

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 6 March 2008

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 4.00 pm
High Street, Epping

Members Present: M Cohen, Ms J Hedges, Mrs M McEwen and J Wyatt

Apologies:

Officers Present: S Harcher (Principal Team Leader, Environment and Street Scene), R Gardiner (Technical Team Co-Ordinator, Environment and Street Scene), K Tuckey (Senior Licensing Officer, Environment and Street Scene), R Ferreira (Assistant Solicitor, Corporate Support Services), E Cox (Licensing Enforcement Officer, Environment and Street Scene), J Evans (Planning Officer, Planning and Economic Development) and M Jenkins (Democratic Services Assistant)

77. ELECTION OF CHAIRMAN

RESOLVED:

That, in accordance with the terms of reference for the Licensing Committee, Councillor M Cohen be elected Chairman for the duration of the Sub-Committee meeting.

78. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Council's Code of Member Conduct.

79. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business, and the terms of reference.

80. APPLICATION TO REVIEW A PREMISES LICENSE - CO-OP WELCOME, 54 HIGH ROAD, NORTH WEALD

The three Councillors that presided over this item were Councillors M Cohen, Mrs J Hedges and J Wyatt.

The Chairman of the Sub-Committee welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were Mr Peter Stratton, Operations Manager of Essex County Council Trading Standards and Mr Simon Fisher, Essex Police Authority Licensing Officer. In attendance as objectors to the application were Mr Barry Bond, Solicitor representing Co-Op Welcome, Mr Adrian Hill, National Diligence Manager of the Co-Op's Head Office, Mr Paul Fuller, Operations Manager of the Co-Op, Mr Rameer, Store

Manager of Co-Op Welcome, North Weald, Ms Debra Kirk, Diligence Manager of the Co-Op and Mr Sean Brookes who was in an observing capacity.

Before the presentation of the applicant's case began, the solicitor representing the Co-Op, Mr B Bond, queried the legality of the Sub-Committee meeting. Mr B Bond claimed he had not seen any notices of the application for review in the local newspapers and the application form for the review had not been completed accurately by Essex County Council Trading Standards. The guidance notes for the application had not been attached in their entirety, nor had the solicitors received a copy of Mr P Stratton's correspondence with other authorities. The solicitor also felt that Mr P Stratton, according to the Licensing Act 2003, did not have adequate authority to request a review.

Mr P Stratton apologised to the Sub-Committee for not having completed the application form properly, however he did confirm that he was an authorised officer from Essex County Council, which was the responsible authority. Mr S Harcher, Principal Team Leader in Environmental Services and Street Scene and Ms E Cox, Licensing Enforcement Officer, informed the Chairman that notice had existed and had been posted on the Notice Board outside the Civic Offices, and outside the property in question. The notice complied with the Licensing Act 2003, regulation 39 which stated that the relevant licensing authority was required to display a notice on A4 size blue paper or larger, in black ink with a font size of 16. Mr Bond accepted that Essex County Council were the responsible authority and therefore accepted that the application was properly served. However the only procedural point remaining for the objectors concerned whether Mr P Stratton had correct authorisation to make the application.

At 11.15a.m. the Chairman decided to discuss the issues raised by the objectors in private session with the other members of the panel. In private session, the Chairman and panel members felt that the application was valid, they did not receive advise from the officers.

The meeting re-convened at 11.25a.m., the Chairman informed the Sub-Committee that the panel's view was that the application had been properly served, Mr P Stratton was the correct representative of Essex County Council Trading Standards, and that the guidance notes for the application form were not for respondents, they were for applicants only.

(a) The Application before the Sub-Committee

The Principal Team Leader in Environmental Services and Street Scene, informed the Sub-Committee that an application to review a premises license had been received in respect of Co-Op Welcome, 54 High Road, North Weald from Essex County Council Trading Standards. The application for a review was because sales of alcohol had been made to under age people.

(b) Presentation of the Applicant's Case

Mr P Stratton presented the case. He informed the Sub-Committee that Essex County Council had employed the standard procedure for testing shops for sales of alcohol to children. On 6 December 2006 the County Council had received a complaint from the police regarding evidence of an alcohol sale to an under age person. Mr P Stratton informed the Sub-Committee that following this complaint from the police, a Mr D Lee of Essex County Council Trading Standards, had visited Co-Op Welcome, North Weald on 2 January 2007, informing them of a complaint made by the police concerning the sale of alcohol to an under age person.

Following this, on 12 April 2007, the first test purchase was carried out on the Co-Op Welcome, North Weald with a young man aged 16 named Gregory Wedge, where a sale of alcohol was made. A warning letter was sent to the Co-Op on 25 April 2007 stating that if further sales were made, action would be taken. On 29 September 2007 a second test purchase was made at the Co-Op by another young man aged 16, named Zachary Simpson. A total of 44 tests on shops had been made by Zachary Simpson of which 9 shops had actually made a sale to him. A letter was sent by Essex County Council Trading Standards on 4 October 2007 requesting the Co-Op Welcome to attend a formal interview in November, which Co-Op Welcome did not attend. On 29 November 2007 letters requesting specific information regarding auditing and management records were sent by Essex County Council to the Co-Op.

The Chairman asked Mr P Stratton if he had brought along any proof of the dates of birth of the two volunteers who had made the purchases at the Co-Op Welcome. Mr P Stratton did not have proof of the young men's dates of birth with him, but he stated that the County Council had obtained a Section 9 Statement of Permission from the parents of the volunteers. Mr P Stratton informed the Sub-Committee that Trading Standards stopped using children for testing sales of alcohol before they reached 17. Volunteer youths stopped working for the authority 18 months before their 18th birthday.

Mr P Stratton did not have a photograph of the boy used for the first test, Zachary Simpson, as they had stopped using this youth his photograph had been destroyed. However he did have a photograph of the second youth – Gregory Wedge. The Chairman told Mr Stratton that it was not fair practice to bring prosecutions at a magistrates court where the photographic evidence of one person was presented where proof had been needed for two, therefore it was not acceptable to do this at a District Council Licensing Sub-Committee.

Mr P Stratton outlined the procedure for the preparation of young people before taking part in sales testing, they received training, they were not allowed to wear make up which may make them look older, if they were asked their age in the shop they were instructed to reply honestly, they were not to produce identification unless they were asked for it. Mr P Stratton produced notes for the volunteers, which stated that the individual must not lie during the test. Mr P Stratton concluded his case by stating that the County Council had taken time to visit premises, showing sales guidance criteria, despite this he felt that staff at the Co-Op were not supervised adequately.

(c) Questions for the Applicant from the Objector

Mr B Bond, asked Mr P Stratton if Essex County Council Trading Standards encouraged volunteers to tell lies when testing shops. Mr P Stratton said they did not. Mr B Bond spoke of the guidance notes for volunteers. When the volunteer was asked who the alcohol was for, the answer they were instructed to give was "me." Mr B Bond felt that this was dishonest, as the true purpose of the test was in ascertaining the shop's compliance with the law. The solicitor claimed that the County Council were seeking an easy target as proof of alcohol sales to young people. Mr B Bond pointed out that there were no police objections.

The objectors felt that the photograph of Gregory Wedge, circulated at the Sub-Committee meeting, taken on the day of the test purchase showed him to have a receding hair line, thus making him look older than he was. The Sub-Committee

members felt that the photos should have been circulated either with their agenda packs or separately in a private part of the agenda.

Mr B Bond asked who the lead officer for the case was. Mr O Stratton replied that a Mr D Valati was the lead officer, he was currently a trainee, however Mr P Stratton had a managerial overview on the case.

(d) Presentation of Objector's Case

Mr B Bond presented the objector's case. The objectors outlined to the Sub-Committee the training procedures Co-Op had in place for their staff. Ms Samira Ahmed had made the sale to Gregory Veitch. Ms S Ahmed had previously worked for the Post Office in retail and had good references. She had started at the Co-Op on 22 September 2007 and immediately began a four week probationer's course. Following the incident regarding the sale of alcohol to Gregory Veitch, Ms S Ahmed had resigned.

The objectors informed the Sub-Committee that the Co-Op had 45,000 staff, they received refresher training twice a year and signage at the shops was updated regularly. Co-Op had robust procedures, Ms Wendy Robinson who had made the sale to Zachary Simpson in April 2008 had received a final written warning following the sale and Ms Samira Ahmed had resigned before any disciplinary action was taken. The staff at Co-Op had been reminded of alcohol sales policy following these incidents. It was felt that it was unfair to argue that Co-Op's procedures were unfair as the number of failures was small.

(e) Questions from the Sub-Committee for the Objector

Asked if the Co-Op expected their staff to be fully competent, Mr A Hill from the Co-Op Head Office, replied that the company expected all their staff, whether full time or temporary, to be competent. Asked how a member of staff was described as a Supervisor, even though they had just started work, Mr A Hill replied that the title Supervisor was their actual job title although they had just commenced employment. The Sub-Committee felt that Ms Ahmed had not had sufficient training. Mr A Hill told the Sub-Committee that he could not explain Ms Ahmed's behaviour. Ms Ahmed was not present at the meeting as she had not been requested to come.

Asked about the number of staff employed at the Co-Op in North Weald, Mr Rameer, Co-Op Manager, confirmed that they had ten staff in the store at North Weald, of whom five were supervisors.

(f) Questions for the Objector from the Applicant

Mr P Stratton asked if the Co-Op had a refusals book. They confirmed that they had. Asked if senior management audit inspected the book, Mr A Hill confirmed that the Operations Manager inspected the book when visiting the store. Mr P Stratton enquired about the sale of alcohol made at the Co-Op by Wendy Robinson on 12 April 2007. Mr A Hill felt that the volunteer, Gregory Wedge, who made the purchase, was too tall to be convincing as a young person, he was 6 feet 2 inches. Mr P Stratton conceded that in the case of Gregory Wedge, he may have appeared older than he was and this may have effected situation unfairly.

Mr A Hill commented that the Co-Op invests large amounts of money on training and updating their staff on changes to relevant retail legislation.

(g) Closing Speech by the Objector:

Mr B Bond began by telling the Sub-Committee that the essence of the Licensing Act was co-operation and collaboration. In the case of Ms Wendy Robertson, who had worked for the Co-Op for a few years, and took her responsibilities seriously, if the matter had gone to a Magistrates Court the outcome may have been serious. In the case of Ms Ahmed, she had resigned soon after the incident. The Co-Op had shown a commitment to training and compliance with the law. There was checking by senior staff from in-house to area managers. Mr B Bond felt that there was a lack of apparent co-operation by Essex County Council Trading Standards in pursuit of their investigations.

(h) Consideration of the Application by the Sub-Committee

The Sub-Committee retired to consider the application in private session. The Sub-Committee received no advice from officers. The Members felt that the evidence did not sustain a review of the case. The test purchase for Gregory Wedge had not been fair, the photographic evidence had shown Gregory Wedge to look older than 18. It was noted that he had carried out 4 test purchases that day in shops and had been served three times. It was accepted by the committee that in the case of Zachary Simpson, his appearance was clearly that of an under 18 year old and he should not have been served although the sales person concerned was inexperienced and had subsequently resigned. The Co-Op had demonstrated that they were serious about the law and procedures for their staff. The Chairman declared that the District Council would not hesitate to take action against those who sold alcohol to persons under age, the Chairman also requested that these comments be reported by the local press.

RESOLVED:

That the application to review a Premises License for the Co-Op Welcome at 54 High Road, North Weald be refused.

81. APPLICATION TO VARY A PREMISES LICENSE - TAS BAR, HIGH ROAD, THORNWOOD

The Councillors who presided over this item were Councillors M Cohen, Mrs M McEwen and J Wyatt.

The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were Mr and Mrs Rees, the applicants, represented by their solicitor, Mr Connor. In attendance as objectors to the application were Mr Simon Fisher, Licensing Officer of Essex Police Authority, Mr John Evans, Planning Officer of Planning Services and Economic Development of Epping Forest District Council, Mr Richard Gardiner, Technical Team Co-ordinator, Environment and Street Scene Directorate of Epping Forest District Council and four neighbours of the Tas Bar, High Road, Thornwood, Mrs Burrell, Mrs Diane Chamberlain, Mr Gary Fenn and Mr Martin Tyrrell.

(a) The Application before the Sub-Committee

The Principal Team Leader of Environment and Street Scene Directorate informed the Sub-Committee that an application to vary a premises license had been received in respect of the Tas Bar, High Road, Thornwood together with representations from the police, the responsible authority for environmental protection and eight interested parties. The application sought to:

- (i) Extend licensable activities on the premises by one hour each day, that is Monday – Saturday 11.00a.m. to 01.00 next day and Sunday 12.00p.m. to 00.30 next day.
- (ii) Extension of the opening hours of the premises by one hour each day, Monday – Saturday 11.00 to 01.30 next day and Sunday 12.00p.m. to 01.00 next day.
- (iii) One SIA Registered door supervisor to be on the premises on Friday and Saturday evenings from 19.30 hours to 30 minutes after the close of the premises.

(b) Presentation of the Applicant's Case

Mr Connor presented the case. The Sub-Committee were informed of a change to the application, Section M of the application concerning the supply of alcohol was being withdrawn, it had never been the intention of the applicants to have longer licensing hours but only to allow more time for the dispersal of customers towards closing time. Section O of the application concerning closing times was remaining, but the closing time was being amended to 01.00 weekdays and Saturdays.

Mr Connor spoke next of the request to reduce the door supervisors from two to one on Fridays and Saturdays. Mr Connor believed that having 2 door supervisors was excessive. According to industry protocol the ratio of door supervisors to customers should be 1 – 150, so the current arrangement was probably too much. Mr Connor told the Sub-Committee that the existing supervisors received training every four months. It was appreciated that there had been issues around noise levels, particularly from the car park area, as people sometimes congregated in this area before departing, but the arrangements for door supervisors allowed for regular patrols to be made in these areas.

(c) Questions for the Applicant from the Sub-Committee

Asked if the proposed drinking up time was too lengthy, Mr Connor replied that the hour proposed could be trimmed down to 45 minutes. Asked how long there had been door supervisors, Mr Rees replied that there had been door supervisors since December 2006. Mr Rees was asked why only one door supervisor was needed. The reply was that due to costs, the bar was not busy enough to warrant two door supervisors. The applicants had employed extra staff at peak times like Christmas, but often there were only ten people in the bar and the costs were proving prohibitive. Asked about disorder in the car park, Mr Rees confirmed that there had been some, but went on to inform the Sub-Committee that there was currently a door supervisor on the front door who inspected the car park regularly and was the first point of contact if there was trouble.

(d) Questions for the Applicant from the Objectors

Mr S Fisher of Essex Police Authority, asked if Mr Rees had seen the video footage of anti-social behaviour at the Tas Bar which had run to 1 hour and 15 minutes. Mr Rees confirmed that he had. Mr Rees was asked if the door staff had been reduced at any stage for Fridays and Saturdays. Mr Rees said that in January, a quiet month, two parties had been cancelled, and for financial reasons, the door supervisors had not been required.

Mr R Gardiner asked if assuming it took approximately 30 minutes to disperse customers, why not reduce the sale of alcohol by 30 minutes. Mr Rees answered by

saying that it was not an option, it was better to preserve the hours without a reduction.

Mr Fenn, a neighbour of the Tas Bar, asked why there was a need for extra drinking time if they were not busy? Mr Rees answered by explaining the difficulties involved in arranging for taxis and closing time for customers. It was a rural area and it was very hard trying to get customers away safely for which he felt he had an obligation under legislation. Mr Rees was asked if he had reduced the number of door supervisors to one. He said he had, however he claimed to have eight CCTV cameras.

Mrs Chamberlain, a neighbour of the Tas Bar, queried if there were any door supervisors at all. Mr Rees answered there had always been a door supervisor however because their presence may have been intimidating to some, they occupied the lobby where they could maintain a presence. Mr Tyrrell, another neighbour of the Tas Bar, asked if the car park is patrolled regularly, why were the neighbours having problems? Mr Rees responded by stating that he did not believe there were any problems. He believed that because of the close proximity of the neighbours they were probably disturbed by general movement and the busy car park environment. Mr Rees had asked Mr R Gardiner, to speak to residents about these concerns, and to chair a special meeting to search for a way forward, but he had refused. Mr Tyrrell asked if the ratio of door supervisors to customers was adequate, Mr Rees said the doormen had spotted problems on many occasions but there was a low number of police call outs.

(e) Presentation of Objector's Case

Mr S Fisher informed the committee that there had been a review of this case in September 2006, conditions had been imposed which were to be obeyed, any variation had to be applied for. There had been 15 lengthy statements made concerning issues around public order at the premises. Drinking glasses had been found in people's gardens, there was a video tape made which depicted under age children during weekends on the site. When two doormen had been employed, the number of complaints had fallen. There had to be a compelling reason for having a single doorman. Mr Fisher argued that local authorities in London imposed a doorman to customer ratio of 1-50, along with marshals, first aid and fire safety provision as well.

Mr R Gardiner argued that having an additional 30 minutes drinking up time would cause a disturbance for neighbours. Customers could leave during the existing opening period. Mr Evans of Planning Services, briefly said that the area concerned was not urban, consideration had to be taken for the fair density of housing there and consequently he felt that he couldn't support prolonging the hours. There was a feeling from the local residents that the bar and restaurant may become a nightclub.

Mr R Gardiner couldn't support any extension of opening hours due to the close proximity of premises to residents. Mr Rees asked Mr Gardiner how it would propose removing customers from the bar at closing time. Mr Gardiner replied that it was better to reduce licensing hours for the dispersal of customers.

Mr Evans of Planning Services expressed support for reducing the licensing hours.

Mrs Chamberlain commented to the Sub-Committee that the discussion so far had not borne any sense of reality to the actual situation experienced by her. The residents living near the Tas Bar were enduring problems which only the residents could appreciate. Mrs Boreham, a neighbour of the Tas Bar, feared that the Bar may

become a nightclub, one of her neighbours had expressed a desire to move away from the area if this became a reality. Mr Rees commented that there were no intentions of this.

(f) Applicant's Closing Statement:-

Mr Connor began by stating that the application was made in good faith, it was seeking to regulate the position regarding door supervisors. Mr Rees was taking the test to become a door supervisor himself, although the applicant wished the number of door supervisors to be reduced from two to one. The way forward was for greater dialogue with neighbours. The applicant was happy for a reduction of 15 minutes to the licensing hours.

(g) Consideration of the Application by the Sub-Committee

The Sub-Committee retired to consider the application in private session. The Sub-Committee received no advice from officers. The members felt that they couldn't support any extension of time. In view of police and residents' objections they could not grant. They felt that the number of door supervisors could be reduced to one on certain occasions but only with prior written authority from the Licensing Section of Epping Forest District Council. It was noted that the applicant Mr Rees could apply to be a doorman himself, thus relieving the problem of recruiting more staff.

RESOLVED:

That the application to vary a premises license for the Tas Bar at High Road, Thornwood be refused on the grounds that it posed problems of crime, disorder and noise for local inhabitants.

82. APPLICATION FOR A PREMISES LICENSE - BROXBOURNE CRUISING CLUB, OFF GREEN LANE, NAZEING

The Councillors who presided over this item were Councillors M Cohen, Mrs J Hedges and Mrs M McEwen.

The Chairman welcomed the only participant and requested that he introduce himself to the Sub-Committee, he was Mr John Harris, the applicant, there were no objectors present.

(a) The Application before the Sub-Committee

The Principal Team Leader of Environmental Services and Street Scene informed the Sub-Committee that an application for a premises license had been received in respect of Broxbourne Cruising Club, off Green Lane, Nazeing together with representations from three interested parties.

(b) Presentation of the Applicant's Case

Mr John Harris presented the case. He described the Broxbourne Cruising Club as a small boating club with 30 members. The bar was for socialising, they intended playing music at the club. The building was of all steel construction and had a lining of wood along the outside. There was also a smoking area outside as well.

(c) Questions from the Sub-Committee

Mr Harris was asked until which time he wished to sell alcohol to? He replied that he intended selling alcohol until 12.30a.m. The Sub-Committee noted that currently, people could go outside to smoke, they couldn't drink there. The members felt that music would have to be contained within the building.

(d) Private Session

The Sub-Committee felt that alcohol, music and dancing should be permitted until 11.00p.m. Sundays through to Thursdays. On Fridays and Saturdays, alcohol, music and dancing should be permitted until 12.30a.m. Further conditions should be that no music be played outside the building and no music should be audible from the curtilage of the nearest habitable building. The members took no advice from officers.

RESOLVED:

That the application for a premises license be permitted to Broxbourne Cruising Club, off Green Lane, Nazeing with the following conditions:-

- (i) Music, dancing and alcohol permitted Sunday to Thursday 12.00p.m. to 11.00p.m. and Friday to Saturday 12.00p.m. to 12.30a.m.
- (ii) No music be permitted outside the club building and no music should be audible from the curtilage of the nearest habitable building.

CHAIRMAN