

**LICENSING SUB-COMMITTEE HEARINGS
15 JANUARY 2010**

Present :- Councillor Christopher Garnett (Chairman)
Councillors John Bouckley

· **Appointment of Chairman**

RESOLVED that Councillor Garnett be appointed Chairman.

The Chairman sought and gained the consent of the applicant to proceeding with the hearing with only two members on the Sub-Committee.

· **Declarations of Interest**

There were no declarations of interest.

· **Minutes**

The minutes of the meeting held on 29 May 2009 were approved as a correct record.

· **Application under the Licensing Act 2003**

a) 57 North Station Road, Colchester

The Sub-Committee considered an application for a new premises licence in respect of 57 North Station Road, Colchester to permit the sale of alcohol off the premises.

In Attendance

Applicant: Mr Yamak

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

Objector: Mr Sharma

Observer: Miss Sharma

The Application

Mrs White, Committee Services Officer (Licensing), briefly introduced the application explaining that a relevant representation had been received in respect of the application from a local resident who also had a business in the vicinity of the premises.

Mr Yamak outlined his application to the Sub-Committee. He explained that it was his intention to bring something different to the town by providing a supermarket selling mediterranean food and he would like to be able to complete his range by selling alcohol. Mr Yamak felt that by not being able to sell alcohol, he was losing trade to nearby premises. He had applied for and obtained temporary event notices over the Christmas and New Year period and had sold a small quantity of alcohol comprising approximately 20% of his trade in this period. Mr Yamak commented that the store, which was already open, appeared to have been well received by local residents who were happy for something different to be provided on that site.

In response to questioning, Mr Yamak explained that he took his responsibilities very seriously and that he did not sell to underage individuals. He employed four people in the shop and he trained these individuals himself and was at the premises for much of the time as it was a new business. Mr Yamak gave the Sub-Committee information on the number and type of licensed premises in the locality and explained that many licences were linked to the sale of food. He did not consider the local market to be saturated with premises similar to his. In response to a question on the sale of cheap alcohol, Mr Yamak responded that it was not his intention to sell alcohol cheaply as the quality of his products was self evident and he did not need to use drinks promotions to encourage customers into the shop. His aim was to provide a complete range of products for his customers to enable them to make all their purchases at a single premises.

Mr Sharma attended and addressed the Sub-Committee. He clarified for the number of licensed premises in the area drawing specific attention to the

Majestic wine store and the number of takeaways with a licence to sell alcohol off the premises. Mr Sharma explained that he had a business at 37 North Station Road and outlined his concerns in particular in relation to the licensing objectives of the prevention of crime and disorder and the protection of children from harm and his view of the likely impact that the grant of the licence could have on these objectives. Mr Sharma was concerned that the premises did not have an external CCTV camera which he believed would help deter young people from congregating outside the premises which was a problem outside other late opening premises on North Station Road. In addition Mr Sharma was concerned at the layout of the premises which he believed could lead to shoplifting and public safety issues. Mr Sharma then addressed the committee on the sale of age restricted products and his concerns in this regard. He mentioned that Mr Yamak did not have the necessary posters displayed relating to the sale of cigarettes and nor had he had posters relating to the sale of alcohol during the period covered by the temporary event notices. Mr Sharma asked that consideration be given to refusing the licence but in the event that it was granted, the Sub-Committee give consideration to the imposition of relevant conditions on the licence to mitigate any problems.

The Protective Services Manager clarified the position with regard to the responsibilities of the Designated Premises Supervisor in relation to the sale of alcohol, following comments made by Mr Sharma. He confirmed that as the DPS Mr Yamak would not have to be present at the premises all the time but that his absence did not absolve him of his responsibilities in this regard.

The Decision

The Sub-Committee, having 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 received and the submissions made at the hearing, resolved to vary the licence to permit the following-

- Supply of alcohol off the premises for the following hours-

Monday to Sunday – 08.00 to 00.00

- The premises to be open for the following hours-

Monday to Sunday – 08.00 to 00.00

Reasons for the Determination

The Sub-Committee was mindful that its decision must be a necessary and proportionate response aimed at the promotion of the licensing objectives. The Sub-Committee considered that the most appropriate way forward was to grant the application subject to the operating schedule, to the relevant mandatory conditions in the Licensing Act 2003 and the conditions imposed to address the concerns raised by the objector.

The Sub-Committee noted that there were no representations from any of the responsible authorities and in particular Essex Police, the relevant responsibility in the case of the licensing objective of the prevention of crime and disorder, and Essex Child Protection, the relevant responsible authority in relation to the protection of children from harm.

Conditions imposed by the Sub-Committee at the Hearing

The Sub-Committee considered that the imposition of the following conditions were necessary and proportionate in order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm-

1. Relevant notices and signs be displayed in relation to the sale of age restricted products.
2. A CCTV camera be installed outside of the premises and that the images be recorded and retained for a minimum of 31 days.
3. A refusal book be kept detailing any attempts by those without valid I D to purchase age restricted products.
4. All staff must be trained regularly on the requirements under the Licensing Act 2003.

Conditions offered by the Applicant on the Operating Schedule

1. CCTV to be installed.
2. Risk assessment to be carried out.
3. Fire Fighting equipment to be checked annually.
4. Proof of age to be requested.
5. Challenge 21 to be adopted.

6. Implementation of no ID produced, no sale made.

Mandatory Conditions

Mandatory conditions where licence authorises supply of alcohol

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

Mandatory condition: door supervision

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.