absolute minimum of delay;

(c) the Premises Licence Holder will continually risk assess the need for SIA guards and act accordingly; and

(d) notices shall be displayed at all exit points and in the car park requesting customers to respect the neighbours and to leave quietly.

**76. EXCLUSION OF PUBLIC AND PRESS**

The Sub-Committee noted that there was no business which necessitated the exclusion of the public and press from the meeting.

**CHAIRMAN**