

LICENSING SUB-COMMITTEE HEARINGS

20 APRIL 2011

Present :- Councillor Barrie Cook (Chairman)
Councillors Michael Lilley and Ann Quarrie

1. Membership

RESOLVED that Councillor Cook be appointed Chairman.

2. Declarations of Interest

There were no declarations of interest.

3. Application under the Licensing Act 2003

The Head of Environmental and Protective 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) Premier C K Food and Wine, 6 The Willows, Colchester

The Sub-Committee considered an application for the grant of a new premises licence in respect of the Premier CK Food and Wine to permit the supply of alcohol off the premises.

In Attendance

Applicant: Ms Silvester (Agent for the Applicant) and Mr Delgahawattegedara (Designated Premises Supervisor)

Officers: Mr Daines, Head of Protective Services; Mr Samuels, Legal Services; Ms Tuthill, Committee Services Assistant (Licensing); Mr Weavers (Legal Services Manager & Monitoring Officer), Mrs White, Committee Services Officer (Licensing)
Ward Councillor: Councillor Harris

Mrs White, Committee Services Officer (Licensing) briefly introduced the application advising that three representations and a petition had been received opposing the application. Ms Silvester outlined the application on behalf of the applicant, Mr Delgahawattegedara, and explained that he intended to operate the premises as a convenience store and wished to sell alcohol in order to compete with similar shops in the area. Mr Delgahawattegedara had 8 years experience and had operated another similar premises in Ipswich for 3 years without any problems. The applicant had, in January 2011, passed a Trading Standards Test Purchase by refusing to sell alcohol to a minor and a letter was submitted to the Sub-Committee confirming this.

In response to the letters of representation that had been received and to address the concerns raised in them the applicant offered a number of further conditions related to

the licensing objective of the prevention of public nuisance. Signs would be put up on the premises asking people to keep the noise down when leaving the premises and those loitering outside the premises would be asked to move on. The area within the immediate vicinity of the shop would be kept clear of litter and waste and a litter bin would be provided. Ms Silvester confirmed that the applicant intended to provide CCTV to monitor activity inside and outside the premises and to ensure that youths were not asking people to purchase alcohol for them. Mr Delgahawattegedara was happy to work with all parties to ensure the smooth operation of the premises and there would be comprehensive staff training to ensure that staff were aware of their responsibilities.

Councillor Harris addressed the Sub-Committee on the points raised in his letter. He confirmed that he had created the petition on behalf of residents and 2 local businesses that had approached him concerned about the application. Councillor Harris stated that whilst he was in support of a community store in the area, there had been anti-social behaviour in that area in the past and it had taken a concerted effort of the part of a number of agencies to resolve the issues. He was disappointed that the police had not formally commented on the application and requested that the Sub-Committee consider only granting the licence until 18.00 to limit the disturbance to local residents.

The Sub-Committee gave consideration to the other written submissions. It was noted that the petition had been signed by a number of people who did not live in the vicinity of the premises and therefore had to be disregarded as they were not interested parties under the terms of the Licensing Act 2003. The Sub-Committee also gave consideration to references in the letters to the need for another premises selling alcohol in the area. The Sub-Committee was unable to consider the issue of demand as it fell outside the remit of the Licensing Act 2003.

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 grant the application to permit –

- The supply of alcohol off the premises Mondays to Sundays from 07.00 to 23.00.
- The premises to be open Mondays to Sundays from 07.00 to 23.00.

The Licence was granted subject to the following conditions –

Conditions offered by the applicant at the Hearing:

1. Signs to be placed at the exit of the premises asking patrons to leave the shop and the area quietly.
2. Patrons of the shop loitering in the area will be asked to move on.
3. A litter bin will be located outside the premises.
4. The frontage of the property will be cleared of litter on a daily basis.

Conditions imposed by the Sub-Committee at the Hearing:

1. That the bin provided outside the premises be a heavy duty bin and that it be emptied daily and placed in the shop at night to avoid anti-social behaviour.

Conditions contained in the Operating Schedule:

1. Training of all staff on the premises to ensure that they understand and adhere to the law relating to the sale of alcohol.

2. CCTV installed and maintained so it is fully operational at all times.

3. CCTV recordings to be kept in accordance with police guidelines, for a minimum of 30 days and to be made available to police/council officers if required.

4. Alarm system in place.

5. Shutters at the front windows.

6. All staff trained to deal with any outbreak of fire at the premises.

7. Fire extinguishers installed and regularly serviced in accordance with fire authority guidelines.

8. To comply with any requirements of fire authority.

9. Anyone who is drunk or appears to be buying alcohol for someone who is drunk will be refused the sale of alcohol.

10. Challenge 25 to be operated at all times and all staff will be trained to accept only a proof of age (Pass Scheme) card, passport or photo driving licence as acceptable forms of ID when selling alcohol to young people.

11. Sign to be displayed at point of sale stating 'No proof of age – No sale'.

12. Refusal book to be kept at the premises and maintained at all times.

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 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 authorized by a

person who holds a personal licence.

3. a. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

b. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Considerations:

The Sub-Committee noted that 3 relevant representations and a petition had been received from interested parties, Councillor Harris attended the hearing. It was also noted that there were no representations from any of the responsible authorities.

The Sub-Committee noted that the objections of the interested parties concerned the licensing objective(s) of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm. In addition they expressed concerns regarding the granting of a further licence to sell alcohol in the area

The Sub-Committee had regard to the statement on the petition that 'Colchester Council do not permit another off licence within the shops at the Willows. One is enough, any more and we will have anti social behaviour in the area'. The Sub-Committee could not consider the issue of need and the petition was accepted on the grounds of the likely increase in anti-social behaviour only. The Sub-Committee had regard to the number of people on the petition who were not interested parties by virtue of their distance from the premises and therefore the Sub-Committee could not give it significant weight.

The applicant submitted a letter from Suffolk Trading Standards relating to a successful test purchase which had taken place in January 2011 at the applicants other shop in Ipswich.

The Sub-Committee considered the guidance issued under section 182 of the Licensing Act 2003 and to its own policy.

Reasons for the Determination:

The Sub-Committee noted the residents' concerns regarding the number of licensed premises in the vicinity but this matter was not within the Sub-Committee's remit, it did not have the ability to restrict the number of premises selling alcohol in an area.

The Sub-Committee felt that the case made by the objectors in respect of the likely public nuisance and crime and disorder as a result of the application was not proved sufficiently to justify the refusal of the application. It was satisfied that the concerns raised were adequately addressed by the applicants' operating schedule and the additional conditions offered by the applicants' representative at the Hearing and those

imposed by the Sub-Committee in order to address the licensing objective of the prevention of public nuisance and to address the concerns of local resident Ms Spurr.