

MINUTES OF THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'C'**HELD ON 20 APRIL 2015 AT 10.00 A.M. IN THE COUNCIL CHAMBER, WEELEY****Present:** Councillors Sambridge (Chairman), Caines and De-Vaux Balbirnie**Stand-by Member:** Councillor Powell**In Attendance:** Environmental Services Manager (John Fox), Licensing Manager (Simon Harvey), Solicitor (Linda Trembath), Communications Manager (Nigel Brown), Democratic Services Officer (Janey Nice) and Licensing Assistant (Michael Cook).**6. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

7. MINUTES

The minutes of the meeting of the Sub-Committee held on 14 July 2014 were approved as a correct record and signed by the Chairman.

8. DECLARATIONS OF INTEREST

There were none.

9. LICENSING ACT 2003 – APPLICATION NO: 15/0074/PREMGR - FOR THE GRANT OF A PREMISES LICENCE - JK CORNER SHOP, NO.1 TEWKESBURY PARADE, OLD ROAD, CLACTON-ON-SEA, ESSEX CO15 3PH

The Chairman welcomed all those persons present to the meeting, introduced the Sub-Committee members and outlined the procedure that would be followed during the hearing.

The Sub-Committee had before it for its consideration, as set out in item A.1 of the Report of the Corporate Director (Public Experience), an application that had been submitted by Mr Nallathamby, for the grant of a Premises Licence in respect of the above premises.

The Council's Licensing Manager (Simon Harvey) briefed the Sub-Committee on the application being considered and summarised the salient points of the application including, principally, that it was applying for a Premises Licence to include the sale of alcohol off the premises only.

He advised Members that a petition containing 31 resident signatures had been received from residents in Knox Road, Knox Gardens and Old Road, Clacton-on-Sea in relation to this application. He informed the Sub-Committee that only the first page of the petition could be considered as a relevant representation under the Licensing Act 2003 as this was the only page that had a statement which clearly explained and defined what the signatories were supporting. He further advised that legal opinion had previously been sought on this principle which had confirmed that only the first page of the petition should be considered by the Sub-Committee.

Mr Harvey said that one letter of representation had been received from a resident in Knox Road which had been accepted by the Licensing Authority under the remit of the Public Nuisance licensing objective in regards to the concerns that it raised about litter. He said that other issues which had been raised were not relevant for consideration

under the Licensing Act 2003, such as the need for a further alcohol retail outlet in the locality and parking issues attributed to fast food take away shops also in the locality.

The Licensing Manager said Essex Police had spoken with the applicant and agreed conditions, as detailed on Page 7 of the Report of the Corporate Director (Public Experience), those had included no sale of single cans of super strength Beer, Lager or Cider having an alcohol by Volume (ABV) of 6.5% or higher at any time; a formal "Challenge 25" scheme to be adopted; and CCTV to cover both the inside and outside of the premises.

The Licensing Manager also drew the Sub-Committee's attention to the relevant parts of the Council's Statement of Licensing Policy and Home Office Section 182 Guidance in respect of the application, which were set out in the Officers' written report on Pages 9 and 10.

Councillor Caines asked the Licensing Manager if the applicant had applied for a "change of use" for the premises, Mr Harvey replied that he was not aware of this but the applicant had the right for an application for a Premises Licence to be considered in its own right and further commented that the applicant could not proceed without the relevant planning permission being in place and would be liable to enforcement action and prosecution by the Planning Authority if they did.

Mr Kaliyugan Nallathamby spoke briefly in support of his application for the Premises Licence and informed the Sub-Committee that he was currently working at another alcohol sales outlet in Clacton town centre and he was experienced in dealing with the sale of alcohol products.

Councillors Caines, De-Vaux Balbirnie and Sambridge asked Mr Nallathamby questions in respect of: (1) How he would ensure he was not selling alcohol to under-age customers; (2) Under the "Challenge 25" scheme was it still possible to sell alcohol to Under 25's but over the minimum age limit; (3) What the premises were used for previously to Mr Nallathamby's application; (4) What would the applicant do to keep the problem of litter and discarded drinks cans down; (5) Why did he have two home addresses in his application and how far away was he from the shop; (6) Why was the location of the CCTV cameras not shown in his application; (7) Would the cameras be in operation 24/7; and (8) Where would stock be stored as there did not appear to be a stockroom on the plans.

In response to the questions the applicant responded: (1) he would use the "Challenge 25" scheme where a person who looked as if they could be under 25 would be asked for proof of age and/or ID; (2) the Licensing Manager answered this and said the "Challenge 25" was set at a higher age than previously under the Challenge 21 scheme and was considered to be best practice by Trading Standards and the retail industry; (3) the applicant believed that the premises used to be a convenience store previously, however Councillor De-Vaux Balbirnie said that it was used as a tattoo shop for many years and Mr Wiggins, the letter of representation author, also confirmed it had also been a wool shop; (4) he said he would have a bin outside of the premises and would ensure the outside of his shop was kept clear of litter at all times; (5) at the time of his application he was residing at one address and then moved to another; (6) the cameras, four inside and one outside would be put in place once all of the building works had been completed; (7) yes they would be in operation 24/7; and (8) he would buy supplies from a local Cash and Carry on a daily basis, or as required but did not have space for a stock room.

Mr Wiggins, who was the representative on behalf of the objectors, commented that the shop was on the route to two schools with children going past first thing in the morning and he was concerned about the early start time for the sale of alcohol and was also concerned about the amount of litter and empty drink cans. Mr Nallathamby said he was

happy to stop selling alcohol earlier than midnight as shown on his application and would ensure that no empty drink cans were left outside of his premises.

Councillor De-Vaux Balbirnie asked Mr Wiggins would he be happier if the sale of alcohol ceased at 10.00 p.m. and Mr Wiggins responded he would be happy with that.

The Chairman asked if any of the parties to the hearing had any more questions to ask or points to add to their statements before inviting the applicant to have the final say on his application.

The applicant having summed up and with no party wishing to add anything further the Chairman then informed all parties present that as there were no more questions that no new issues could be raised at this point.

The Sub-Committee then **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 would be deliberating and considering its decision, on the grounds that such deliberations involved the likely disclosure of exempt information, as defined in Paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

Members of the Sub-Committee then withdrew from the meeting to deliberate and consider its decision. The Solicitor and Democratic Services Officer were asked to accompany Members to give advice on any legal points raised and to record the decision.

Following such deliberations, other Officers, Members and members of the public were readmitted to the meeting. The Solicitor reported that she had not provided the Sub-Committee with any specific legal advice on this occasion.

It was unanimously **RESOLVED** that the decision of the Sub-Committee be as follows:

"The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the applicant, the representations received from concerned residents along 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 this application in full, subject to the imposition of certain conditions.

In addition to any Mandatory conditions; any conditions that are consistent with the Operating Schedule and the conditions agreed with the Police on 16 March 2015, the following conditions will apply in order to satisfy the relevant Licensing Objective:

In respect of the Licensing Objective for The Prevention of Public Nuisance and also in respect of the Licensing Objective for The Protection of Children from Harm, the premises will be open for the sale of liquor on Monday to Saturday 9.00 a.m. – 10.00 p.m. and also on Sunday 9.00 a.m. to 10.00 p.m.

Finally I must mention that all parties who are aggrieved at the decision of the Sub-Committee have the 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."

The meeting was declared closed at 10.52 a.m.

Chairman