

# LICENSING SUB-COMMITTEE HEARINGS

## 5 DECEMBER 2008

*Present :-* Councillor Barrie Cook (Chairman)  
Councillors Nick Cope and Richard Martin

### 1. Membership

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

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

### 5. 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.

### 6. Wine Me Up, 35 North Hill, Colchester, Essex

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:

07.00 to 03.00 Mondays to Sundays inclusive

### **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.

## **7. Close of Meeting**

The meeting closed at 11.05.