

# LICENSING SUB-COMMITTEE HEARINGS

## 6 AUGUST 2010

*Present :-* Councillors John Bouckley, Nick Cope and Wyn Foster

### 1. Appointment of Chairman

*RESOLVED* that Councillor Cope be appointed Chairman.

### 2. Declarations of Interest

There were no declarations of interest.

### 3. Minutes

The minutes of the meeting held on 4 June 2010 were approved as a correct record.

### 4. Applications under the Licensing Act 2003

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

#### **a) Mobile Hot Dog Van, Lay-by fronting 138142 High Street, Colchester**

The Sub-Committee considered an application for a premises licence in respect of a Mobile Hot Dog Van to permit the provision of late night refreshment.

#### **In Attendance**

Applicant: Mr Gary Mateer

Responsible Authorities: Inspector Paul Butcher and PC Tom Walker (Essex Police), Ms Parkin (Environmental Control)

Interested Parties: Councillor W. Frame and Councillor H. Spyvee (Ward Councillors)

Officers: Mr Essex, Lawyer; Mr Harvey, Licensing Manager; Mrs White, Committee Services Officer (Licensing) and Ms Tuthill, Committee Services Assistant (Licensing)

Mrs White, Committee Services Officer (Licensing), briefly introduced the application advising that representations had been received from Essex Police, the Dutch Quarter Association, Councillor Frame and Councillor Spyvee. Observations on the application had also been made by Environmental Control.

Mr Mateer presented the application to the Licensing Sub-Committee and explained that he had designed the van so that it could be mobile around the streets of

Colchester. The applicant told the Sub-Committee that he had previously approached the Council regarding permissions and was told that he did not require a licence because the van was mobile. In the light of this information he had started to trade in the High Street. It was not until one of Colchester Borough Council's Licensing Enforcement Officers visited the van and asked to see the Premises Licence that Mr Mateer realised his business required a Premises Licence and he made an application for a premises licence. Mr Harvey explained that the relevant legislation and the Council's Licensing Policy both clearly state that an operation such as this would require a licence.

The applicant explained that the business only sold hot dogs and that he intended to operate between the licensable hours of 23.00 and 05.00, but would probably close at 03.30 when most of the passing trade would have stopped. Mr Mateer thought that the location of the van in High Street would provide those in the Town Centre at that time with an alternative place to Queen Street to get food late at night, and would be something different in the town. When asked about the possibility of reducing his hours of operation, Mr Mateer confirmed that he would be prepared to reduce his licensable hours to 03.30.

PC Walker outlined Essex Police's objections to the application and explained that the intended location of the van was already a hot spot area for crime and disorder and from experience considered that its location was likely to be an obstruction. PC Walker explained that people were likely to congregate around it whilst waiting for food, and that fights and vandalism would almost inevitably result. When asked about the possibility of the licensable hours been reduced to 03.30, PC Walker stated that the Police would still object to the application as it believed that the same issues would occur, particularly with nearby premises such as Liquid/Envy closing at about that time. PC Walker was unable to confirm if there had been any reported incidents in relation to the van when it had been in operation without a licence

Ms Parkin who spoke on behalf of Environmental Control voiced its concerns about the number of people who would congregate in the area and create a public nuisance. Ms Parkin also referred to the likely increase in litter in the area, which would be generated by the business, and when questioned, stated that this was already a problem in the area late at night. The applicant advised the Sub-Committee that he was prepared to pick up any of his customers' dropped napkins in the immediate area but that it was not practical for him to pick this litter up from a wider area.

Councillor Frame informed the Sub-Committee that he believed that the business was in the wrong place at the wrong time as the location is already one of the flash points in Castle Ward. Councillor Frame believed that if the application were granted it was likely to cause public nuisance to residents and become a focal point for crime and disorder. Councillor Frame also thought that a closure time of 03.30 would be no better than 05.00 and was concerned that the applicant would not stop trading at 03.30, if there was a queue of potential customers.

Councillor Spyvee then addressed the Sub-Committee and reiterated the concerns of the Police, Environmental Control and Councillor Frame with regards to the potential increase in crime and disorder and public nuisance in the area, should the application

be granted. Councillor Spyvee said that he admired Mr Mateer's entrepreneurship but that the applicant was an inexperienced licensee and that he considered the application submitted and in particular the proposals to deal with crime and disorder to be inadequate.

In his closing statement, Mr Mateer informed the Sub-Committee that he had lived in Colchester for 34 years and that he knew what to expect and that he thought that offering food to drunken individuals would be a help and offer them somewhere different to go in the town.

### **The Decision**

RESOLVED that having regard to the relevant parts of the Section 182 Guidance, the Council's Licensing Policy, the contents of the report and the submissions made at the Hearing the Sub-Committee determined to refuse the application.

### **Reasons for the Determination**

The Sub-Committee being familiar with the area considered that the application would have a detrimental effect on the achievement of its policy to minimise crime and disorder and public nuisance in the area.

The Sub-Committee had given careful consideration to all the representations and evidence, and was not satisfied that the concerns raised by Essex Police and the interested parties were adequately addressed by the applicants' operating schedule or in his representations made to the Sub-Committee notwithstanding the proposed reduction in the terminal hour to 03.30.

## **5. Close of Meeting**

The meeting closed at 11.20.