EXTRAODRINARY LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at SAFFRON WALDEN TOWN HALL, MARKET SQUARE at 2pm on 20 MAY 2014

Present: Councillor J Salmon (Chairman)
Councillors J Davey, J Freeman and E Hicks

Officers in attendance: M Hardy (Licensing Officer), C Nicholson (Solicitor) and A Rees (Democratic Services Support Officer)

Others in attendance: Rupert Ainsworth (Property Projects Manager - Rontec), Sabrina Cader (Solicitor - Winckworth Sherwood) and Simon Mercer.

LIC1 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

LIC2 **APPLICATION TO VARY A PREMISES LICENCE – STANSTED SERVICE STATION, 1 CAMBRIDGE ROAD, STANSTED MOUNTFICHET**

The Licensing Officer informed the Committee that a premises licence was first issued under the Licensing Act 2003 after an application to convert an existing Justices Licence on 24 October 2005.

The current premises licence allowed the following licensable activities:

Late Night Refreshment (Indoors and Outdoors)	11pm to 12 midnight Monday to Sunday
Sale of alcohol by retail for consumption off the premises only	6am to 12 midnight Monday to Sunday

The holder of the premises licence was Rontec Watford Limited who wanted to vary the permitted licensable activities to the following:

Late Night Refreshment (Indoors and Outdoors)	11pm to 5am
Sale of alcohol by retail for consumption off the premises only	12 midnight to 12 midnight

No further risks had been identified. However the following condition had been agreed with Essex Police: The entrance door to the shop would be closed from 12 midnight to 5am. Any sales would have to be made through a night pay window. The operating schedule identified no further risks that needed to be addressed in order to promote the licensing objectives regarding public safety, prevention of public

nuisance and the protection of children from harm. No representation had been made by any of the statutory authorities other than the condition agreed by the applicant and Essex Police. Representation had been made by an interested party relating to the prevention of crime and disorder, the prevention of public nuisance and the prevention of children from harm. The Committee could grant the application, modify the application by inserting conditions or reject the application. Due regard should be given the Council's licensing policy and the Secretary of State's Guidance issued in accordance with the Act. Any additional conditions imposed by the Committee would have to be proportionate to the application and could not replicate existing legislation. Conditions would have to promote the four licensing objectives.

In response to a question by Councillor Davey, the Licensing Officer said that there were 19 premises in the district that were permitted to sell alcohol throughout the entire day. However, none of them were filling stations.

Mr Mercer told the Committee that he believed that by extending the hours in which people could purchase alcohol, people would be encouraged to drive to the site in order to do so. Additionally, people exiting pubs in the local area would go to the filling station to buy alcohol so that they could continue drinking. People would congregate around the filling station and this would create additional noise. There was limited street lighting around the area and a variation in the premises licence would cause an increase in crime. There was not an established police presence in the village, so underage people could not be deterred from purchasing alcohol either by themselves or via a proxy.

Ms Cader said that no issues had been raised in relation to the current premises licence. The Police had added one condition to the applied for variation, as previously discussed at the meeting. The amount of alcohol on sale was small and the main reason for the proposed variation was to match the trading hours. As the shop door was closed, people were unlikely to congregate on the premises. Rontec was aware it's responsibility to protect children from harm and had other premises throughout the country that had been granted licences to sell alcohol 24 hours a day. All staff were given training every six months and this included how to deal with underage and proxy sales. A refusals log was kept in the premises. The application should not be refused on the basis of what might happen. Staff were encouraged to refuse service if they felt the alcohol sold would be consumed by people under the age of 18. Cashiers were fined if they served an underage person. This encouraged them to exercise caution when selling alcohol.

The Licensing Officer said any review of the licence would be against Rontec and not the individual involved. The Committee could add a

condition that the premises operated a “Challenge 25” policy if deemed prudent. Ms Cader explained that the Challenge 25 condition should already be on the licence as it was included in a previous variation application.

In the response to questions, Mr Ainsworth and Ms Cader said that the night pay desks had panic alarms in case of emergency. Employees were permitted to take short breaks if needed. The site was secure so there was no chance of a break in. Whilst it would be possible to increase the amount of alcohol on sale at the site, this would not happen since it would cause issues with the Police and would also create planning issues.

LIC3 **EXCLUSION OF THE PUBLIC**

RESOLVED that under section 100I of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

The Licensing Officer, Mr Ainsworth, Ms Cader and Mr Mercer left the room at 2.50pm so that the Committee could reach a decision. They returned at 3.10pm.

DECISION

Councillor Salmon read out the following statement. “The Committee has heard everything that has been said by the Applicant and Mr Mercer and whilst the Committee acknowledges the legitimate concerns of Mr Mercer set out in his letter of representation, there is an absence of any evidence that problems would arise if a variation to the licence were to be granted. Mr Mercer’s objections are based on what he fears might occur.

The Committee were not satisfied that there was likely to be a significant problem of crime and disorder, and subject to the proposed condition suggested by the Police, do not consider it is necessary or proportionate to take any steps in that regard either by refusing the application or imposing additional conditions. The Committee considered likewise in respect of the prevention of public nuisance.

The Council’s policy at paragraph 5.4 states that in the case of shops and stores selling alcohol and the Licensing Authority will normally permit the hours to match the normal trading hours unless there are exceptional reasons relating to disturbance or disorder, and the Secretary of State guidance at paragraph 10.13 is that shops should be free to allow off sales at any time the outlet is open for shopping, unless there are good reasons for restricting those hours.

The Committee are aware of the Thwaites case which underlined that decisions on licensing applications must be based on evidence. The

Licensing Act 2003 contains mechanisms where by licences can be reviewed on the application of anyone it there is behaviour that is infringing the licensing objectives. The case also suggested that greater weight should be given to representations made by the responsible authorities than to those made by others.

The Committee note that only the Police made representations on the grounds of crime and disorder and that their concerns have been met with an agreed condition and no other responsible authorities have made representations

In the absence of any other evidence that the variation of the licence is likely to adversely impact on the licensing objectives, and on the basis of the decision in Thwaites the Committee will grant the application in the terms applied for with the addition of the condition agreed by the Police, and including the Challenge 25 condition as suggested by the Applicant.

Residents, and Mr Mercer especially, should note that once the licence is granted and licensable activities are taking place, if evidence arises showing the licensing objectives being adversely affected then a review may be applied for."

The Licensing Officer informed the applicant and objector of their right to appeal within 21 days of receiving a notice of the decision.

The meeting ended at 3.15pm.