

Committee: Licensing

Agenda Item

Date: 27 January 2010

2

Title: One Stop Stores - Elsenham

Author: Murray Hardy (01799) 510598

Item for
decision

Summary

- 1 This report sets out an application for a review of the premises licence in respect of One Stop Stores, 4 Ambrose Corner, Elsenham, Essex.
- 2 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
- 3 An application for a review can be made by a responsible authority or interested party.
- 4 In this instance, the review is being sought by Essex Police and is supported by the Children's Safeguarding Service from Essex County Council. The grounds on which this request is made are based on the licensing objectives that deal with the prevention of crime and disorder and the protection of children from harm.
- 5 On 18 November 2005, a premises licence was granted to One Stop Stores following an application to convert their existing Justices Off-Licence in accordance with the Licensing Act 2003. This allows for 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.
- 6 The conditions imposed on the licence are listed below:
 - (a) No supply of alcohol is to be made at a time when there is no designated premises supervisor in respect of the premises licence.
 - (b) No supply of alcohol at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
 - (c) No alcohol shall be sold in an open container.
- 7 On 2 January 2009, a test purchase for the sale of alcohol by retail was supervised by an Essex County Council Trading Standards Officer in conjunction with Essex Police at these premises. This resulted in a positive

One Stop Stores, Elsenham

Licensing, Item 2

sale being made. Police Constable Jeggo then entered the store and spoke with Charlotte Moon an employee of One-Stop. The Officer gave reasons for the visit which resulted in a Fixed Penalty Ticket being issued for the offence of selling alcohol to a person under the age of 18 years.

- 8 It was on that basis that the Chief Constable supported by The Children's Safeguarding Service from Essex County Council sought the first review of the Premises Licence.
- 9 On 22 April 2009 an application for a review of the premises licence was heard before the Licensing Committee which resulted in the conditions of the licence being modified which were deemed necessary to promote the licensing objectives that relate to the prevention of crime and disorder and the protection of children from harm.
- 10 The conditions imposed following that review are listed below:
 - (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 6.00 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.
 - (j) 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.

- 11 On 20 June 2009 a further test purchase for the sale of alcohol by retail was supervised by an Essex County Council Trading Standards Officer in conjunction with Essex Police at these premises resulting in a positive sale being made.
- 12 Police Community Safety Officer, Sharon Cooper, then entered the shop and spoke with Laura Hutchinson the designated premises supervisor. The facts of the positive sale were relayed to her resulting in a Fixed Penalty Ticket being issued in respect of selling alcohol by retail to a person under the age of 18 years. The sale was conducted by a member of staff at the premises who was not the designated premises supervisor.
- 13 On 11 August 2009 an application for a second review was heard before the Licensing Committee which was brought again by The Chief Constable supported by The Children's Safeguarding Service from Essex County Council. This resulted in the premises licence being suspended for a period of one month and two further conditions being added to the licence. These are listed below:
 - (a) There is a qualified operator of the CCTV system at the premises at all times.
 - (b) The condition requiring two persons to be on the premises from 6pm until close shall be deleted and replaced with a condition that there are a minimum of two staff at all times on the shop floor, one of whom holds a personal licence or who has undertaken and passed the BIIB level I award in respect of alcohol retailing or the equivalent.
- 14 On 21 November 2009 a further test purchase for the sale of alcohol by retail took place at the premises supervised by officers from Essex County Council Trading Standards. The test purchase again resulted in a member of the One Stop staff selling alcohol to a person under the age of 18 years.
- 15 As a result of this event taking place Michelle Walsh and Sophie Day from Trading Standards re-entered the premises and spoke to the relief manager informing her of the sale that had taken place. Conversations took place between the officers and the relief manager resulting in arrangements being made for a further visit to the premises when accompanied by an officer from Essex Police.
- 16 On 23 November 2009 Police Community Support Officer Kelly Roberts in company with Michelle Walsh from Essex County Council Trading Standards visited the premises and spoke with a member of staff called Sally Jane Phillips and issued her with a Fixed Penalty Ticket for the offence of selling alcohol by retail to a person under the age of 18 years. This related to the incident which took place at these premises on 21 November 2009.

One Stop Stores, Elsenham

Licensing, Item 2

- 17 It is on this basis that the Chief Constable is now seeking a third review of the current premises licence. He is again supported with this application by The Children's Safeguarding Service from Essex County Council.
- 18 In accordance with the Licensing Act 2003, the Chief Constable has served copies of his application on all of the responsible authorities and on the premises licence holders.
- 19 Upon receipt of this application, the Licensing Authority advertised this review on its website and on its public notice board between 10 December 2009 and 6 January 2010. In addition the author of this report arranged for a notice to be displayed on the premises regarding the review which was displayed in a prominent position so that it could be seen by members of the public.
- 20 The Chief Constable is seeking a revocation of the premises licence following his previous reviews which have already taken place.
- 21 The decision that the Committee can make in respect of this application is to:
- Modify the conditions of the licence
 - Modify the conditions of the licence for a limited period not exceeding three months
 - Remove the designated premises supervisor
 - Suspend the licence for a period not exceeding three months
 - Revoke the licence
- 22 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.
- 23 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 representations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

RECOMMENDED that

- 1 The application is determined
- 2 In the event of an appeal against the decision of the licensing authority, then a member is nominated to represent the authority at court.

Background papers

- Application for a review from the Chief Constable of Essex Police
- Copy of premises licence
- Location of premises
- Plan of premises
- Witness statement Michelle Walsh

One Stop Stores, Elsenham

Licensing, Item 2

- Witness statement Sophie Day
- Witness statement Kelly Marie Roberts
- Review decision letter Murray Hardy
- Chronology of events
- Minimum desired outcome
- Representation from The Children's Safeguarding Service
- Representation from Mrs L Segar
- Witness statement Peter Stratton
- Fixed Penalty Notice issued by PCSO Roberts
- Print out from shop computer system
- Bundle of correspondence from Head Office One-Stop