

**EXTRAORDINARY LICENSING COMMITTEE held at 2.30 pm at the
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 8
OCTOBER 2007**

Present: - Councillors E Bellingham – Smith, J I Loughlin, R M Lemon and
D J Morson

Officers in attendance: - M Cox, M Hardy and C Nicholson.

LC29 ELECTION OF CHAIRMAN

RESOLVED that Councillor J I Loughlin be elected Chairman for
the meeting

**LC30 TO CONSIDER AN APPLICATION FOR A REVIEW OF AN EXISTING
PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE NISA
CHECKOUT SUPERMARKET AT SAFFRON WALDEN**

The Chairman welcomed all parties to the meeting and outlined the procedure to be followed. She confirmed that Martin Reed, Licensing Manger, Essex Police would be speaking on behalf of the Chief Constable. The applicant, Mr Visana and his representative, Mr Garner had also requested the opportunity to speak.

The Licensing Officer advised the Committee that an application for a review of the premises license in respect of the NISA Checkout Supermarket, Saffron Walden had been made by the Chief Constable of Essex on the grounds that relate to the licensing objectives that deal with the prevention of crime and disorder and the protection of children from harm.

A premises license had been granted in October 2005 which allowed for the sale of alcohol by retail for consumption off the premises only provided that the sale was made or authorised by a person who holds a premises license. The review had been requested because the License Holder had failed three test purchases regarding the sale of alcohol to underage children.

The Committee was informed of the action that it could take in respect of this application and was advised that if it was minded to impose conditions these should be necessary and proportionate to promote the licensing objective relative to the representatives received.

Mr Reed then made his statement and confirmed that the License holder had not challenged the evidence from Trading Standards. The decision to request a review had not been taken lightly but three purchase tests had been failed since February last year. The last one had been in June during a Home Office Initiative. At that time the Licence holder had claimed that he was exercising due diligence and that training had taken place, but the premises had still

failed one of the four tests. However, since then there had been productive discussions between the parties and the license holder had agreed a list of conditions that would satisfy the minimum desired outcome of the police. These conditions were circulated to members of the committee.

He asked Members to bare in mind the issue of proportionality and if they were not mindful to revoke the license, he asked them to consider a period of suspension or modification of the conditions.

Members then asked questions of Mr Reed. Councillor Loughlin asked if the Police had received any written complaints. Mr Reed replied that the evidence was gained from intelligence from Police and Community Support Officers. It was confirmed that Mr Visana had not been present when the alcohol had been sold. Councillor Morson was informed that the advice referred to in Para 8 was in the form of personal advice from Trading Standards. In answer to a question from Councillor Lemon, Mr Reed said that during the Home Office initiative there had been four test purchases; the premise had passed the first test, failed the second and past the third and fourth. On the basis of passing three tests the Home Office had taken no further action.

Mr Garner asked Mr Reed if he was aware of statutory guidance regarding the number of test purchases that could be conducted in a given period. He replied that under the Violent Crimes Reduction Act three tests could be undertaken in 3 months, but under the Licensing Act there was no stated limit.

Mr Garner then made a statement. He said he had worked with Mr Visana for many years and during his 28 years in the retail trade he had an unblemished record, with no previous problems with the Licensing Authority. Mr Garner had prepared a pack for circulation to the Committee which outlined the detail of each incident and the ameliorating measures that had been taken. After the first incident in February 2006 a document had been prepared for staff explaining the Licensing Act and the requirement to ask for identification. He had also introduced formal training and a system of warnings.

After the incident in October 2006 he had undertaken a full review of procedures. He had carried out some in-house mystery shopping and introduced a 'flag up' system on the tills to remind staff of action required for alcohol sales. He had also reviewed the type of staff that he employed and continued with training. He had also asked Trading Standards officers for advice and they had felt that he had taken sufficient measures.

He had therefore been disappointed at the third incident so had decided to engage a professional training adviser and had since implemented his recommendations. Mr Garner said that Mr Visana had not turned a blind eye to the problem but had tried to take proactive steps. Also in the last 4 months he had passed more tests than he had failed, and suggested that 14 days would be an appropriate period of suspension. He also pointed out that Mr Visana was running a small supermarket and any suspension would have significant financial implications.

Mr Visana then made a statement. He said that neither he or his family had ever sold alcohol to underage people. He did his very best to train his staff but mistakes were sometimes made. He said that there was an increasing trend for adults to purchase alcohol on behalf of young people, and this was a situation which he could not control.

Members then asked a number of questions relating to current staffing and the process of verifying identification. He replied that the staff that had been involved in the first two incidences were no longer employed and that all staff asked for proof of age, although this could often be intimidating. In answer to a question from Councillor Lemon, Mr Visana replied that he had been aware of the Home Office campaign through a write up in a trade magazine.

Members asked Mr Visana how they could be convinced that there would be consistency of procedures carried out by staff and asked what had now changed since the failed test purchases. He replied that he had introduced the 21 policy, to ask for identification for anyone that looked near to that age. Two of his staff would be applying for a personal license and all the employees, including any future new staff would be attending a 'responsible retailing' training course. He also confirmed that the current members of staff were more mature in age and this was a policy that he would continue. He was concerned that a suspension of two months would have severe implications for his business.

LC31 **EXCLUSION OF THE PUBLIC**

RESOLVED that under Regulation 14 (2) Licensing Act 2003 (Hearings) Regulations 2005, the press and the public be excluded from the meeting whilst the Committee considered its decision on the grounds that it was in the public interest so to do to permit a free and frank exchange of views between Members.

The public left the room to allow Members to consider their decision.

LC32 **TO CONSIDER AN APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE NISA CHECKOUT SUPERMARKET AT SAFFRON WALDEN**

Members returned to the meeting and the Chairman announced the following decision.

Members have carefully considered the information that has been brought before it today, and taken account of the comments of Mr Visana and his representative. Members are aware of the need to be proportionate in considering the appropriate steps to be taken to ensure the promotion of the

licensing objectives, especially in this case the prevention of crime and disorder and protection of children from harm.

The Council has considered the Government's guidance on reviews, and in particular paragraph 11.21, and considers given the seriousness of the matter, that a suspension of licence for a period of one month would be appropriate to deter the holder from allowing the problems to happen again and raise awareness of the seriousness of the offence.

In addition, the Council considers that the imposition of the following conditions should address the licensing objectives and supplement the steps the license holder has taken thus far to prevent this happening again

- 1 A digital CCTV system-incorporating recording will operate throughout the whole of each period the premises are open.
- 2 The system will include coverage of all public entrances and exits from the premises, the outside frontage of the premises and any other area agreed with the police.
- 3 The system will provide for recording of all cameras simultaneously and recordings will be made for the whole of each period of trading.
- 4 The recordings are to be kept at a minimum of 31 days or longer if requested by police or council officers. All recordings must be made available to police or council officers upon request.
- 5 A qualified user of the CCTV system to be at the premises at all times.
- 6 There are a minimum of 2 staff at all times on the shop floor, one of whom (the supervisor) holds a personal license or has undertaken and passed the BII level 1 award in responsible alcohol retailing or equivalent. In cases of doubt regarding customers age a second member of staff must be consulted.
- 7 All refusals of sale of alcohol or other age restricted products are to be recorded in a register.
- 8 Reasonable and adequate staff training to be carried out and properly documented in relation to i) use of CCTV system; (ii) dealing with incidents and prevention of crime and disorder, (iii) sale of alcohol (to underage persons over 18 purchasing for underage, drunks etc.)
- 9 Training records, incident logs together with the refusal register to be kept for at least 12 months and made available to police and council officers on request. (Incident book/ refusal register may be one of the same.)

Members would like to advise the license holder that if he has cause to appear before the Licensing Authority again for the same purpose, the Licensing Authority would take a very serious view of the situation.

The License holder was reminded of his right to appeal and the need to do so within 21 days of notification of the decision by contacting the Magistrates Court.

The meeting ended at 4.30 pm.