

<b>Committee:</b>	<b>Licensing Committee</b>	<b>Agenda Item</b>
<b>Date:</b>	<b>23 November 2010</b>	<b>2</b>
<b>Title:</b>	<b>Costcutter 41-45 High Street, Saffron Walden</b>	
<b>Author:</b>	<b>Murray Hardy Licensing Officer</b>	Item for decision
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## Summary

- 1 This report sets out an application for a second review of the premises licence in respect of the Costcutter Store, 41 – 45 High Street, Saffron Walden. The application is being made by the Chief Constable of 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 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.
- 5 On 4 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.
- 6 On the 8 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.
- 7 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.

- 8 It was on that basis that the Chief Constable sought a review of the premises licence.
- 9 In accordance with the Licensing Act 2003, the Chief Constable did serve copies of this application on all of the responsible authorities and on the premises licence holders. As a result of this action the Children's Safeguarding Service from Essex County Council made a representation under the licensing objective that relates to the protection of children from harm. They sought the condition listed below which would promote the licensing objective relating to the protection of children from harm. The Premises Licence holder agreed to the imposition of this condition.
  - (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.
- 10 On 27 January 2009 this matter was referred to the Licensing Committee and following a hearing members imposed the following conditions which they considered necessary and proportionate to deal with the problem identified and in promoting the licensing objectives relating to the protection of children from harm
- 11 The conditions imposed 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 the Police or Council Officers. All recordings must be made available to the Police or Council officers upon request.
  - (e) Two persons will be present on the premises from 6pm until the close of the premises.
  - (f) All refusals of sales of alcohol or other age restricted products are to be recorded in a register.

Determination of premises licence - Costcutter Saffron Walden

Licensing Committee, 23 November 2010, item 2

- (g) Reasonable and adequate staff training to be carried out and properly documented in relation to the sale of alcohol to persons under age and those already under the influence of alcohol
  - (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 the Police and Council officers on request (incident book/refusal register may be one and the same).
  - (j) The Challenge 21 scheme has been adopted to ensure that alcohol will not be sold on the premises to those under 18 years of age. Only approved proof of age identification will be accepted such a passport, photo driving licence and a pass accredited card.
- 12 Members considered this to be a serious matter and that the new conditions would ensure that there would be no further occurrences.
- 13 On 5 March 2009 the Premises Licence was transferred from Costcutter Supermarkets Group to Mosawar Khan with the designated premises supervisor being listed as Sohail Munawar. Mr Munawar has been the DPS at these premises since 1 June 2006.
- 14 On 9 September 2010 a further test purchase was conducted at these premises under the supervision of Essex Trading Standards which resulted in a positive sale being made.
- 15 Police Community Support Officer Joanna Trevail-Phillips then entered the premises and spoke with Akhtar Saeed and his line manager relaying the facts of this case which resulted in an £80 Fixed Penalty Notice being issued to Mr Saeed for selling alcohol by retail to a person under the age of 18 years of age.
- 16 It is on the basis of a second positive sale being made that the Chief Constable is seeking another review of the current premises licence.
- 17 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 holder. As a result of this action the Children's Safeguarding Service at Essex County Council have made a representation under the licensing objective that relates to the protection of children from harm.
- 18 Upon receipt of this application the Licensing Authority advertised this review on its website and on its public notice board between 6 October and 2 November 2010. In addition the Licensing Officer arranged for a similar 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.

- 19 The Chief Constable is seeking a suspension of the Premises Licence for a period of not more than 2 months and this is outlined in his minimum desired outcome listed at Annex 4.
- 20 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
- 21 When determining an application, due regard should be given to the Council's policy regarding licensing and to the guidance given by the Secretary of State.
- 22 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.

**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
- Representation from The Children's Safeguarding Service
- Copy of Premises Licence
- Location of Premises
- Plan of Premises
- Witness Statement Wayne Groves
- Witness Statement Joanna Trevail-Phillips
- Fixed Penalty Notice
- Chronology of Events
- Minimum desired outcome