

PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'A'30 SEPTEMBER 2011

Present:- Councillors Powell (Chairman) and Casey.

Substitute Member:- Councillor Caines (for Councillor Downing).

Stand-By Member:- Councillor Pugh.

In Attendance:- Streets and Seafronts Manager, Solicitor (WRR), Licensing Officer (AT), Senior Democratic Services Officer, Democratic Services Officer (ER), Assistant Licensing Officer.

(10.04 a.m. – 12.15 p.m.)

1. CHAIR

In the absence of the Chairman of the Sub-Committee, it was moved by Councillor Casey, seconded by Councillor Caines and:-

RESOLVED - That Councillor Powell be elected Chairman for the meeting.

2. APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Downing.

3. MINUTES

The minutes of the meeting of the Sub-Committee held on 21 June 2010 were approved as a correct record and signed by the Chairman.

4. LICENSING ACT 2003 – APPLICATION NO. 11/00674/PREMGR – APPLICATION FOR THE GRANT OF A PREMISES LICENCE – ONE STOP, 1 RAMSEY ROAD, HARWICH

The Sub-Committee had before it for their consideration an application that had been submitted by One Stop Stores Limited for the grant of a Premises Licence in respect of the above premises.

The Chairman welcomed all those persons present to the meeting and outlined the procedure that would be followed during the hearing.

Members were made aware of the details of the activity applied for and the steps that the applicant proposed to take to promote the Licensing Objectives, as set out in the application, and as summarised in Sections 4.0 and 5.0, respectively, of item A.1 of the Report of the Head of Customer Services.

The Sub-Committee was informed that the application had been advertised by the display of a notice on the premises and in the local press.

It was reported that a letter of representation had been received from Mrs Hunt and Mr Coleman on the grounds of Public Nuisance and Noise Nuisance. This letter had been given to the applicant.

The Sub-Committee was advised that the applicant and the objectors had been invited to attend the meeting to put their respective cases.

Sarah Marklew, on behalf of the applicant, addressed the Sub-Committee in support of the application and answered questions raised by Mrs Hunt and Councillor Powell.

Mrs Hunt and Mr Coleman put forward their objections and answered questions raised by members of the Sub-Committee.

Following closing statements by Sarah Marklew, and Mrs Hunt and Mr Coleman, it was:-

RESOLVED - That the public be excluded from the meeting pursuant to Section 100A(4) of the Local Government Act 1972 during the period when the Sub-Committee will be deliberating and considering its decision on the grounds that such deliberations involve the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A of the Act.

Members thereupon retired to deliberate and consider their decision. The Solicitor was asked to retire with them to advise on the legal position.

Following such deliberations the public were re-admitted to the meeting. The Solicitor confirmed that he had given no specific legal advice to Members during their retirement, except to remind Members that any decision that they reached must be based on promoting the four licensing objectives.

It was moved by Councillor Casey, seconded by Councillor Caines and:-

RESOLVED – That the decision of the Sub-Committee is as follows:-

Having given careful consideration to the application and having had regard to the views expressed on behalf of the applicant and the representations made by Mrs Hunt and Mr Coleman, together with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy, the decision of the Sub-Committee is to grant the application.

The decision will be confirmed in writing to all parties and they will also be informed that they have a right of appeal to the Magistrates' Court within a period of 21 days beginning with the date the applicant is notified of the decision by notice.

5. LICENSING ACT 2003 – APPLICATION NO. 11/00687/PREMGR – APPLICATION FOR THE GRANT OF A PREMISES LICENCE – 35 PARKESTON ROAD, DOVERCOURT

The Sub-Committee had before it for their consideration an application that had been submitted by Mahesh Mistry for the grant of a Premises Licence in respect of the above premises.

Members were made aware of the details of the activity applied for and the steps that the applicant proposed to take to promote the Licensing Objectives, as set out in the application, and as summarised in Sections 4.0 and 5.0, respectively, of item A.2 of the Report of the Head of Customer Services.

Members were reminded that at the meeting held on 14 October 2010, the Premises and Personal Licences Sub-Committee 'B' had determined that the Premises Licence for the above premises, held by Mr Mahesh Mistry be revoked on the grounds that the Licensing Objective for the Protection of Children from Harm had been breached by virtue of the persistent sales of alcohol to a person or persons under 18 years of age.

The Sub-Committee was informed that the application had been advertised by the display of a notice on the premises and in the local press.

It was reported that letters of representation had been received from Essex Police and Essex County Council Trading Standards, on the grounds that granting the application would undermine the Licensing Objective in respect of the Protection of Children from Harm. However, following discussions with the applicant, those representations had been withdrawn subject to the following conditions being attached to the Licence (if granted):-

1. A Personal Licence Holder shall be on duty and in the retail part of the shop premises at all times the premises are open to the public, and sales of alcohol are being offered. A Personal Licence Holder will make all sales of alcohol. Non Personal Licence Holders will not be permitted to make any alcohol sales.
2. Nikki Mistry will not be permitted to make sales of alcohol. He may work in and around the shop but when the shop is open to the public he will not be permitted to make or authorise any sales of alcohol.
3. Whenever the DPS is not at the premises and alcohol is being offered for sale another person, who must be a current Personal Licence Holder, shall be nominated by them to be the responsible person to manage the premises.
4. A formal "Challenge 25" scheme shall be adopted, of which any person who looks or appears to be under the age of 25 shall be asked to provide identification (ID) to prove that they are over the age of 18 years. Only the UK Photo Full Driving Licence, Passport or Government approved PASS cards will be accepted as proof of age. Posters will be displayed informing customers of this policy. These posters will be displayed around the store and at the point of sales.

All staff will read and sign the Challenge 25 policy before making sales of alcohol. These records will be kept and produced to the Police or Local Authority upon request.

5. The Licence Holder/DPS will keep a Refusals and Incident book to record all refusals relating to the sales of alcohol. This record will be produced to the Police or Licensing Authority for inspection on request.
6. Digital CCTV of a type approved by the Local Authority to be installed, which covers all parts of the shop to which the public have access and to include the area immediately outside the premises entrance. The images to be retained for 30 days minimum, and made available on request to the Police and Local Authority. The lighting of the premises will be such that the CCTV operates at the best possible level. The CCTV must operate at all times the premises are open to the public. A member of staff able to operate the CCTV system fully, and download images must be on duty at all times the premises are open to the public.
7. The DPS/Licence Holder will take all reasonable steps to prevent youths gathering outside the immediate front of the premises. Staff members will monitor the outside area of the shop on a regular basis. If groups of youths are gathering, and the staff feel it is safe to do so, they will be asked to move on, before the Police are called.
8. All staff members, who are Personal Licence Holders, and involved in the sale of alcohol will have refresher training internally using the 'due diligence' manual. Refresher training will take place every three months. All training will be documented and made available on request to the Police or Local Authority. Refresher training will only be administered by the DPS or Premises Licence Holder.

9. Till prompts will be installed to alert staff that an age restricted product has been scanned.
10. All spirits of high value alcohol will be kept behind the service counter.
11. Home deliveries of alcohol will not be permitted.

The Sub-Committee was also informed that one letter of representation on the grounds of Public Nuisance and Noise Nuisance had been received from two local residents. This letter had been given to the applicant, minus personal details which had been redacted by request. The Interested Parties were not able to attend the meeting due to work commitments and had requested that Members take note of their representation.

In the light of the above it was:-

RESOLVED – That the case be heard in the absence of the said local residents but that their representations be considered in accordance with Section 20(3) of the Licensing Act 2003 (Hearings) Regulations 2005.

It was reported that Mr Mistry (the applicant), Mr Paul Sherratt (agent for the applicant) and Ms Karen Howlett (the proposed Designated Premises Supervisor) were present at the meeting.

Mr Sherratt addressed the Sub-Committee in support of the application and answered questions raised by Councillor Casey, Councillor Powell and the Council's Solicitor.

Following a closing statement by Mr Sherratt, it was:-

RESOLVED - That the public be excluded from the meeting pursuant to Section 100A(4) of the Local Government Act 1972 during the period when the Sub-Committee will be deliberating and considering its decision on the grounds that such deliberations involve the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A of the Act.

Members thereupon retired to deliberate and consider their decision. The Solicitor was asked to retire with them to advise on the legal position.

Following such deliberations the public were re-admitted to the meeting. The Solicitor confirmed that he had given no specific legal advice to Members during their retirement.

It was moved by Councillor Casey, seconded by Councillor Caines and:-

RESOLVED – That the decision of the Sub-Committee is as follows:-

Having given careful consideration to the application and having had regard to the views expressed on behalf of the applicant and the representation made by local residents, together with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy, the decision of the Sub-Committee is to grant the application.

The decision will be confirmed in writing to all parties and they will also be informed that they have a right of appeal to the Magistrates' Court within a period of 21 days beginning with the date the applicant is notified of the decision by notice.

Chairman