

**EXTRAORDINARY LICENSING COMMITTEE held at 10.00 am at  
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 27  
JANUARY 2009**

Present: Councillor E W Hicks – Chairman.  
Councillors K R Artus, J I Loughlin and J A Redfern.

Officers in attendance: M Hardy (Licensing Officer), C Nicholson (Non Contentious Solicitor) and R Procter (Democratic Services Officer).

LC45 **APPLICATION FOR REVIEW OF PREMISES LICENCE – NEWPORT VILLAGE STORES**

The Chairman welcomed all parties and invited the Licensing Officer to set out an application by the Chief Constable of Essex for a review of the premises licence in respect of the Newport Village Stores, High Street, Newport.

The Licensing Officer informed Members that agreement on conditions had been reached during further negotiations. The conditions now agreed differed slightly from those in the report. He gave the facts of the application as follows.

'The Licensing Act 2003 places an obligation on a Licensing Authority to promote the objectives contained within the Act. The objectives are listed below:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

- 1 An application for a review can be made by a responsible authority or interested party.
- 2 In this instance, the review is being sought by the Police 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.
- 3 On 16th November 2005, a premises licence was granted to the Newport Village Store following an application to convert their existing Justices Off Licence in accordance with the Licensing Act 2003. This allows the sale of alcohol by retail for consumption off the premises only provided that the sale is made or authorised by a person who holds a personal licence.

- 4 On the 4<sup>th</sup> July 2008 Sarah Eykelbosch, a Trading Standards Officer, visited the premises leaving guidance notes and reminding the store of their responsibilities regarding the sale of alcohol to under-age children.
- 5 On 29 October 2008, a test purchase for the sale of alcohol by retail was supervised by Essex County Council Trading Standards Officers in conjunction with Essex Police at these premises resulting in a positive sale being made. The officers then returned to the store identifying themselves to the Designated Premises Supervisor Mr Alan Carr, giving reasons for their visit resulting in the Police issuing an £80 Fixed Penalty Ticket in respect of the sale of alcohol to a person under 18 years of age.
- 6 It is on this basis that the Chief Constable is seeking a review of the premises licence.'
- 7 In accordance with the Licensing Act 2003, the Chief Constable has served copies of this application on all of the responsible authorities and on the premises licence holders. As a result of his action the Children's Safeguarding Service from Essex County Council have made a representation under the licensing objective that relates to the protection of children from harm. They seek that a condition as listed below be inserted on the Premises Licence should it continue as they believe that it may well meet the licensing objective relating to the protection of children from harm. The Premises Licence holder has agreed to the imposition of the condition if the licence is to continue.

(a) The Challenge 25 scheme has been adopted 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.'

The Licensing Officer went on to explain that the parties had agreed to adopt 'Challenge 21' rather than 'Challenge 25', the condition originally sought by the Children's Safeguarding Service. He continued with reference to his report:

- 8 'Essex Police have also discussed the imposition of new conditions with the Premises Licence holder which are set out in background papers as the minimum desired outcome. The Premises Licence holder is agreeable to the imposition of those conditions onto the licence should it continue.
- 9 Upon receipt of this application, the Licensing Authority advertised this fact on its website and on its public notice board between 22 December and 18 January 2009. In addition the author of this report arranged for a notice to be displayed on the

premises regarding this review which was displayed in a prominent position so that it could be seen by members of the public.

- 10 The decision that the Committee can make in respect of these applications is to:
  - Modify the conditions of the licence
  - Suspend the licence for a period not exceeding 3 months
  - Revoke the licence
  - Remove the designated premises supervisor
  - Exclude a licensable activity from the scope of the licence
- 11 When determining an application, then due regard should be given to the Council's policy regarding licensing and to the guidance given by the Secretary of State.
- 12 If the Committee in their decision wishes to impose conditions, the only condition that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representatives received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.'

The Licensing Officer concluded with the recommendation stated in his report, that Members determine the application.

In reply to a question, the Licensing Officer said no comments had been received from members of the public following display of the review notice.

The Chairman then invited the Essex Police Licensing Officer, Mr S Sparrow, to set out the case for Essex Police. Mr Sparrow said this was a straightforward matter of a failed test purchase as the store holder had been very co-operative and the evidence was not in dispute. Conditions which varied slightly from those in the papers distributed for this meeting had now been agreed. These conditions were proportionate, and were considered satisfactory by the police. In reply to questions from Members, he said he believed the conditions would be met immediately, and that five staff from the store had been nominated to take part in a training course.

Miss Sherratt then made representations on behalf of the licence holder. Miss Sherratt said Mr Carr understood the gravity of the error, which was his first and only mistake during the 18 years he had owned the store. She said the variation of conditions was for practicality. The main point to note was that Mr Carr recognised that staff needed training before they could sell alcohol and he had booked such training.

Members asked what measures had been put in place following the advice to the licence holder given by Trading Standards Officers in July. Members also questioned whether this advice had been prompted by any breach of conditions of the licence. Miss Sherratt said no evidence of prior instances had been served in relation to this matter. Mr Sparrow said that the advice had been given simply during a routine visit.

The Chairman thanked all parties and Members then withdrew to determine the application.

Members returned having concluded their deliberations. The Chairman made the following statement:

‘Members have listened to both the police and the licence holder and have reviewed the proposed conditions suggested to Members to be imposed on the licence.

‘Members are satisfied that the conditions suggested are necessary and proportionate to deal with the problems identified and to promote the licensing objective of the protection of children from harm.

The conditions to be imposed on the licence are:

- 1 the premises licence to be varied to include the following:
  - a) a digital CCTV system-incorporating recording will operate throughout the whole of each period the premises are open.
  - b) 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.
  - c) The system will provide for recording of all cameras simultaneously and recordings will be made for the whole of each period of trading.
  - d) The recordings are to be kept for 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.
  - e) Two persons will be present on the premises from 6 pm until close.
  - f) All refusals of sales of alcohol or other age restricted products are to be recorded in a register.
  - g) 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).
  - h) No staff will make any sales of alcohol to the public until they have received reasonable and adequate training.
  - i) 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 and the same).

- 2 The adoption of the 'Challenge 21' condition suggested by the Children's Safeguarding Service.

'Parties are reminded of their right to appeal against the decision within 21 days of notification.

'Members consider this to be a serious matter and hope that the proposed conditions will ensure that there are no further occurrences.'

LC46

### **APPLICATION FOR REVIEW OF PREMISES LICENCE COSTCUTTER 41-45 HIGH STREET, SAFFRON WALDEN**

The Chairman invited the Licensing Officer to set out an application by the Chief Constable of Essex for a review of the premises licence in respect of the Costcutter Store, 41-45 High Street, Saffron Walden.

The Licensing Officer said that for the sake of brevity he did not intend to repeat the relevant provisions of the Licensing Act 2003, as the grounds of this case were the same as for the application which Members had just heard. He referred to the circumstances of this case, as follows:

- 1 'In this instance, the review is being sought by the Police 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.
- 2 On 4th November 2005, a premises licence was granted to the Costcutter Store following an application to convert their existing Justices Off Licence in accordance with the Licensing Act 2003. This allows the sale of alcohol by retail for consumption off the premises only provided that the sale is made or authorised by a person who holds a personal licence.
- 3 On the 8<sup>th</sup> July 2008 Derek Lee, a Trading Standards Officer, visited the premises leaving guidance notes and reminding the store of their responsibilities regarding the sale of alcohol to under-age children.
- 4 On 29 October 2008, a test purchase for the sale of alcohol by retail was supervised by Essex County Council Trading Standards Officers in conjunction with Essex Police at these premises resulting in a positive sale being made. The officers then returned to the store identifying themselves to a sales assistant Mr Khalid

Raja, giving reasons for their visit resulting in the Police issuing an £80 Fixed Penalty Ticket in respect of the sale of alcohol to a person under 18 years of age.

- 5 It is on this basis that the Chief Constable is seeking a review of the premises licence.
- 6 In accordance with the Licensing Act 2003, the Chief Constable has served copies of this application on all of the responsible authorities and on the premises licence holders. As a result of his action the Children's Safeguarding Service from Essex County Council have made a representation under the licensing objective that relates to the protection of children from harm. They seek that a condition as listed below be inserted on the Premises Licence should it continue as they believe that it may well meet the licensing objective relating to the protection of children from harm. The Premises Licence holder has agreed to the imposition of the condition onto the licence.
  - (a) The Challenge 25 scheme has been adopted 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.'

The Licensing Officer went on to explain that the parties had agreed to adopt 'Challenge 21' rather than 'Challenge 25', the condition originally sought by the Children's Safeguarding Service. He continued with reference to his report:

- 7 'Essex Police have also discussed the imposition of new conditions with the Premises Licence holder which are set out in background papers as the minimum desired outcome. The Premises Licence holder is agreeable to the imposition of those conditions onto the licence should it continue.

'Upon receipt of this application, the Licensing Authority advertised this fact on its website and on its public notice board between 22 December and 18 January 2009. In addition the author of this report arranged for a notice to be displayed on the premises regarding this review which was displayed in a prominent position so that it could be seen by members of the public.'

The Licensing officer concluded with the recommendation stated in his report, that Members determine the application.

The Chairman invited Mr S Sparrow to make representations. He said that this was again a straightforward case as the store manager had been very co-operative and the facts were not in dispute. Revised conditions had been

agreed. In reply to a question, he gave a summary of Essex Police policy regarding intelligence leading to the carrying out of test purchases.

In relation to the above discussion, Miss Sherratt said Members must disregard any matters on which no evidence had been served. She went on to make representations on behalf of the licence holder. She said he had taken over the premises only in July 2008, and had co-operated diligently with all advice in relation to this matter.

The Chairman thanked Miss Sherratt, and no further questions being put, Members withdrew to determine the application.

Upon returning from deliberations, the Chairman made the following statement:

'Members have listened to both the police and the licence holder and have reviewed the proposed conditions suggested to Members to be imposed on the licence.

'Members are satisfied that the conditions suggested are necessary and proportionate to deal with the problems identified and to promote the licensing objective of the protection of children from harm.

The conditions to be imposed on the licence are:

- 1 the premises licence to be varied to include the following:
  - a) a digital CCTV system-incorporating recording will operate throughout the whole of each period the premises are open.
  - b) 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.
  - c) The system will provide for recording of all cameras simultaneously and recordings will be made for the whole of each period of trading.
  - d) The recordings are to be kept for 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.
  - e) Two persons will be present on the premises from 6 pm until close.
  - f) All refusals of sales of alcohol or other age restricted products are to be recorded in a register.
  - g) 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).

- h) No staff will make any sales of alcohol to the public until they have received reasonable and adequate training.
- i) 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 and the same).

2 The adoption of the 'Challenge 21' condition suggested by the Children's Safeguarding Service.

'Parties are reminded of their right to appeal against the decision within 21 days of notification.

'Members consider this to be a serious matter and hope that the proposed conditions will ensure that there are no further occurrences.'

LC47

### **APPLICATION FOR REVIEW OF PREMISES LICENCE ONE STOP STORES HIGH STREET, GREAT DUMMOW**

The Licensing Officer said that the law regarding this matter was as had been explained in respect of the two cases already determined. He set out the circumstances of the case as follows:

- 1 'In this instance, the review is being sought by the Police 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.
- 2 On 18 November 2005, a premises licence was granted to the One Stop Stores following an application to convert their existing Justices Off Licence in accordance with the Licensing Act 2003. This allows the sale of alcohol by retail for consumption off the premises only provided that the sale is made or authorised by a person who holds a personal licence.
- 3 On the 16<sup>th</sup> May 2007 Julie Peckston, a Trading Standards Officer, visited the premises leaving guidance notes and reminding the store of their responsibilities regarding the sale of alcohol to under-age children.
- 4 On 29 October 2008, a test purchase for the sale of alcohol by retail was supervised by Essex County Council Trading Standards Officers in conjunction with Essex Police at these premises resulting in a positive sale being made. The officers then returned to the store identifying themselves to the shift manager, Peter Copping, giving reasons for their visit resulting in the Police issuing



an £80 Fixed Penalty Ticket in respect of the sale of alcohol to a person under 18 years of age.

- 5 It is on this basis that the Chief Constable is seeking a review of the premises licence.
- 6 In accordance with the Licensing Act 2003, the Chief Constable has served copies of this application on all of the responsible authorities and on the premises licence holders. As a result of his action the Children's Safeguarding Service from Essex County Council have made a representation under the licensing objective that relates to the protection of children from harm. They seek that Condition (i) as listed below is inserted should the Premises Licence be continued as they believe that it may well meet the licensing objective relating to the protection of children from harm.

'Upon receipt of this application, the Licensing Authority advertised this fact on its website and on its public notice board between 22 December and 18 January 2009. In addition the author of this report arranged for a notice to be displayed on the premises regarding this review which was displayed in a prominent position so that it could be seen by members of the public.'

The Licensing officer said that conditions had been agreed as detailed in the papers served. He referred to the 'Challenge 25' scheme which was set out in report as follows:

- (i) 'The Challenge 25 scheme has been adopted 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.'

He concluded with the recommendation stated in his report, that Members determine the application.

Mr S Sparrow on behalf of Essex Police said that the representatives for the store had been very co-operative and that staff would be attending training in responsible retailing. He went on to say that an application to vary the licence had been made, the consultation period of which would close on 19 February. The Council's Solicitor advised Members that only the application for review could be considered.

Mr Steadmans spoke on behalf of the store as their representative. He said the store was part of a national chain, and that the management took this

issue very seriously. He explained that the condition 'Challenge 25' had been sought, as it improved staff confidence and increased the number of challenges made. Conditions had been agreed with the police and had already been implemented.

In reply to a question, he said the licence holder had been at the premises for five years.

The Chairman thanked all parties and Members then withdrew to determine the application.

Members returned having concluded their deliberations. The Chairman made the following statement:

'Members have listened to both the police and the representative of the licence holder and have reviewed the proposed conditions suggested to Members to be imposed on the licence.

'Members are satisfied that the conditions suggested are necessary and proportionate to deal with the problems identified and to promote the licensing objective of the protection of children from harm.

The conditions to be imposed on the licence are:

- 1 the premises licence to be varied to include the following:
  - a. a digital CCTV system-incorporating recording will operate throughout the whole of each period the premises are open.
  - b. 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.
  - c. The system will provide for recording of all cameras simultaneously and recordings will be made for the whole of each period of trading.
  - d. The recordings are to be kept for 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.
  - e. Two persons will be present on the premises from 6 pm until close.
  - f. All refusals of sales of alcohol or other age restricted products are to be recorded in a register.
  - g. 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).
  - h. No staff will make any sales of alcohol to the public until they have received reasonable and adequate training.
  - i. 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 and the same).

- 2 The adoption of the 'Challenge 25' condition suggested by the Children's Safeguarding Service.

'Parties are reminded of their right to appeal against the decision within 21 days of notification.

'Members consider this to be a serious matter and hope that the proposed conditions will ensure that there are no further occurrences.'

The meeting ended at 11.55 am.