

LICENSING SUB-COMMITTEE HEARINGS

26 NOVEMBER 2010

Present :- Councillor Barrie Cook (Chairman)
Councillors Margaret Kimberley
Substitute Member :- Councillor Michael Lilley for Councillor Ann Quarrie

1. Membership

The Committee Services Officer (Licensing) advised that Councillor Lilley was in attendance for Councillor Quarrie.

2. Appointment of Chairman

RESOLVED that Councillor Cook be appointed Chairman.

3. Declarations of Interest

There were no declarations of interest.

4. Minutes

The minutes of the meeting held on 17 September 2010 were noted and confirmed as a correct record.

5. Application for a Review 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.

The public were excluded from the hearing for the following application in accordance with the provisions of Paragraph 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005.

a) Johnson's Premier Newsagents, 103 London Road, Colchester

The Sub-Committee considered an application for the review of a premises licence in respect of Johnson's Premier Newsagents in relation to the following licensing objectives -

- Prevention of crime and disorder

- Protection of children from harm

In Attendance

Applicants: Mr Porter (Thompson, Smith and Puxon) and Mr Ramesh Patel (Designated Premises Supervisor and Personal Licence Holder) and Mr Hamesh Patel (Shop Manager).

Responsible Authority: Mr Appleby, Essex Police Licensing Officer and Ms Scholefield, Essex Police

Officers: Mr Harvey, Licensing Manager; Ms Tuthill, Committee Services Assistant (Licensing); Mrs White, Committee Services Officer (Licensing); Mr Weavers (Legal Services Manager & Monitoring Officer)

Ms Tuthill, Committee Services Assistant (Licensing), briefly introduced the application made by Essex Police to review the premises licence of Johnson's Premier Newsagents, 103 London Road, Colchester. The review had been sought on the grounds of the prevention of crime and disorder and the protection of children from harm.

Mr Appleby addressed the Sub-Committee on behalf of Essex Police and explained that since the premises had been licensed to sell alcohol, three failed test purchases by Trading Standards had taken place which had resulted in alcohol being sold to underage customers. These incidents had occurred in 2006, 2007 and the most recent had taken place on 28 August 2010. Mr Appleby stated that because of the period of time during which these failed test purchases had taken place, he believed that the addition of some proposed measurable and proportionate conditions would address the Police's concerns. Mr Appleby then provided all those in attendance with a copy of the Police's proposed conditions.

In responding to the comments made by Essex Police, Mr Porter informed the Sub-Committee that the premises is a family-run convenience store and that these instances of selling alcohol to underage customers were not typical. The Sub-Committee were then presented with sixteen letters from local families whose children had been refused alcohol in the shop. Mr Porter explained that on 28 August 2010 when the last failed test purchase occurred, Mr Ramesh Patel had been managing the store and that at the time of the sale, he had been taking a phone call from abroad regarding a sick relative and was therefore distracted. The Licensing Sub-Committee was also informed that the premises operates the Challenge 25 scheme and has an incident book to record refused sales. Mr Porter also explained that since August, staff had attended and passed a course run by Trading Standards. Mr Porter concluded by saying that his client would be happy to agree to the conditions proposed by Essex Police.

In response to a question posed by Mr Harvey, Mr Hamesh Patel confirmed that there was only one point of sale in the store.

The Decision

That the reasons for the review brought by Essex Police be upheld and the conditions set out below be applied to the Premises Licence:

1. No member of staff shall operate or speak on any telephone or similar apparatus whilst dealing with customers in relation to the sale of age-restricted products.
2. A formal "Challenge 25" Scheme shall be adopted, of which any person who appears to be under the age of 25 shall have to establish that they are over the age of 18 years by an approved ID (passport, full driving licence, or other photo ID formally approved by Essex Trading Standards). This scheme shall be of the type approved by Essex Trading Standards.
3. The Licence Holder/DPS will keep a refusal/incident book to record all refusals or persons challenged for ID relating to the sale of alcohol. This record will be produced to the Police or Licensing Authority for inspection on request.

Considerations

The review had been sought by Essex Police following three sales of age restricted products to a person under 18 years of age the final sale being made on 28 August 2010. The review request had been supported by the Trading Standards although it was noted that they were not in attendance.

A representation had also been received from the Children's Safeguarding Service but they were also not in attendance.

Additional paperwork was circulated relating to the conditions proposed by Essex Police and Trading Standards and agreed by the applicant. Sixteen letters from parents of children refused sales of age restricted products were also submitted as well as further information relating to the defendant's case.

Reasons for the Determination

The Sub-Committee had given due weight to the evidence presented by the Police and Trading Standards and had regard to the conditions agreed between the parties to support the licensing objectives of the protection of children from harm and the prevention of crime and disorder.

The Sub-Committee considered the agreed conditions as a necessary and proportionate response to the breaches of the licence conditions committed and the evidence presented to it by all parties.

6. Close of Meeting

The meeting closed at 11.20