

MAIDSTONE BOROUGH COUNCIL

Licensing Act 2003 Sub Committee

**MINUTES OF THE MEETING HELD ON TUESDAY 31 JANUARY
2017**

Present: **Councillor Newton (Chairman), and
Councillors McLoughlin and Mrs Robertson**

22. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

23. DISCLOSURES OF LOBBYING

It was noted that Councillors Robertson and Newton disclosed that they had been lobbied.

24. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE
BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION

RESOLVED: That all items on the agenda be taken in public as proposed.

25. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES -
APPLICATION FOR A PREMISES LICENCE TO BE VARIED UNDER THE
LICENSING ACT 2003 FOR MILTON STORE, MILTON STREET, MAIDSTONE,
KENT, ME16 8JT

The Chairman requested that all those participating in the hearing identify themselves as follows:

Councillor Newton – Committee Chairman
Councillor McLoughlin – Committee Member
Councillor Robertson – Committee Member
Jayne Bolas – Legal Advisor
Poppy Collier – Committee Clerk
Mrs Thiruchelvy Thavakuhananthan – Applicant
Ms Sharon Laurenton – Witness for the applicant
Councillor Harper – Other Person
Councillor Adkinson – Witness for the other person
Stephanie Price – Witness for the other person
Kerry Sargeant - Witness for the other person

The Chairman confirmed that all parties were aware of the hearing procedure and that each had a copy of the procedure document.

The Committee Members confirmed that they had pre-read all the papers and any other documents contained in the report regarding the hearing.

The applicant and other person confirmed that no draft conditions had been agreed, however the applicant advised that she would be willing for the proposed closing hours to be amended to a time between 11.30 p.m. and 12.00 midnight.

Both the applicant and the other interested party requested that witnesses be allowed to give evidence on their behalf and the committee agreed to this.

The legal advisor briefly outlined the application and representations received.

The Chairman invited the applicant, Mrs Thavakuhananthan, to provide opening remarks. Mrs Thavakuhananthan informed the committee that:

- The application for a variation of licence pertained to a convenience store which would sell cigarettes and alcohol among other products, feature an Automated Teller Machine (ATM) and would provide a Paypoint for the payment of bills.
- The premises was formerly a public house and the application for variation would change from an on licence to an off licence.
- Security would be a priority, and to this end 20 CCTV cameras would be installed on the premises in addition to the use of an alarm system.

The Chairman invited the other person, Councillor Harper, to address questions to the applicant. In response to those questions Mrs Thavakuhananthan advised that:

- Parking was available at the side of the store and on Milton Street. No new issues were expected due to the premises change of use to a convenience store than were experienced when it was a public house.
- There would be a separate planning application with regard to the installation of the 20 CCTV cameras and external fascia so these had not been detailed in the plan submitted with the licensing application. The planning application would be submitted within 7-10 days of the hearing.
- Mrs Thavakuhananthan would be working full-time at the shop alongside two full-time and two-part time staff members. Staff numbers could be increased depending on business requirements. Permission had already been granted for a two bedroom flat above the shop with separate access and separate property number.

Mrs Laurenton, speaking as a witness for the applicant, described herself as a regular customer of Mrs Thavakuhananthan's shop in Ashford. Mrs Laurenton stated that the shop was clean and made the area feel safe due to the external CCTV cameras. Mrs Laurenton explained that Mrs Thavakuhananthan had managed the Ashford business - which was located near to schools and care homes - successfully for 11 years without any issues or negative effects.

In response to a question from the committee Mrs Thavakuhananthan confirmed that the Ashford shop had the opening hours of 6.00 a.m. to 10.00 p.m.

The Chairman invited the other person, Councillor Harper, to provide opening remarks.

Councillor Harper explained that a number of residents had contacted him with concerns regarding parking problems on Milton Street, and the potential for noise nuisance from the store having a closing time of 02.00 a.m.

Ms Sargeant, witness for the other interested party, explained that:

- As a resident of Milton Street she had concerns regarding parking on the street as this was already difficult for residents after 6.00 p.m. The one-way nature of Milton Street was also raised, as customers to Milton Store would have to travel the length of the road causing motor noise in a quiet area.
- Milton Street was a safe area but the late night sale of alcohol could encourage people who had been drinking in town to visit the shop and cause nuisance.

The Chairman invited the applicant Mrs Thavakuhananthan to ask questions of the witness. Ms Sargeant replied that:

- When the premises was a public house it did not exacerbate parking issues as those who frequented were from the local area.
- The parking spaces at nearby Clare Park would not benefit the shop as these were already used as overflow parking for Milton Street.

Ms Price, witness for the other person, addressed the sub-committee and reiterated concerns that car users from further afield than the local area, or those who had been drinking in town, would visit the store and cause noise issues, particularly for those residents with children.

The Chairman invited the applicant Mrs Thavakuhananthan to ask questions of the witness who replied that, although there was already noise in the daytime from school children and cars, the street was quiet at night time. The concern was that this would change if the Milton store was open until 02.00 a.m.

Councillor Adkinson, witness for the other person, stated to the committee that:

- When the premises was a public house there was little noise disturbance, and the premises closed at 11.00 p.m.
- Milton Store would face onto Tonbridge Road which was a main route into town. There were worries that people would 'pre-load' with alcohol from the store on the way into town, and then 'top-up' with

alcohol on the way back from town, which could lead to an increase in littering, noise disturbance and nuisance.

In response to questions Councillor Adkinson advised that:

- He had no evidence to demonstrate that some of the potential ill effects described would occur but had witnessed the parking issues on Milton Street first hand.
- The nearby Tesco garage on Tonbridge Road was open until 12.00 midnight and sold alcohol. The Sainsbury's further along the Tonbridge Road closed at 11.00 p.m. Monday to Saturday and 10.30 p.m. on Sunday and sold alcohol.

The witness for the applicant asked Councillor Harper whether he had objected to the licences for the aforementioned Tesco garage and Sainsbury's stores. Councillor Harper stated that the Tesco garage had opened before he was a ward member, and that he had not objected to the Sainsbury's application. For clarification Councillor Harper explained that his objection was with regard to the applicant's proposed closing hours of 02.00 a.m.

At the committee's request the legal advisor clarified that the committee could limit the times for supply of alcohol to take place, but could not make decisions with regard to the opening and closing times of the premises itself where these were not linked to the sale of alcohol. The applicant confirmed that she wished the opening hours to be the same as the sale of alcohol hours to avoid confusion for her customers.

The legal advisor read through the existing non-mandatory conditions of the licence in order to seek the applicant's view on each for consideration by the sub-committee.

The Chairman invited Councillor Harper to provide a closing speech. Councillor Harper requested that the sub-committee consider the closing hours of the store and proposed that sale of alcohol should cease at 10.30 p.m. Councillor Harper acknowledged that parking issues were not within the scope of the sub-committee.

Mrs Thavakuhananthan provided a closing speech and asked that it be taken into account that the nearby Tesco garage had a closing time of 12.00 midnight which Mrs Thavakuhananthan was happy to accept for her own premises. Mrs Thavakuhananthan did not intend to open until 12.00 midnight at first, but would monitor business levels and would appreciate the ability to extend sale of alcohol if required.

The sub-committee had no final questions of either the applicant or other person and retired to private session to consider the application at 11.38 a.m., reconvening at 12.36 p.m.

RESOLVED:

That the application be granted subject to modified conditions necessary for the promotion of the licensing objectives:

Application granted for supply of alcohol for consumption off the premises and opening hours of 06:00 hours to 00:00 daily.

Conditions:

All relevant mandatory conditions;
All conditions in the operating schedule at p21 of the agenda;
Conditions in the current licence at p34 of the agenda at Annex 3 – deleting 1,3,5 and 6-9, condition 2 retained and amended to 'CCTV shall be in place in external areas of the premises' and condition 4 retained.

Reasons for determination:

Having heard the applicant and her witness and one other person and his witnesses, and having read all papers on the agenda, Members of the Sub-Committee have taken account of the evidence relevant to promotion of the licensing objective to prevent public nuisance.

They have taken particular account that there have been no representations of concern from responsible authorities. There was no clear evidence that the reduced hours as requested by the applicant at the hearing of 06:00 hours to 00:00 hours would be the cause of public nuisance in the immediate vicinity within the control of the licence holder; by noise arising from traffic, parking or pedestrians. Need for the premises is not relevant to the licensing objective. The previous premises licence included the potential for use for many other licensable activities which could generate public nuisance and hours for supply of alcohol on and off the premises to midnight Monday-Thursday and Sunday, and to 01:30 Friday and Saturday. Although use at closure may have been less. The hours granted are considered appropriate and proportionate to use as a convenience store. The conditions applied are also considered appropriate for prevention of public nuisance and proportionate to the proposed use.

Informative:

If issues should arise during the operation of a licence, which are related to licensable activity at the premises and promotion of the licensing objectives, application may be made for review of a premises licence in accordance with the Licensing Act 2003.

26. DURATION OF MEETING

10.04 a.m. to 12.40 p.m.