

# Licensing Sub- Committee Hearings

**Grand Jury Room, Town Hall  
27 February 2009 at 10:00am**

The Licensing Sub-Committee hears and determines applications made under the Licensing Act 2003. This includes licensing the sale of alcohol and the provision of a variety of licensable activities such as recorded music, stage plays and the showing of films.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings with the exception of Standards Committee meetings.. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices or at [www.colchester.gov.uk](http://www.colchester.gov.uk) .

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone (01206) 18001 followed by the full telephone number you wish to call, and we will try to provide a reading service, translation or other formats you may need.

## Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

## Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester  
Telephone (01206) 282222 or textphone (01206) 18001 followed by the full telephone number  
you wish to call  
e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)  
[www.colchester.gov.uk](http://www.colchester.gov.uk)

## **Licensing Sub-Committee Hearing Procedure for Hearings under the Licensing Act 2003**

- (1) All questions and statements will be directed through the Chairman.
- (2) The Chairman will at the beginning of the Hearing explain to the parties the procedure to be followed and shall consider any request made by a party for permission for another person to appear at the Hearing.
- (3) The Hearing shall take the form of a discussion led by the Council's representative.
- (4) Cross examination shall not be permitted unless the Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may be.
- (5) The Chairman of the Sub-Committee may require any person attending the Hearing who in his opinion is behaving in a disruptive manner to leave the Hearing and may:
  - (a) refuse to permit that person to return, or
  - (b) permit him to return only on such conditions as the Sub-Committee may specify.

Provided that any such person may before the end of Hearing submit to the Council in writing any information which they would have been entitled to give orally had they not been required to leave.

- (6) A party who wishes to withdraw any representations they have made may do so:
  - (a) by giving notice to the Council no later than 24 hours before the day or first day on which the Hearing is to be held, or
  - (b) orally at the Hearing.
- (7) The Sub-Committee in considering any representations or notice made by a party may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the Hearing, or with the consent of all other parties, at the Hearing.
- (8) The Sub-Committee shall disregard any information given by a party or any person to whom permission to appear at the Hearing had been given which is not relevant to:
  - (a) their application, representations or notice(as applicable) or in the case of another person, the application representations or notice of the party representing their appearance, and
  - (b) the promotion of the licensing objectives or, in relation to a Hearing to consider a notice given by a chief officer of police, the crime prevention objective.
- (9) If a party has informed the Council that he does not intend to attend or be represented at a Hearing, the Sub-Committee may decide to proceed with the Hearing in his absence.
- (10) If a party has not informed the Council that he does not intend or be represented at a Hearing and fails to attend or be represented at a Hearing, the Sub-Committee may:
  - (a) where it considers it to be necessary in the public interest adjourn the Hearing to a specified date ( notice being given forthwith to the parties concerned of the date, time and place to which the Hearing has been adjourned), or

(b) hold the Hearing in the party's absence

Where the Sub-Committee agrees to hold the Hearing in the absence of a party, the Sub-Committee shall consider at the Hearing the application, representations or notice made by that party.

The Council's case:-

(11) The Chairman will invite the Council's representative to summarise the report relating to the application under consideration.

The Applicant's case:-

(12) The Applicant and/or representative will begin with their opening remarks and present their case.

(13) The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.

(14) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from other parties (these will include Interested Parties, Ward Councillors (who are an interested party themselves or are acting in the capacity as a representative of an Interested Party) and representatives from Responsible Authorities:-

(15) Each party will present their case.

(16) Each party's witnesses (if any) will give evidence in support of the party's case.

(17) Each party and their witnesses may be questioned by the Chairman and members of the Sub-Committee.

(18) Each party may question their witness again to clarify any points which may have arisen.

(19) If the Applicant or the interested parties wish to question each other, questions may be directed through the Chairman.

(20) Closing Statements may be made by the Applicant and/or representative.

(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Sub- Committee

(22) The Applicant and/or representative, Interested Parties, Ward Councillors, Responsible Authorities and the members of the public and the press will leave the room to allow the Sub-Committee to determine the application. During this process the Sub-Committee members may ask for legal advice from the Legal Advisor.

(23) The Applicant and/or representative, Interested Parties and Ward Councillors, Responsible Authorities and the members of the public and the press will be invited to return to the room when the Sub-Committee's determination will be announced. Written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

# The Licensing Sub-Committee Hearings Process

**OUTLINE OF APPLICATION**  
Made by the Licensing Manager

**APPLICATION**  
To be presented by the applicant or their representative.  
Witnesses for the applicant (if any) to give evidence.

**QUESTIONS TO THE APPLICANT**

**RESPONSIBLE AUTHORITIES**  
Each Responsible Authority and its witnesses (if any) to present its case.

**QUESTIONS TO THE RESPONSIBLE AUTHORITIES**

**OBJECTORS**  
Each objector to present their case to the Sub-Committee.

**QUESTIONS TO THE OBJECTORS**

**CLOSING STATEMENT**  
Made by each party - objectors, responsible authorities, applicant

**DECISION**  
All parties will be asked to leave while the Sub-Committee considers the application and reaches its decision  
  
All parties will then be asked to return and the decision of the Sub-Committee will be read out

All questions must be directed through the Chairman

Only those people who have submitted a written objection in the 28 day objection period may speak at the Sub -Committee  
  
In addressing the Sub-Committee interested parties can only raise matters that were contained within their letter of representation

The decision of the Sub-Committee will be sent in writing to all those who made a representation

There is a right of appeal to the Magistrates Court and details of this are included in the decision letter

**COLCHESTER BOROUGH COUNCIL  
LICENSING SUB-COMMITTEE HEARINGS  
27 February 2009 at 10:00am**

**Members**

Chairman : Councillor Barrie Cook.  
Deputy Chairman : Councillor Christopher Garnett.  
Councillors and Philip Oxford.

**Agenda - Part A**

(open to the public including the media)

**Pages**

**1. Appointment of Chairman**

To appoint a Chairman for the meeting.

**2. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones to off or silent;
- location of toilets;

**3. Declarations of Interest**

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

#### **4. Minutes**

**1 - 9**

To confirm as a correct record the minutes of the meeting held on 24 October and 5 December 2008.

#### **5. Application for a Review under the Licensing Act 2003**

i. Yates's Wine Lodge, 1-3 Head Street, Colchester, Essex

**10 - 25**





# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

24 October 2008

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 24 October 2008 at 10.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cook  
Councillor Chuah  
Councillor Cope

#### 1. Membership

The Committee Services Officer (Licensing) advised that there were no changes to the membership.

*RESOLVED* that Councillor Cook be appointed Chairman.

#### 2. Licensing Applications

The Head of Planning, Protection and Licensing Services submitted reports in relation to the following applications for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

##### a) Mersea Outdoors

The Sub-Committee considered an application for the variation of a premises licence in respect of Mersea Outdoors, Rewsalls Lane, East Mersea to extend the opening hours, hours for the supply of alcohol on the premises, provision of plays, films, indoor sporting events, boxing/wrestling, live music, recorded music, performance of dance, facilities for dancing, facilities for making music, facilities for entertainment of a similar description (karaoke) and provision of late night refreshment.

##### In Attendance

Applicant: Mr Button (Manager)

Responsible Authorities: Mr Milham, Environmental Control

Residents: Mrs Pittock and Mrs Jacobs

Officers: Mr Essex, Solicitor, Mr Harvey, Licensing Manager, Mrs White, Committee Services Officer and Miss Tuthill, Committee Services Assistant.

Mrs White, Committee Services Officer (Licensing), briefly introduced the application advising that three letters of representation had been received from local residents. A letter of support of the application had also been received from Mersea Island Vineyard.

The applicant explained that the premises was seeking to vary its premises licence as its existing licence did not allow any flexibility and that it had been using Temporary Event Notices as a result to licence a number of events. Varying the licence would enable the

organisation to cater to a wider audience and increase the use of the centre which in turn would hopefully generate more income as the youth camp had recently had its funding withdrawn. Mr Button informed the Committee that the centre had always been mindful of its neighbours and had a number of systems already in place to comply with the four licensing objectives. The conditions put forward by Environmental Control and Essex child Protection had been agreed by the applicant.

Environmental Control stated that it had previously visited the site and at the time had not witnessed any noise problems. However, Mr Milham did confirm that depending on the direction of the wind, noise could be carried from the premises to the nearest residential properties. Mr Button said that his intention would be for regulated activities outside to end at 23.30 and then to allow 30 minutes for clearing the area afterwards.

Residents informed the Committee that they were regularly disturbed by noise from Mersea Outdoors particularly during the summer and had previously been kept awake all night due to the noise. One resident commented that they did not have a problem with the noise that the children themselves made but were disturbed by the sound from amplified noise and events. In response to the concerns expressed by the residents, the applicant responded that he was not looking to increase the overall number of events.

### **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 vary the premises licence to permit –

- The provision of plays, films, indoor sporting events, boxing or wrestling entertainment, live music, performances of dance and anything of a similar description, provision of facilities for making music and provision of facilities for dancing and anything of a similar description, these activities to take place indoors, for the following hours:-  
11.00 to 02.00 Mondays to Sundays inclusive
- The provision of recorded music indoors for the following hours:-  
10.00 to 03.00 Mondays to Sundays inclusive
- The provision of late night refreshment indoors and outdoors for the following hours:-  
23.0 to 03.00 Mondays to Sundays inclusive
- The provision of plays, films, indoor sporting events, boxing or wrestling entertainment, live music, performances of dance and anything of a similar description, provision of facilities for making music and provision of facilities for dancing and anything of a similar description, these activities to take place outdoors, for the following hours:-  
11.00 to 00.00 Mondays to Sundays inclusive
- The supply of alcohol for the following hours:-  
11.00 to 02.00 Mondays to Sundays inclusive

- The provision of recorded music outdoors for the following hours:-

10.00 to 00.00 Mondays to Sundays inclusive

- The premises to be open for the following hours:-

09.00 to 03.00 Mondays to Sunday inclusive

### **Reason for the Determination**

The Sub-Committee noted the conditions already agreed with Environmental Control and Essex Child Protection and the condition offered by the applicant, Mr Button, to install door closing devices on all land facing doors to address the licensing objective of the prevention of public nuisance.

The Sub-Committee also noted the conditions agreed with Essex Child Protection to address the licensing objective of the protection of children from harm.

The Sub-Committee was concerned at the location of the premises close to residential properties and felt it was appropriate to impose a condition requiring that a noise limiter be fitted to all amplified equipment, the levels to be set in conjunction with Environmental Control.

The Sub-Committee noted the residents' concerns regarding the traffic on Rewsalls Lane but this matter was not within the Sub-Committee's remit, neither did the Sub-Committee have the ability to restrict the number of events to be held at Mersea Outdoors.

The Sub-Committee also noted the existence of the review procedure under the Licensing Act 2003 and the legislation available to Environmental Control in the case of noise nuisance and taking into account the nature of the premises and the operating schedule attached to the application, it was not considered that further conditions or restrictions should be imposed on the grant of the licence.

**Councillor Chuah declared that she had recently sat on the Planning Committee which had considered an application by Liquid/ Envy. The applicant confirmed that he had no objections to Councillor Chuah hearing Liquid/Envy's application to vary its premises licence.**

### **b) Liquid/Envy**

The Sub-Committee considered an application for the variation of a premises licence in respect of Liquid/Envy, 131 High Street, Colchester to extend the hours for the supply of alcohol, for the provision of films, live music, recorded music, performance of dance, facilities for dancing, facilities for making music, late night refreshment and opening hours.

### **In Attendance**

Applicant: Mr Smith (Solicitor), Mr Freeman (Designated Premises Supervisor) and Mr Ryan (Operations Manager)

Residents: Mr Murray on behalf of the Dutch Quarter Association

Officers: Mr Essex, Solicitor, Mr Harvey, Licensing Manager, Mrs White, Committee Services Officer and Miss Tuthill, Committee Services Assistant

Mrs White, Committee Services Officer (Licensing), briefly introduced the application advising that two letters of representation had been received, one from local residents and

one from the Dutch Quarter Association, opposing the request by Liquid/Envy for an extension of half an hour on a Sunday across the licensable activities.

Mr Smith outlined the application and explained that a meeting had been held with the Dutch Quarter Association regarding this application but that it had wished to maintain its objection. In order to assess the impact of the proposed later opening on a Sunday Mr Freeman had conducted a small survey the previous weekend by counting the number of patrons that had left the club and gone down East Stockwell Street. On Friday, 12 out of 856 patrons and on Saturday 31 out of 1373 patrons had gone down East Stockwell Street. Based on these figures and having traded on Sundays in the past, Mr Smith predicted that 4 - 7 Liquid/Envy patrons would go down East Stockwell Street on a Sunday after closing if the application was approved. In his opinion there was no reason for patrons to go down East Stockwell Street other than if they lived there or used it as a route home as there were no food/drink outlets or taxi ranks located there. Mr Smith mentioned that objections had not been lodged by the responsible authorities and in addition there had been no recent complaints to Environmental Control concerning noise nuisance.

Mr Smith requested that if the Sub-Committee were minded to approve the application that it do so with reference to the new dispersal policy which had been previously circulated to members and which was also circulated at the meeting. He also indicated the applicants intention to have a last admissions policy in place which would stop entry an hour before closure.

Mr Murray addressed the Committee on behalf of the Dutch Quarter Association. He outlined the problems that residents of the Dutch Quarter experienced and drew attention to the particular problems created by the ejection of patrons from the rear of the premises. In response to these concerns Mr Smith and Mr Freeman outlined the ejection policy which was that patrons should be ejected using the front doors wherever possible. However, Mr Freeman explained that there were times when this procedure was not safe or appropriate and the rear access was used, on average approximately two patrons per month were ejected through the fire escape doors at the back and the Police were called if necessary.

In concluding Mr Smith considered that the case to turn the application down had not been made by the Dutch Quarter who had raised general concerns regarding the behaviour of people using the Dutch Quarter rather than specific problems related to the patrons of the Liquid/Envy. The concerns that had been raised had been addressed through the ejection and dispersal policies.

## **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 vary the premises licence to permit –

- The provision of films, boxing or wrestling entertainments, live music, recorded music, performances of dance, provision of facilities for making music and provision of facilities for dancing and the supply of alcohol, these activities to take place indoors, for the following hours:-

12.00 to 01.00 on Sundays

- The provision of late night refreshment indoors for the following hours:-

23.00 to 01.00 on Sundays

- The premises to be open for the following hours:-

12.00 to 01.30 on Sundays

### **Reasons for the Determination**

The Sub-Committee noted that there were no representations from any of the responsible authorities.

The Sub-Committee were satisfied that the applicant had proposed adequate controls through the Operating Schedule and in particular the new dispersal policy and the ejection policy which the applicant circulated to those present at the Hearing.

The Sub-Committee felt that the Dutch Quarter Association had not provided sufficient evidence that customers of Liquid/Envy specifically had been or would contribute to undermining the licensing objective of public nuisance.

### **3. Close of Meeting**

The meeting closed at 13.10

**Chairman:**

# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

5 December 2008

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 5 December 2008 at 10.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cook  
Councillor Cope  
Councillor Martin

#### 1. Membership

The Committee Services Officer (Licensing) advised that there were no changes to the membership.

*RESOLVED* that Councillor Cook be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Minutes

The minutes of the meetings held on 6 June, 11 July, 1 August, 15 August, 1 September and 8 October were confirmed as correct records.

#### 4. Licensing Applications

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.

##### **Wine Me Up**

The Sub-Committee considered an application for the variation of a premises licence in respect of Wine Me Up, North Hill, Colchester to extend the opening hours, and the hours for the supply of alcohol off the premises.

##### **In Attendance**

Applicant: Mr Yamak

Residents: Mr Murray on behalf of the Dutch Quarter Association

Officers: Mr Essex, Solicitor, Mr Harvey, Licensing Manager and Miss Tuthill, Committee Services Assistant.

Miss Tuthill, Committee Services Assistant (Licensing), briefly introduced the application advising that representations in respect of this application had been made by Essex Police and Essex Child Protection and that the applicant had agreed the conditions requested by

these authorities. A letter of representation had also been received from the Dutch Quarter Association.

The applicant, Mr Yamak, explained that the premises was an off-licence and grocery store and was seeking to vary its premises licence to enable the delivery of alcohol alongside the delivery of groceries. He considered that Wine Me Up provided the local community with a good service and he wished to provide an even better service by increasing the stores hours and by offering a delivery service. In response to a question he explained that at present the premises' typical evening customers were locals aged 25 to 45 years who tended to buy wine on their way home from the town.

Mr Murray addressed the Committee on behalf of the Dutch Quarter Association and commented that he was happy with the way in which the premises was being managed. Mr Murray said that residents did not object to the delivery service just the additional hour for the supply of alcohol in the shop. Mr Murray then went on to outline the problems that residents of the Dutch Quarter experienced and drew attention to the particular problems created by on-street drinking. Residents were concerned that people would buy alcohol at Wine Me Up on their way home after a night out in Colchester and then consume it whilst walking through the Dutch Quarter. Mr Murray referred to a letter he had received from a local resident outlining problems associated with alcohol consumption in the Dutch Quarter. This letter had not been submitted during the 28 day objection period and therefore under the terms of the Licensing Act 2003 was not a valid representation. In questioning Mr Murray clarification was sought on the location of the complainant in relation to Wine Me Up as the individual was some considerable distance from the premises. In conclusion Mr Murray expressed the view of the Dutch Quarter Association that if the variation of the application was granted, then it would set a precedent for other licensed premises in the town centre.

Mr Yamak concluded by stating that the local community seemed very happy with the service that his convenience store was providing and that he had not had any complaints or problems involving the police. He wished to provide a good service to the community and was prepared to work hard to make the business successful in the current economic climate.

## **The Decision**

RESOLVED that –

The Sub-Committee carefully considered the application and having regard to the relevant parts of the Section 182 Guidance, the Council's Licensing Policy, the contents of the report, the representations made by the Dutch Quarter Residents and the conditions agreed with the Essex Police and Essex Child Protection and the submissions made at the Hearing the Sub-Committee determined to vary the premises licence to permit –

- The supply of alcohol off the premises in the shop:  
07.00 to 00.00 Mondays to Sundays inclusive
- The supply of alcohol off the premises by delivery only:  
00.00 to 03.00 Mondays to Sundays inclusive
- The premises to be open for the following hours:

### **Reason for the Determination**

The Sub-Committee noted the conditions already agreed with Essex Police to address the licensing objective of the prevention of crime and disorder and the conditions agreed with Essex Child Protection to address the licensing objective of the protection of children from harm.

The Sub-Committee felt that the Dutch Quarter Association had not provided sufficient evidence that customers of Wine Me Up had specifically contributed to undermining the licensing objectives of prevention of public nuisance, public safety or crime and disorder. It considered the submissions of the Dutch Quarter to be speculative rather than based on particular evidence which is required by the Licensing Act 2003.

### **Conditions offered by the Applicant on the Operating Schedule**

1. All deliveries made to premises will be only handed over to the person who has made the order
2. Persons making orders will be told that ID will be requested at the point of delivery from the person who made the actual order.

### **Conditions agreed with the Responsible Authorities**

#### Essex Child Protection

1. The adoption of the "Challenge 21" scheme to ensure that alcohol will not be sold on the premises to those under the age of 18 years. Only approved proof of age identification will be accepted, such as a passport, photo driving licence or a pass accredited card.
2. The adoption of the "Challenge All" scheme for when deliveries are made to ensure that alcohol will not be sold on the premises to those under the age of 18 years. Only approved proof of age identification will be accepted, such as a passport, photo driving licence or a pass accredited card.
3. The area where alcohol is stored to be secured and accessible only to staff that are of the age 18 years or over and to the premises licence holder.

#### Essex Police

4. Off sales of alcohol from the premises after 12 midnight until 03.00, may only be delivered off the premises if an internet or pre-telephone order has been made. Sales of alcohol must be pre-ordered by telephone or internet and invoice/orders must be carried on the delivery vehicle by the driver, and produced by the delivery driver on request, to any authorised licensing officers of the council and police officers. Only pre-ordered alcohol may be carried on the delivery vehicle with invoices for specific address, as ordered via telephone or internet only, and delivered directly to that address. Under no circumstances can alcohol be sold to customers personally on the premises from 12midnight to 03.00.



5. Wine Me Up must keep a record of all alcohol orders with the name and address of customer ordering and proof of age ID must be requested, adopting the Challenge 21 Scheme at point of order/delivery, where appropriate, to ensure that alcohol is not supplied or delivered to under 18's. The record must always be produced for inspection at the request of authorised licensing officers of the Licensing Authority and police officers to ensure compliance with the premises licence condition.

#### **Mandatory conditions where licence authorises supply of alcohol**

- 1) No sale of alcohol may be made under the premises licence-
  - a) at a time when there is no designated premises supervisor in the respect of the premises licence, or
  - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### **5. Close of Meeting**

The meeting closed at 11.05

**Chairman:**

**Date:**



<b>Licensing Committee – 27 February 2009</b>	<b>Agenda Item 4</b>
<b>Yates</b>	<b>FOR GENERAL RELEASE</b>

<b>Premises</b>	Yates 1-3 Head Street Colchester	Ward: Castle Stress Area: No Flare Ref: 18587
<b>Premises Licence Holder</b>	Town & City Pub Company	
<b>Application</b>	Review of the premises licence	Appendix 1
<b>Applicant</b>	Chief Inspector Adrian Coombs District Commander Essex Police Divisional Headquarters Eastern Division Colchester Police Station 10 Southway Colchester Essex	
<b>Premises Licence</b>		Appendix 2
<b>Street Plan</b>		Appendix 3
<b>Notice</b>	Notice of Application for a Review of a Premises Licence	Appendix 4
<b>Correspondence</b>		Appendix 5 Appendix Appendix

## **Existing Premises Licence**

The existing licence provides for:-

### **The sale by retail of alcohol on and off the premises:-**

- Monday to Thursday 10.00 to 00.30
- Friday and Saturday 10.00 to 01.30
- Sunday from 12.00 midday to 00.30
- To extend until 00.00 Monday of: Easter Bank Holiday, both May Bank Holidays and August Bank Holiday.
- Until 02.00 Christmas Eve, Boxing Day and New Years Day
- From 10.00 New Years Eve until 23.00 New Years Day

### **Late Night Refreshment:-**

- Monday to Thursday and Sunday 23.00 to 01.00
- Friday and Saturday 23.00 to 02.00
- Until 00.30 Monday of: Easter Bank Holiday, both May Bank Holidays and August Bank Holiday.
- Until 02.00 Christmas Eve, Boxing Day and New Years Day

### **Live Music:-**

- Monday to Thursday 10.00 to 01.00
- Friday and Saturday 10.00 to 02.00
- Sunday 12.00 midday to 01.00
- Until 00.30 Monday of: Easter Bank Holiday, both May Bank Holidays and August Bank Holiday.
- Until 02.00 Christmas Eve, Boxing Day and New Years Day

### **Facilities for Dancing:-**

- Monday to Thursday and Sunday 10.00 to 01.00
- Friday and Saturday 10.00 to 02.00
- Until 00.30 Monday of: Easter Bank Holiday, both May Bank Holidays and August Bank Holiday.
- Until 02.00 Christmas Eve, Boxing Day and New Years Day

### **Recorded Music:-**

- Monday to Thursdays 10.00 to 01.00
- Fridays and Saturdays 10.00 to 02.00
- Sunday 12.00 midday to 01.00
- Until 02.00 Christmas Eve, Boxing Day and New Years Day

### **Exhibition of Films:-**

- Monday to Thursday 10.00 to 01.00
- Friday and Saturday 10.00 to 02.00
- Sunday 12.00 midday to 01.00
- Until 00.30 Monday of: Easter Bank Holiday, both May Bank Holidays and August Bank Holiday.
- Until 02.00 Christmas Eve, Boxing Day and New Years Day

**Opening Hours:-**

- Monday to Thursday 10.00 to 01.00
- Friday and Saturday 10.00 to 02.00
- Sunday 12.00 midday to 01.00
- Until 00.30 Monday of: Easter Bank Holiday, both May Bank Holidays and August Bank Holiday.
- Until 02.00 Christmas Eve, Boxing Day and New Years Day

The full details of the licence and it's conditions can be found at **Appendix 2**

**Grounds for Review from Essex Police****1. Prevention of crime and disorder**

Condition imposed on the Premises Licence for one SIA Door Supervisor to wear a head camera when employed by Yates. The condition has not been complied with despite meetings and letters of advice from Police in March and November 2008. Furthermore, Yates has one of the highest levels of incidents of crime and disorder in Colchester Town centre, these incidents include reports of use of excessive force by Door Supervisors towards customers in 28 June 2008, 5 July 2008 and 26 November 2008.

## **Application for a Review of a Premises Licence – Licensing Act 2003**

### **Application for review of premises licences – Section 51 Licensing Act 2003**

- (1) Where a premises licence has effect, an interested party or a responsible authority may apply to the relevant licensing authority for a review of the licence.
- (2) Subsection (1) is subject to regulations under section 54 (form etc of applications etc)
- (3) The Secretary of State must by regulations under this section:
  - a) require the applicant to give a notice containing details of the application to the holder of the premises licence and each responsible authority within such period as may be prescribed;
  - b) require the authority to advertise the application and invite representations about it to be made to the authority by interested parties and responsible authorities
  - c) prescribe the period during which representations may be made by the holder of the premises licence, any responsible authority or any interested party
  - d) require any notice under paragraph (a) or advertisement under paragraph (b) to specify that period.
- (4) The relevant licensing authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied:
  - a) That the ground is not relevant to one or more of the licensing objectives or
  - b) In the case of an application made by a person other than a responsible authority, that:
    - c) That the ground is not relevant to one or more of the licensing objectives or
    - d) In the case of an application made by a person other than a responsible authority, that:
      - i. the ground is frivolous or vexatious or
      - ii. the ground is a repetition
- (5) For this purpose a ground for review is a repetition if:
  - a) It is identical or substantially similar to:
    - i. a ground for review specified in an earlier application for review made in respect of the same premises licence and determined under section 52 or

- ii. representations considered by the relevant licensing authority in accordance with section 18, before it determined the application for the premises licence under that section or
  - iii. representations which would have been so considered but for the fact that they were excluded representations by virtue of section 32, and
- b) A reasonable interval has not elapsed since that earlier application for review or the grant of the licence (as the case may be).
- (6) Where the authority rejects a ground for review under subsection (4) (b), it must notify the applicant of its decision and, if the ground was rejected because it was frivolous or vexatious, the authority must notify him of its reasons for making that decision.
- (7) The application is to be treated as rejected to the extent that any of the grounds for review are rejected under subsection (4).

Accordingly the requirements imposed under subsection (3)(a) and (b) and by section 52 (so far as not already met) apply only to so much (if any) of the application as has not been rejected.

The Licensing Authority has accepted the application for a review of the premises licence that has been made by Essex Police Divisional Headquarters Eastern Division (**Appendix 1**). The application, received by the Licensing Authority on 15 December 2008, has been duly served and advertised in accordance with the above section of the act and the regulations that accompany it (**Appendix 4**).

Prior to Essex Police's application for a review of Yates's Premises Licence, The Police had some concerns about issues relating to the door supervisors and the quality of CCTV coverage and were discussed with local and area managers on several occasions prior to this application for review where managers were advised that in order to avoid a review application, improvements needed to be made.

On 15 October 2008, a further meeting took place at Colchester Police Station between Mr Bett (Area Manager), Inspector Butcher and Mr Aitchison (Police Licensing Officer) following an incident where it is alleged that a member of door staff assaulted a customer (prosecution pending). It became apparent that CCTV coverage of the premises was still insufficient. Following the meeting, letters were sent to Mr Bett and Mrs Grant, to the effect that the Police would apply for a review of the premises licence if there was no improvement.

Following further visits to the premises which disclosed that there had been no improvement, Essex Police submitted their application for review.

Since the application for Review was accepted by the Licensing Authority Essex Police and Yates' management have held further discussions and as a result Yates' have made certain changes to the door supervisor and CCTV arrangements at the premises.

The Licensing Sub Committee are advised however, that the agreement made between Essex Police and Yates' management does not in any way fetter the Committee's discretion to take any decision or action that they feel is reasonable, proportionate or necessary in relation to this review, after they have fully considered at the review hearing all of the evidence and mitigation put forward by Essex Police and/or the Premises Licence holder that accompanies this application.

## **Colchester Borough Councils Statement of Licensing Policy**

The following advice and guidance is taken from the Council's Statement of Licensing Policy in relation to the Licensing Authority's Premises Policies regarding licensed premises, to the licensing objectives that are the basis of this review and also in relation to applications made to review a premises licence. The Policy was prepared in accordance with the Licensing Act 2003 and the guidance and regulations that accompany the Act and offered as advice and guidance for applicants, relevant responsible authorities, interested parties, authorised persons and the Licensing Authority itself.

### **Premises Policies**

#### ***Off Sales/Shops and Supermarkets***

- 3.45 *The Licensing Authority recognises that, in accordance with the Government's guidance, shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the hours that they intend to trade, provided that there is no adverse impact on the promotion of the licensing objectives as a result.*
- 3.46 *However, the Licensing Authority is concerned that some off-licences, shops, stores and supermarkets selling alcohol in Colchester borough have become the focus and, in extreme cases, the reason for alcohol related anti-social behaviour, crime, disorder, noise and disturbance, caused by underage drinkers or street drinkers who have obtained, or tried to obtain alcohol from these premises.*
- 3.47 *In such instances, upon an application for review of the licence where there is a concern over alcohol related anti-social behaviour, crime, disorder, noise or disturbance, the Licensing Authority will seriously consider any valid, relevant and reasonable representations, made by the Police, any other statutory consultees or interested parties such as local residents, about further action that may be taken against the licence held by the premises in question.*
- 3.48 *Such action may take the form of conditions being imposed on the licence to restrict the hours that sales of alcohol can be made, conditions restricting the volume content of sales of alcohol over 5.5% volume, such as high strength lagers and ciders, or conditions applying strict management controls to ensure that sales are not made to under 18s, or to people who are known street drinkers.*
- 3.49 *In extreme instances, consideration will be given either by the Police, the*

*Council or Trading Standards to prosecute the personal licence holder responsible for making the sale, or to the revocation of the premises licence authorising the licensable activity of the sale by retail of alcohol.*

## **Reviews**

- 4.18 The Licensing Authority, Essex Police and/or Essex Fire Service will give early warning, where possible and appropriate, to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 4.19 Responsible authorities and/or interested parties living in the vicinity can trigger a review of a premises licence, but a clear case based on evidence would need to be presented to the Licensing Authority.
- 4.20 No more than one review from interested parties will normally be permitted within any 12-month period on similar grounds, except in exceptional and compelling circumstances.
- 4.21 The Licensing Authority may exercise a wide range of powers that has been given to it to promote the licensing objectives, when determining a representation that has called for a review of a premises licence.
- 4.22 Steps that can be taken by the Authority could include:
- Taking no action.
  - Issuing a formal warning.
  - Recommending improvements within a particular time.
  - Monitoring any improvements by regular inspection and inviting a further review if problems persist.
  - Modifying the conditions on the premises licence (which includes adding a new condition, or any alteration or omission of an existing condition).
  - Excluding a licensable activity from the scope of the licence.
  - Removing the designated premises supervisor.
  - Suspending the licence for a period not exceeding three months.
  - Revoking the licence.
- 4.23 All of the above measures are shown as examples of what action the Licensing Authority could take when determining a representation calling for a review of a premises licence and are in accordance with paragraphs 11.15, 11.16, 11.17, 11.18, 11.19, 11.20 and 11.21 of the guidance issued under Section 182 of the Licensing Act 2003.



- 4.24 Offences under the Licensing Act 2003 include the serving of alcohol to unaccompanied persons under the age of 18. The consumption of alcohol by minors can impact on the health, educational attainment, employment prospects and propensity for crime and anti-social behaviour of young people.
- 4.25 The admitting or serving of persons who are intoxicated is also an offence under the Licensing Act 2003, and the Licensing Authority will treat representations that such offences have occurred with the utmost seriousness when they arise in connection with the grant or review of a premises licence.
- 4.26 It will also have regard to other criminal activities that may take place in some types of licensed premises and which, following paragraph 11.25 of the guidance issued under Section 182 of the Licensing Act 2003, may include:
- the sale or distribution of drugs
  - the sale or distribution of stolen or counterfeit goods or weapons
  - the sale of smuggled tobacco or alcohol
  - prostitution, or the sale of unlawful pornography
  - the use as a base for criminal activity, particularly gangs
  - organisation of racist activity
  - unlawful gaming and gambling.
- 4.27 While it is not the role of the licensing authority to determine the guilt or innocence of individuals charged with licensing offences committed on licensed premises, there is no reason why representations received by the licensing authority that give rise to a review of a premises licence should be delayed pending the outcome of any criminal proceedings. (See further paragraph 11.24 of the guidance issued under Section 182 of the Licensing Act 2003)
- 4.28 It is therefore the intention of the licensing authority to proceed with such a review should such circumstances prevail.
- 4.29 Where reviews arise and the Licensing Authority has determined that the crime prevention objective is being undermined through a licensed premises being used to further crimes, it will, following paragraph 11.26 of the guidance issued under Section 182 of the Licensing Act 2003, seriously consider even in the first instance the revocation of the premises licence.

### **Objective 1: Prevention of crime and disorder**

- 5.16 The Council is committed to further improving the quality of life for the people living in the borough of Colchester by continuing to reduce crime and the fear of crime.

5.17 Section 17 of the Crime and Disorder Act 1998 places a duty on the Council to do all that it reasonably can to reduce crime and disorder. The Licensing Act 2003 and the Anti-Social Behaviour Act 2004 reinforce this duty.

### **General Policy**

5.18 To prevent crime and disorder and tackle anti-social behaviour, the Licensing Authority may apply the following criteria and take into account the following considerations where relevant to the circumstances of the premises when determining applications and reviews of licences and where relevant representations have been received. Where no relevant representations are received the licence must be granted.

- (i) whether the premises makes or will make a significant contribution to levels of crime and disorder and anti-social behaviour, and whether the operating schedule is based on a risk assessment of the likelihood of crime and disorder occurring as a result of the grant of the application. In deciding this regard will be given to the levels of crime and disorder in and around the venue; the proposals contained in the operating schedule; the level of compliance with conditions on existing licences; and the extent to which Essex Police's effective management checklist (see Appendix 16) has been taken into account. This provides a comprehensive list of considerations which may be taken into account by the Licensing Authority where relevant to the circumstances of the premises.**
- (ii) whether the layout, lighting and fittings of the premises have been designed to minimise conflict and opportunities for crime and disorder and anti- social behaviour. (see Appendix 16)**
- (iii) whether the operating schedule includes management measures to prevent crime and disorder. (see Appendix 4)**
- (iv) whether the operating schedules for pubs and bars or for the provision of facilities for music and dancing have had regard to the number of people who may be admitted to the premises and the possibility of crowding increasing the likelihood of crime and disorder; the areas set aside for drinking while standing at any time when any licensable activity is taking place and the measures set out in Appendix 16 to help prevent crime and disorder and offences under the Licensing Act 2003. Other premises may have to have regard to these matters in exceptional circumstances.**

5.19 The following examples of control measures are only provided to assist and guide applicants, who may need to take account of them in their operating schedule after having regard to their relevance in relation to their particular type of premises and/or activities. It should be noted that these examples are not intended as an exhaustive checklist and will not be used by the Licensing Authority to create standard conditions. All applications are considered on their

own merit and where no objections are received a licence must be granted.

- effective and responsible management of premises by consideration within an applicant's operating schedule of the issues listed in Appendix 15.
- training and supervision of staff.
- adoption of best practice guidance, for example Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions such as the Point of Sale Promotions published by BBPA, and Security in Design published by BBPA and Drugs and Pubs.
- acceptance of accredited 'proof of age' cards, for example PASS, locally approved 'proof of age' cards such as 'Prove It' and/or 'new type' driving licences with photographs.
- provision of effective CCTV in and around premises.
- employment of Security Industry Authority licensed Door staff.
- provision of toughened or plastic drinking vessels.
- provision of secure, deposit boxes for confiscated items ('sin bins').
- provision of litter bins.
- other security measures, such as effective lighting.
- membership of local 'Pubwatch' schemes or similar organisations.
- finger print recognition identification system e.g. "In Touch" or similar.
- search arch or wand metal detectors.

5.20 A Premises Supervisor must be designated within the operating schedule for premises from which alcohol will be sold. **The Licensing Authority will normally expect the Designated Premises Supervisor to have been given the day-to-day responsibility for running the premises by the premises licence holder and, as such, would be present on the licensed premises sufficiently to ensure that the licence conditions are being satisfied.** In addition to the Designated Premises Supervisor holding a personal licence, the Licensing Authority would strongly encourage this person to undertake additional training, and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

In general, conditions imposed upon licences and club registration certificates by the Licensing Authority will reflect local crime prevention strategies.

### ***Objective 3: Prevention of public nuisance***

5.25 *Licensed premises can have an adverse impact on communities through public*

nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequences of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

5.26 The Licensing Authority intends to interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on people living, working or otherwise engaged in normal activity in an area.

### **General Policy**

5.27 To prevent public nuisance the Licensing Authority will, in general, apply the following criteria and take into account the following considerations where relevant in determining applications and reviews:

- (i) the potential for nuisance associated with the style, characteristics and activities of the proposed licensable activities to be carried on at the premises, and the potential steps that could be taken to reduce the risk of nuisance occurring. This will apply particularly where residents live nearby;
- (ii) **whether operating schedules contain adequate measures to prevent noise and vibration, either air-borne or structure-borne, and which are generated from within the premises or outside it, causing disturbance to people in the vicinity.** Regard will be given to disturbance of people whether at home or at work or otherwise staying in or visiting the area. Stricter conditions on noise control will be imposed in areas that have denser residential accommodation or residents living nearby;

### **Objective 4: Protection of children from harm**

5.34 The protection of children from harm is a most important issue. It is hoped that family-friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

5.35 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family-friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

### **General Policy**

5.36 To protect children from harm the Licensing Authority will apply the following criteria and take into account the following considerations where relevant in determining applications and reviews:

- (i) whether there are effective measures to check the age of those under 18

- (ii) *whether due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks*
- (iii) *whether there are adequate procedures for identifying unaccompanied or lost children and for ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult*
- (iv) *the likelihood of children being attracted to the premises; for example by the nature of activities or facilities provided, whether or not these are licensed*
- (v) *whether there is evidence of problems of underage drinking on the premises*
- (vi) *whether the premises commonly provides entertainment or services of an adult or sexual nature*
- (vii) *whether there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of cash prize gaming machines)*
- (viii) *whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises*
- (ix) *whether films are to be shown and the measures to restrict children from viewing age restricted films classified according to the recommendations of the British Board of Film Classifications (see Appendix 19)*
- (x) *if performances or activities are likely to attract children, the number of adults required for supervision of children*
- (xi) *where play facilities are provided, if an adequate risk assessment has been made and appropriate measures taken*
- (xii) *the measures to be taken to ensure that those supervising or having contact with children have been appropriately vetted to ensure they pose no risk to children. Obtaining Enhanced Disclosure from the Criminal Records Bureau may be appropriate in some cases*
- (xiii) *proposals for the provision or arrangement for safe transport for children.*

### **Proof of Age Scheme**

5.39 *The Licensing Authority is extremely concerned that under 18's are often involved in drink related crime, disorder and anti-social behaviour. In order to*

*prevent illegal purchases of alcohol the Licensing Authority strongly encourages all licensees to join a proof of age scheme of the kind operated by the Portman Group, or the new national proof of age scheme called the 'Citizens Card' or any similar scheme that is accredited by the PASS (Proof of Age Standards Scheme).*

5.40 *The PASS scheme is endorsed and supported by the Government and is audited by the Trading Standards Institute and means that all proof of age card schemes carry the same hologram logo that is extremely difficult to forge and as a result means that retailers can easily distinguish legitimate cards from forgeries.*

5.41 *The Licensing Authority also encourages all licensed premises to prominently display "under 18" warning signs or posters and that all staff responsible for the sale of alcohol will be fully aware of all information, advice and responsibilities contained in the new Act which relates to the presence of children and young persons in licensed premises.*

## **10 Interested Parties, Responsible Authorities, Representations**

### ***Reviews, Hearings and Appeals***

10.1 Who can make representations or seek reviews?

- **'Interested Parties'** and **'Responsible Authorities'** may make **'relevant representations'** in respect of applications made for the grant or variation of a Premises Licence or Club Premises Certificate and may seek a review of licences and certificates granted.

10.2 **'Interested Parties'** are defined as any of the following;

- A person living in the vicinity of the premises
- A person involved in a business in that vicinity
- A body representing persons living in that vicinity

10.3 **'Responsible Authority'** is defined as any of the following **(see appendix 4A for further details)**

- The Chief Officer of Police for the area
- The Fire Authority
- The enforcing authority for Health and Safety at Work
- The local Planning Authority
- The Local Authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- The body representing matters relating to the protection of children from harm
- A navigation authority, the Environment Agency, or the British Waterways

Board in relation to a vessel

- The weights and measures authority (Trading Standards).

10.4 **Relevant Representations** is the term used for comments and objections that:-

- Are about the likely effect of the grant of the Premises Licence or Club Premises Certificate on the promotion of the licensing objectives
- Are made by an '**Interested Party**' or '**Responsible Authority**' within the prescribed period and have not been withdrawn
- In the opinion of the Licensing Authority, are not **frivolous, repetitious** or **vexatious** (such a decision will be made by the Councils Licensing Manager).
- Relate to the identity of the proposed premises supervisor, and are made by the Chief Officer of Police for the Colchester Borough and include a statement that the proposed premises supervisor would undermine the crime prevention objective.

10.5 The terms '**frivolous**' and '**vexatious**' have their normal meanings.

10.6 In the case of a review of a premises licence or certificate, a representation will be '**repetitious**' if: -

(a) It is identical or substantially similar to: -

- Grounds in an earlier application for review made in respect of the same premises and already determined, or
- Representations considered by the Licensing Authority in granting the premises licence or certificate, or
- Representations which would have been considered except they were excluded representations following a provisional statement, and

(b) A reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

10.8 **Reviews**

10.8.1 The Licensing Authority must hold a hearing to review a Premise Licence or Club Premises Certificate where either: -

- **Representations** are made in the prescribed form by a '**Responsible Authority**' or '**Interested Party**' seeking a review of the licence or certificate on one or more of the licensing objectives, or
- A Magistrates' Court issues a notice under section 165 (4) of the Act, following consideration of a Closure Order issued by the Police.

## **Determination of application for review - Section 52 Licensing Act 2003**

- (1) This section applies where -
  - (a) the relevant licensing authority receives an application made in accordance with section 51,
  - (b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
  - (c) the authority has complied with any requirement imposed on it under subsection (3) (b) or (d) of that section.
- (2) Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
- (3) The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- (4) The steps are -
  - (a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period of not exceeding three months;
  - (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
- (7) In this section “relevant representations” means representations which -
  - (a) are relevant to one or more of the licensing objectives, and
  - (b) meet the requirements of subsection (8).
- (8) The requirements are -
  - (a) that the representations are made –
    - (i) by the holder of the premises licence, a responsible authority or an interested party, and
    - (ii) within the period prescribed under section 51(3)(c),



- (b) that they have not been withdrawn, and
  - (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (9) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (10) Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to -
- (a) the holder of the licence,
  - (b) the applicant,
  - (c) any person who made relevant representations, and
  - (d) the chief officer of police for the police area (or each police area) in which the premises are situated.
- (11) A determination under this section does not have effect -
- (a) until the end of the period given for appealing against the decision, or
  - (b) if the decision is appealed against, until the appeal is disposed of.

### **Human Rights Implications**

A Licence is to be regarded as the property of the applicant; however their right to the use of that property must be balanced against all other public interests or representations that the Licensing Sub Committee may wish to consider reasonable and proportionate and which relate to the application that has been submitted by Essex Police for a review of this premises licence.

In making their decision as to the outcome of this application for a review of this premises licence, Members of the Licensing Sub Committee should in particular consider Article 1 of the First Protocol of the Human Rights Act 1998, that individuals are entitled to the peaceful enjoyment of their property and also Article 8 that everyone has the right to respect for his private and family life, his home and his correspondence.

### **Crime and Disorder Implications**

When considering and determining this application, Members of the Licensing Sub Committee should have due regard to its duties and responsibilities under Section 17 of the Crime and Disorder Act 1998, which places a responsibility on a Local Authority to do all that it can to prevent Crime and Disorder from occurring within its area.

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