

## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Licensing Sub-Committee                      **Date:** 9 January 2018

**Place:** Council Chamber, Civic Offices, High Street, Epping                      **Time:** 10.00 am - 1.15 pm

**Members Present:** M Sartin (Chairman), N Bedford, K Chana and L Hughes

**Other Councillors:** H Kane

**Apologies:** -

**Officers Present:** L Cole (Legal Services Officer), N Clark (Licensing Compliance Officer), S Moran (Licensing Compliance Officer), H Ibrahim (Licensing Officer) and G J Woodhall (Senior Democratic Services Officer)

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### 54. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Member Code of Conduct, Councillors M Sartin, N Bedford, K Chana and L Hughes declared an interest in agenda item 10, Premises Licence Variation - Waltham Abbey Express, 1 Farm Hill Road, Waltham Abbey, by virtue of the fact that a fellow District Councillor had commented on the application. The Councillors had determined that their interest was non-pecuniary and would remain in the meeting for the consideration of the issue.

### 55. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

### 56. EXCLUSION OF PUBLIC AND PRESS

#### **Resolved:**

(1) 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 was considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item</u>	<u>Subject</u>	<u>Paragraph Number</u>
5	Hackney Carriage Driver's Licence – Mr Amir Ali	1
6	Hackney Carriage Driver's Licence – Mr Rennocks	1

### 57. HACKNEY CARRIAGE DRIVER'S LICENCE - MR AMIR ALI

The Licensing Enforcement Officer informed the Sub-Committee the Applicant had requested that his application be deferred. The Sub-Committee was amenable to this

request, but felt that the application should be considered at the next meeting and in the absence of the Applicant if necessary.

**Decision:**

(1) That the application for a Hackney Carriage Driver's Licence by Mr Amir Ali be deferred until the next meeting, at the request of the Applicant.

**58. PRIVATE HIRE DRIVER'S LICENCE - MR RENNOCKS**

The Sub-Committee noted that this application had been withdrawn after the publication of the agenda for the meeting.

**59. INCLUSION OF PUBLIC AND PRESS**

**Resolved:**

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

**60. NEW PREMISES LICENCE - 109 HIGH STREET, ONGAR**

The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr S Kandasamy, the Applicant and operator of the Convenience Store at 109 High Street, Ongar; and Mr P West, the Applicant's Agent. In attendance on behalf of Ongar Town Council were: Cllr J Bicknell, and Cllr C Feetham. In attendance and objecting to the application was Mr R McNulty. 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 Enforcement Officer informed the Sub-Committee that an application for a new Premises Licence had been received in respect of the Convenience Store at 109 High Street in Ongar, along with representations from interested parties. The application had requested permission to sell alcohol between the hours of 7.00am and 11.00pm on Monday to Sunday.

The Licensing Enforcement Officer reported that an objection had been received from Ongar Town Council and five objections from local residents; the objections had related to the prevention of public nuisance, the protection of children from harm, public safety and the prevention of crime and disorder. Representations had also been received from the Essex Fire Service and the Public Health Team, neither of whom had any objections to the application.

(b) Presentation of the Applicant's Case

Mr P West informed the Sub-Committee that the Applicant had been in the supermarket trade for over 20 years with no Police or public complaints against him. The Applicant wanted to add the sale of alcohol to the goods already offered at the premises, in order to compete with other supermarkets who already offered alcohol, and the sale of alcohol would be ancillary to the main supermarket business.

In response to the points raised in the letters of objection that had been received in respect of this application, Mr West commented that:

- (i) only 9 crimes had been recorded by Essex Police in this area and none were alcohol related, therefore this part of Ongar did not have a crime problem and Essex Police were not in attendance to object to the application;
- (ii) the area has too many establishments selling alcohol, but this would contravene the guidance issued by the Government for this legislation and could not be considered as a legitimate reason for objection;
- (iii) the fear that customers from the supermarket would sit outside the Royal Oak public house and consume their alcohol, however the Royal Oak public house closed later than the supermarket and this did not happen at the moment with alcohol purchased from other establishments;
- (iv) young people would gather outside the supermarket and cause a nuisance, but this behaviour would not be encouraged by the Applicant as it would be detrimental to his business; and
- (v) various comments about parking and other traffic issues which were not relevant to the hearing of this application under the Licensing Act 2003.

However, in light of the concerns raised by local residents, the Applicant offered a reduction in the hours for the sale of alcohol to 10.00pm on Sundays to Thursdays, excluding Christmas Eve and New Year's Eve.

Mr West reminded the Sub-Committee that it had to consider evidence, not speculation, when considering cases under the Licensing Act 2003, and that residents were at liberty to request a review of the Licence if the establishment was not managed in a professional manner.

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

In response to questions from Members of the Sub-Committee, the Applicant stated that (in reference to the map on page 36 of the agenda) spirits would be stored behind the counter with wine on shelves to the left of the counter and beers stored in the fridge units. The three rooms at the rear, which were shown as not included in the licensed area, were in essence store rooms and likely to hold sweets, soft drinks and the such like, i.e. non-licensed products. The current opening hours of the Premises was 7.00am to 11.00pm; it had previously been 8.00am to 5.00pm, but this had been when the Premises was a Post Office only.

Mr West highlighted that refresher training would not be required for staff who already held an appropriate Personal Licence, but his company recommended it as a course of action to all their clients.

(d) Questions for the Applicant from the Objectors

In response to questions from the Objectors present, Mr West stated that the conditions for the Premises that had been agreed with Essex Police had already been included in the application.

(e) Presentation of the Objector's Case

Cllr J Bicknell from Ongar Town Council contended that Ongar High Street had numerous premises for the purchase of alcohol already. There were no longer any Police based in Ongar, and there were repeated incidents outside the Tesco store

when miscreants brought alcohol, urinated in the street and scratched the paintwork of parked cars with keys. This all resulted in anti-social behaviour which was not needed in Ongar; the King's Head public house had security staff on the door at weekends. Ongar High Street was very narrow, so there was the potential for traffic issues and congestion from selling alcohol at the supermarket.

Cllr Feetham from Ongar Town Council reiterated the comments made by Cllr Bicknell, and highlighted that Ongar Town Council had voted unanimously to object to the application when it was discussed at their meeting on 16 November 2017. There were already more than enough places in Ongar at which alcohol could be purchased, including the petrol station at the Four Wantz roundabout on the A414. There had been numerous parking issues in the High Street caused by the nearby Fish Shop as nobody seemed to use car parks anymore, and the attention of the Sub-Committee was drawn to the high number of local objections received for this application.

Mr McNulty informed the Sub-Committee that he had lived opposite the supermarket premises for 30 years, and had noticed that the levels of noise and anti-social behaviour had increased markedly since the nearby Fish & Chip Shop was given permission to stay open until 10.30pm. It was Mr McNulty's contention that the anti-social behaviour in the immediate area would only increase if this Licence application was approved. The primary customers for both the Fish & Chip Shop and the Supermarket for sales of alcohol would be passing trade from customers in cars, not local residents, and this would exasperate the numerous motoring and parking issues occurring already in this area. Mr McNulty believed that illegal activities would only increase in the area if this Licence was granted, and the Sub-Committee should restrict the sale of alcohol at the supermarket to 6.00pm each evening.

The Council's Legal Officer emphasised that parking issues were not a matter for the Licensing authority and should be dealt with by Essex Police and/or Essex County Council. No evidence had been produced that this establishment had caused any of these problems. Mr McNulty retorted that the current problems had started since the Fish & Chip Shop had extended its opening hours until 10.30pm each evening, and these issues would only worsen if this Licence was granted.

(f) Questions for the Objectors from the Applicant

When Mr West enquired of Cllr Bicknell if she had any evidence that the application would give rise to her concerns, she stated that there were plenty of establishments in Ongar High Street where alcohol could already be purchased and she had contacted the Police when there had been problems.

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

The Chairman asked whether Essex Police had been contacted whenever there were parking issues occurring in Ongar High Street. Cllr Bicknell responded that the Police are generally not contacted over these incidents. There was no longer a Police presence in Ongar, so they would have to come from either Loughton or Harlow, and they took so long to arrive that they generally did not respond.

(h) Closing Statement of the Objectors

Cllr Bicknell from Ongar Town Council requested that the hours for the Licence be reduced to earlier in the evening.

Mr McNulty stated that neighbours were upset at customers parking on their driveways or obstructing their driveways when using the supermarket, and felt that instances of illegal activity would increase if this Licence was granted.

(i) Closing Statement of the Applicant

Mr West reminded the Sub-Committee that the guidance issued for the Licensing Act 2003 stated that shops should normally be free to provide off sales of alcohol during opening hours unless there were good reasons to restrict those hours; there had been no evidence produced today to restrict those hours.

Mr West pointed out that there had been no objections from the statutory consultees, and the Applicant had agreed additional conditions for the Licence with Essex Police. The Applicant would be happy to discuss any issues with the neighbours once the Licence had been granted, and a contact number would be offered to local residents. There had been no evidence offered by the Objectors that this application would cause problems in the area, and the Licence could always be reviewed if problems did arise in the future.

The Applicant offered a further concession with the Sale of Alcohol to finish at 9.00pm each evening Sundays to Thursday, with the exception of Christmas Eve and New Year's Eve, with the drawing of shutters over the areas where alcohol was displayed with the supermarket closing at 11.00pm for sales of non-alcoholic products as per the current situation.

Mr West concluded that the conditions offered for the Licence, plus those agreed with Essex Police, and the professional management structure that was in place at the supermarket accorded with the objectives laid out in the Licensing Act 2003.

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

The Sub-Committee retired from the Council Chamber to consider the application.

The Sub-Committee noted that there had been no objections from any of the statutory consultees, and the Applicant had agreed the conditions proposed by Essex Police - which had been included as part of the application – including the installation of CCTV at the Premises. The Sub-Committee felt that the instances of anti-social behaviour described by the Objectors were likely to have originated from the nearby public house, and the arguments put forward by the Objectors were outside the remit of the Sub-Committee to consider when determining the application. The Sub-Committee were reminded that the Licence could reviewed in the future if necessary.

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

**Decision:**

(1) That the application for a Premises Licence at 109 High Street, Ongar be granted during the following periods:

(a) Sale of Alcohol on Sundays to Thursdays between 7.00am and 9.00pm (except Christmas Eve and New Year's Eve);

(b) Sale of Alcohol on Fridays, Saturdays, Christmas Eve and New Year's Eve between 7.00am and 11.00pm; and

- (c) Hours Premises are open to the Public on Mondays to Sundays between 7.00am and 11.00pm.

**61. PREMISES LICENCE VARIATION - NISA LOCAL, 66-70 BORDERS LANE, LOUGHTON**

The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr Demirtas, the Manager of the NISA Local store at Borders Lane in Loughton; Mr C Zedek and Mr G Hopkins, Agents for the Applicant. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

The Application before the Sub-Committee

The Licensing Enforcement Officer informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of the NISA Local store at 66 – 70 Borders Lane in Loughton, along with representations from interested parties. The application had requested permission to:

- (a) incorporate number 66 Borders Lane within the Premises as a licensed area; and
- (b) allow the Premises to open between 7.00am and 11.00pm on Mondays to Saturdays and 7.00am to 10.30pm on Sundays.

The Licensing Enforcement Officer stated that Essex Police had suggested a number of additional conditions to be applied to the Licence, which the Applicant had agreed, as well as objections to the Application from Loughton Town Council, District Cllr C Roberts, and one local resident. However, Loughton Town Council had withdrawn its objections to the Application after the agenda for the meeting had been published.

Presentation of the Applicant's Case

Mr Hopkins stated that the units at 68 and 70 Borders Lane constituted the current Premises; the Applicant had acquired the lease for the neighbouring unit at 66 Borders Lane and wanted to include this unit within the licensed area for the new layout of the Premises. The Applicant also wished to open for an extra hour in the morning, from 7.00am not 8.00am, but there was no changes requested to the permitted hours for the sale of alcohol.

Mr Hopkins explained that the Applicant had owned and run these premises for four years. Essex Police had offered a number of conditions to be included on the Licence regarding the installation of CCTV, the implementation of Challenge 25 and staff training, which the Applicant had agreed to and Essex Police had subsequently withdrawn their objections. Loughton Town Council had also withdrawn their objections following the publication of the agenda.

Mr Hopkins highlighted that the representations concerning the closure of the Newsagents and Bakers (which was consequently converted into a large café) and the parking issues in the local vicinity were not part of the Licensing Act 2003 and consequently not relevant to the consideration of this application.

Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Mr Hopkins confirmed that 66

Borders Lane was originally a separate retail unit, but since acquiring the lease to this unit, the Applicant had brought these previously vacant Premises into use with the existing shop premises at 68 and 70 Borders Lane. The Applicant had sought Building Regulations approval for the changes made to the three retail units.

Mr Hopkins also confirmed that the Applicant was content to include the retention of CCTV recordings for a period of 31 days within the conditions for the Prevention of Crime and Disorder, as suggested by Essex Police in their representation.

Mr Hopkins also clarified that the current extent of the licensed Premises was 68 and 70 Borders Lane, and the application sought to add 66 Borders Lane to the existing, adjacent licensed Premises.

#### Applicant's Closing Statement

Mr Hopkins had no additional comments to make and requested that the Sub-Committee grant the application.

#### Consideration of the Application by the Sub-Committee

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

The Sub-Committee received no advice from its Officers during their consideration of the application.

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

#### **Decision:**

(1) That the application to vary a Premises Licence for the NISA Local store at 66 – 70 Borders Lane, Loughton be granted, subject to the conditions contained within the application.

#### **62. PREMISES LICENCE VARIATION - WALTHAM ABBEY EXPRESS, 1 FARM HILL ROAD, WALTHAM ABBEY**

The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr E Hazar, the Applicant and owner of the business; and Ms S Hazar, the Applicant's Legal Agent. In attendance on behalf of Essex Police was Mr P Jones, the Licensing Officer for the Epping & Brentwood area. In attendance as Objectors to the application were: Mr L Emery; Ms D Emery; and District Councillor for the Waltham Abbey South West ward, Cllr H Kane. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

#### The Application before the Sub-Committee

The Licensing Enforcement Officer informed the Sub-Committee that an application to vary a Premises Licence had been received from Mr E Hazar in respect of Waltham Abbey Express at 1 Farm Hill Road, Waltham Abbey, along with representations from interested parties. The application had requested permission to extend the licensable hours for the sale of alcohol and the opening hours of the Premises to:

- (a) 9.00am to 1.00am on Mondays to Thursdays;
- (b) 9.00am to 2.00am on Fridays and Saturdays; and
- (c) 9.00am to 12.00am on Sundays.

The Licensing Enforcement Officer stated that a representation had been received from Essex Police, as a responsible authority, as well as eleven representations from interested parties. The representations related to the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

#### Presentation of the Applicant's Case

The Applicant explained that Waltham Abbey Express was a convenience store which he had operated for the past six years. The Premises would be subject to an upward rent review later in the year, and hence this application to extend the hours for the Premises Licence to generate additional income from the business.

The Applicant had always extended his full co-operation to the Police, and had never been in trouble with either the Police or the Council as the Licensing Authority. There had been no instances of sales of alcohol to underage persons from the Premises, and the parking problems experienced in Farm Hill Road were caused by all of the establishments situated there, including the Bookmakers, food outlets and restaurants.

#### Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, the Applicant stated that he needed to generate extra revenue from the business to pay the increased rent, hence the submission of the application for additional hours for the sale of alcohol.

In relation to the conditions suggested by the Police, Ms Hazar explained that the Applicant was happy to accept the majority of them; the exceptions were the prohibition on selling individual cans of beer, and the limit on alcohol to be sold at 6% by volume for beers and ciders.

#### Questions for the Applicant from the Objectors

Mr Emery produced some photographs of the parking issues experienced in Farm Hill Road, and contended that the Pizza restaurant had a large car park of its own and that its customers would not need to park on the street. However, the Applicant maintained that the Taverna had parties until 2.00am and some of their customers did park on the public highway.

Cllr Kane highlighted a photograph showing the van from the Premises parked in a very inconsiderate position in the street. The Applicant responded that the photograph was from 2013, the local Neighbourhood Police Officers had subsequently spoken to the Applicant regarding his parking in the street and the van from the Premises had not been parked in that position for at least two years. However, the Objectors contended that this was still happening, that they had further photographs to prove this was the case, and requested assurances from the Applicant. The Applicant stated that he would not park on the pavement shown in the photographs, had not done so for at least two years, and staff within the store had parked there once when the Applicant was away.



Cllr Kane pointed out that the alcohol was placed at the front of the store, where it was potentially easier to pilfer. Ms Hazar explained that there had been no instances of theft from the store of alcoholic items, and all layouts of off-licences and convenience stores basically followed the same format. The Applicant indicated the position of the alcohol shelves and fridges within the store, which was near to the door, but the Applicant had not suffered from any theft of alcohol in the last six years. There was also space at the back of the store for storage. The Premises was a convenience store, not an off-licence, and customers could currently purchase anything within store during the permitted opening hours.

#### Presentation of the Objectors' Case

Mr Jones from Essex Police stated that the Premises was on a main road in close proximity to residential premises. A high percentage of the passing trade in the early hours of the morning was liable to be people on their way home from licensed premises in Waltham Abbey Town Centre, where establishments were generally licensed until 1.00am. If the Licence variation was granted then alcohol at off-licence prices would be available to customers who had already potentially consumed a large amount of alcohol, and there would be a tendency for groups of people to meet at the Premises and consume alcohol on the street. This would give rise to noise and disturbance causing a public nuisance and potential crime and disorder.

Mr Jones added that there had been no reported incidents at the store; however, the application gave rise to potential problems and the Applicant had not offered any conditions to be added to the Licence to mitigate these issues. In relation to the suggested conditions from Essex Police, Mr Jones stated that most beers and ciders were 4 – 5% alcohol by volume and the suggested 6% limit would only exclude the super strong lagers. It was also felt that the sale of single cans of beer or cider for consumption outside the Premises should also not be permitted.

Mr Emery stated that he and his family lived next door to the store and were affected by noise and disturbances virtually every single night. As previously outlined in his representation, Mr Emery emphasised the instances of large groups of young people outside the shop drinking alcohol and being loud and abusive, customers for the store constantly blocking his driveway, several arguments and fights outside the store, and the broken glass from smashed bottles which had led to eight tyre punctures in the previous 18-month period.

Mr Emery concluded that Waltham Abbey did not need this store to stay open later than other establishments selling alcohol, and that to grant this Licence variation would be detrimental to the local community and the area.

Cllr Kane drew the attention of the Sub-Committee to the issues raised in her representation, on page 114 of the agenda. The Sub-Committee was reminded that vans delivering to the Premises parked dangerously on the pavement on the corner of the road which had been reported to the Police on numerous occasions; there was a constant noise nuisance emanating from the Premises late at night including the slamming of car doors; the front gardens in Farm Hill Road were constantly filled with litter; and the Premises was supplying alcohol to minors. Cllr Kane stated that anti-social behaviour in Waltham Abbey had steadily increased over the last four years, along with the demand for alcohol late at night. This Licence variation, if approved, would only aggravate the existing problems in the area, and the Sub-Committee was requested to refuse the application.

Questions for the Objectors from the Sub-Committee

In response to questions from the Sub-Committee, Mr Emery confirmed that he had not reported any instances of anti-social behaviour to the Police, although Cllr Kane confirmed that she had repeatedly reported issues to the Police via the 101 non-emergency telephone number.

Mr Jones acknowledged that the Police report on the Premises might not have identified issues in the street reported by neighbours, and that the Police had no evidence of sales of alcohol to minors from the Premises; this could have been an operation undertaken by Trading Standards Officers. The Licensing Enforcement Officer advised the Sub-Committee that Trading Standards Officers generally targeted Off-Licences for the possible sale of alcohol to minors. The Applicant advised the Sub-Committee that this could refer to offences committed by the previous owner of the Premises in 2007.

Applicant's Closing Statement

The Applicant informed the Sub-Committee that he never served customers who were already drunk, and he had never failed a test purchase undertaken by Trading Standards Officers – for either cigarettes or alcohol. CCTV images from the Premises were always kept for at least 31 days, and these could be provided to the Police on request; a refusal book was also kept for the Premises.

Ms Hazar added that the Applicant was a very responsible business owner who, as stated earlier, had never sold alcohol to minors or drunks. The reason for the extension was to generate more income from the business to pay for the increased rent on the Premises, and the Sub-Committee was urged to allow the Premises to open later and sell alcohol on Friday and Saturday nights by at least 30 minutes or one hour more.

Consideration of the Application by the Sub-Committee

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

The Sub-Committee acknowledged that it was difficult to accept instances of selling alcohol to minors had occurred as the Premises had been test purchased. The Sub-Committee noted the plea from the Applicant's Legal Agent to at least allow the Premises to open later on Fridays and Saturdays, along with the reasons for this, and felt that this was not unreasonable. However, given the problems experienced in the area then the hours already permitted for Sundays to Thursdays should remain in place and not be increased. In addition, the majority of the conditions suggested by Essex Police under the Prevention of Public Nuisance should be added to the Licence, with the exception of the two conditions prohibiting the sale of single cans of beer or cider and the sale of beer or cider with a alcohol strength greater than 6% by volume.

The Sub-Committee returned to the Council Chamber, and the Chairman informed the participants of its decision.

**Decision:**

(1) That the application to vary a Premises Licence for Waltham Abbey Express at 1 Farm Hill Road, Waltham Abbey be granted, subject to the following conditions:

- (a) the sale of alcohol and the hours the Premises are open to the public on Fridays and Saturdays be varied to be between 9.00 am and 1.00am;
- (b) the sale of alcohol and the hours the Premises are open to the public on Mondays to Thursdays be maintained to be between 9.00am and 12.30am;
- (c) the sale of alcohol and the hours the Premises are open to the public on Sundays be maintained to be between 9.00am and 12.00am;
- (d) the inclusion of all conditions in relation to the Prevention of Crime and Disorder suggested by Essex Police (as set out on pages 111 and 112 of the agenda); and
- (e) the inclusion of all conditions in relation to the Protection of Children from Harm suggested by Essex Police (as set out on page 112 of the agenda).

**CHAIRMAN**