

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 7 August 2012

Place: Council Chamber, Civic Offices, **Time:** 10.35 am - 12.50 pm
High Street, Epping

Members Present: K Angold-Stephens (Chairman), R Morgan (Chairman) and Mrs P Smith

Other Councillors: -

Apologies: Mrs R Gadsby

Officers Present: A Mitchell (Assistant Director (Legal)), K Tuckey (Senior Licensing Officer),
Ms N Glasscock (Licensing Enforcement Officer) and G J Woodhall
(Democratic Services Officer)

22. DECLARATIONS OF INTEREST

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

23. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

24. EXCLUSION OF PUBLIC AND PRESS

Resolved:

(1) That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
5	Hackney Carriage Driver's Licence – Mr Yahia Ouendi	1

25. HACKNEY CARRIAGE DRIVER'S LICENCE - MR YAHIA OUENDI

The Sub-Committee considered an application by Mr Yahia Ouendi for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors K Angold-Stephens, R Morgan and Mrs P Smith. Members noted that officers did not have delegated powers to grant this application and, as a result, the application had to be considered by the Sub-Committee. The Chairman welcomed the applicant, and introduced the members and officers present. The Assistant

Director of Corporate Support Services (Legal) informed the Sub-Committee of the circumstances by which the licence could not be issued under delegated authority.

The applicant made a short statement to the Sub-Committee in support of his application, before answering a number of questions from members of the Sub-Committee. The applicant then made a short closing statement to the Sub-Committee before the Chairman requested that the applicant leave the Chamber whilst the Sub-Committee debated his application in private. The Chairman invited the applicant back into the Chamber and informed him of the Sub-Committee's decision.

Resolved:

(1) That a Hackney Carriage Driver's Licence be granted to Mr Yahia Ouendi, subject to the Council's standard terms and conditions.

26. INCLUSION OF PUBLIC AND PRESS

Resolved:

(1) That the public and press be invited back into the meeting for the remaining items of business.

27. APPLICATION TO TRANSFER THE PREMISES LICENCE AND SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR - CHIGWELL STORES, BROOK PARADE, CHIGWELL IG7 6PE

The three Councillors that presided over this item were Councillors K Angold-Stephens, R Morgan and Mrs P Smith. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were the applicant, Mr Kamaran Ali, and his barrister, Mr Anthony Hucklesby. In attendance on behalf of Essex Police were the Divisional Licensing Officer for Epping Forest, Mr Peter Jones, and Sergeant Matthew Alsop from the Loughton Division. There were no public objectors in attendance. The Chairman then introduced the members and officers present, and outlined the procedure that would be followed for the determination of the application.

The Application before the Sub-Committee

The Assistant Director of Corporate Support Services (Legal) informed the Sub-Committee that an application had been received to transfer the Premises Licence for Chigwell Stores in Brook Parade, Chigwell to the applicant, Mr Kamaran Ali, and to also vary the Premises Licence to specify Mr Ali as the Designated Premises Supervisor. Essex Police had objected to these applications on the grounds that the applicant had a criminal record. The applicant had been successfully prosecuted by Sheffield City Trading Standards in May 2012 for selling counterfeit alcohol. At the time of the offence, the applicant had been both the Premises Licence Holder and Designated Premises Supervisor. It was the opinion of Essex Police that the applicant was likely to re-offend, which would contravene the Licensing Objectives, Prevention of Crime & Disorder and Public Safety, set out in the Licensing Act 2003.

Presentation of the Applicant's Case

Mr Hucklesby highlighted the objections made by Essex Police in paragraph 2 of their letter, and agreed that the offences of which the Applicant was convicted did contravene the Licensing Objectives as set out in the Licensing Act 2003. However,

the main issue under consideration was whether the applicant was likely to re-offend. Mr Hucklesby then made three further points in support of the applicant:

- (i) Did the applicant deliberately ignore the Licensing Objectives? - no, it was a naive mistake.
- (ii) What would the applicant stand to lose if he re-offended in Chigwell in the same manner as Sheffield? - the applicant would explain this shortly.
- (iii) The key point was the fact of the Police objection in that it related to specific premises - the Police would know the premises where the applicant was working from.

Mr Hucklesby then asked the applicant a number of questions, to which the following responses were given:

- The applicant had already purchased the leasehold of Chigwell Stores for the remaining thirteen years, at a cost of £122,000; the applicant did not require a mortgage to fund the purchase.
- The applicant had been born in Iraq but had been living in the United Kingdom since 2002, when he left his home country during the civil war.
- The applicant lived with his wheelchair-bound brother, who was studying Law at London University; the applicant was responsible for the care of his brother and also supported him financially.
- Since coming to the United Kingdom, the applicant had been working in shops and off licences, and sometimes as a Security Guard as he was SIA accredited.
- The applicant had moved to Sheffield initially as the leases for retail units were cheaper, but he had always tended to come back to the London area.
- The applicant had admitted his offences and had learnt to only buy his stock from reputable sources.
- The applicant had purchased illicit alcohol from only one supplier, the rest of the stock had been purchased from reputable sources, and produced a receipt to show that not all of the stock had been illicit.
- The applicant stated that he would perform all the proper checks before putting any alcoholic stock on the shelves of his new shop.

Questions for the Applicant from Essex Police

There were no questions for the applicant from Essex Police.

Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, the applicant stated that he had pleaded guilty for his offences against the Food & Drink Act, and therefore there had been no trial as such. The levels of alcohol were not as stated on the bottles and the vodka contained non-organic substances which was not considered safe. A total of 38 bottles of illicit vodka and whiskey had been purchased on two separate occasions, but this had represented only a small proportion of the total stock. The applicant was the only person at the shop convicted for these offences.

Presentation of the Essex Police Case

Mr Jones from Essex Police stated that counterfeit alcohol had first been seized from the premises in Sheffield in October 2010 when the applicant had been a shop assistant, not the owner. On the second occasion, the applicant was the owner of the premises and Designated Premises Supervisor, but action was not taken against the

applicant until the third occasion when counterfeit alcohol was seized, this being the second occasion when the applicant was the owner and Designated Premises Supervisor. The Sub-Committee was reminded that there had not been simply one occasion, but three separate incidents in October 2010, March 2011 and October 2011 when counterfeit alcohol had been seized from the applicant's premises in Sheffield. Therefore, it was the contention of Essex Police that the applicant was likely to re-offend and the application before the Sub-Committee should not be granted.

Questions for Essex Police from the Applicant

In response to questions from the applicant, Mr Jones stated that although the applicant was only prosecuted once, he had offended on three separate occasions in Sheffield and clearly had not ceased selling counterfeit alcohol after the first two occasions. The applicant had not been present when the sale of alcohol to a minor had taken place, hence Essex Police was relying on this offence as part of their case but it had been highlighted for the benefit of the Sub-Committee. There was no record of any other criminal offences committed by the applicant and Essex Police was not relying on any potential investigation into the applicant in respect of the Carer's allowance he had received on behalf of this brother. Essex Police believed that the applicant would re-offend in Chigwell.

Questions for Essex Police from the Sub-Committee

In response to questions from the Sub-Committee, Mr Jones emphasised that the Police had concerns about the applicant due to the three offences that had been committed in Sheffield. Counterfeit alcohol had been found in the applicant's shop on three separate occasions, and no attempt had been made to remove it from the shelves or the stock. It was understood that there was a good working relationship between the Police and Trading Standards Officers in Sheffield. The Police was prepared to remove the word 'highly' from their submission dated 16 July 2012, but they still believed that it was likely that the applicant would re-offend if he was granted a licence for his new premises in Chigwell.

The applicant highlighted that he was only an employee on the first occasion that counterfeit alcohol was found on the premises in Sheffield, and therefore was not responsible for that incident.

Closing Statement from Essex Police

Counterfeit alcohol had been discovered on the premises in Sheffield on three separate occasions when the applicant had been present. On two of those occasions, the applicant had been both Premises Licence holder and Designated Premises Supervisor. Therefore, it was the Police's view that the applicant had shown a complete disregard for the Licensing Objectives: Prevention of Crime and Disorder; and Public Safety; and would likely re-offend in the future.

Closing Statement from the Applicant

On behalf of the applicant, Mr Hucklesby emphasised the three key points that he made earlier:

(i) The applicant had not deliberately ignored the Licensing Objectives, he had been naïve and made a mistake when in charge of his first business by not doing the proper checks.

(ii) The applicant had made a significant investment in this business, totalling £122,000, and would jeopardise this by stocking counterfeit alcohol again.

(iii) The applicant and the premises would be known to the Police, and he purchased counterfeit alcohol in the future then he would be caught and prosecuted, which would result in him losing his investment.

The applicant should have realised his wrongdoing after the first occasion in Sheffield, and did indeed plead guilty when prosecuted in Sheffield. The applicant had only claimed Carer's Allowance in respect of his brother between 2007 and 2008; the applicant wanted to support himself and his brother, hence the purchase of the leasehold of the premises in Chigwell. The applicant had learnt valuable lessons from his experience in Sheffield and it was highly unlikely that he would re-offend.

Consideration of the Application by the Sub-Committee

The Sub-Committee considered very carefully the evidence that had been put before them, and felt that they could not agree to the applicant becoming the Designated Premises Supervisor. The Sub-Committee believed that his recent history and the nature of his convictions gave rise to exceptional circumstances which would undermine the Prevention of Crime Licensing Objective. In respect of the transfer of the Premises Licence at Chigwell Stores, the Sub-Committee felt that if a person other than the applicant was appointed as the Designated Premises Supervisor then there were no exceptional circumstances or grounds for refusal, and the application could be granted. The Chairman informed the applicant of the Sub-Committee's decision and that the applicant had 21 days in which to appeal against the decision.

Resolved:

(1) That the application to vary the Premises Licence at Chigwell Stores in Brook Parade, Chigwell to specify Mr Kamaran Ali as the new Designated Premises Supervisor be refused; and

(2) That the application to transfer the Premises Licence at Chigwell Stores in Brook Parade, Chigwell to Mr Kamaran Ali be granted, subject to the condition that Mr Ali cannot also be the Designated Premises Supervisor.

28. APPLICATION TO RENEW A SEX ESTABLISHMENT LICENCE - UNIT 11G, CHASE FARM, VICARAGE LANE, NORTH WEALD CM16 6AL

The three Councillors that presided over this item were Councillors K Angold-Stephens, R Morgan and P Smith. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application was Mr Shazad Ahmed, the applicant. There were no objectors in attendance.

The Chairman then introduced the members and officers present, and outlined the procedure that would be followed for the determination of the application.

The Application before the Sub-Committee

The Assistant Director of Corporate Support Services (Legal) informed the Sub-Committee that an application had been received for the renewal of a Sex Establishment Licence at Unit 11G at Chase Farm, Vicarage Lane in North Weald.

Presentation of the Applicant's Case

The applicant stated that, not only was he looking to have his current licence renewed, but he also wanted the condition prohibiting callers to the premises to buy goods to be removed. There had been no objections received to the application by the public, and R18 DVD's could not now be sold by mail order. If granted, the unit would be open to callers at the hours set out in the application, i.e. 10.00am to 6.00pm Monday to Saturday, closed on Sunday.

Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, the applicant stated that unit 11G was entirely contained within its building and could not be seen from the road. The applicant estimated that there would be perhaps 10 to 12 customers calling at the premises per week on average, due to its location. The applicant stated that the premises would not be used as a sexual entertainment venue; that was a mistake on the application form and the Sub-Committee should disregard it.

The Assistant Director (Legal) highlighted the new standard Licensing conditions for all sex establishments that had been agreed by the Council, and that the applicant would also need planning permission to allow customers to call at the premises.

Consideration of the Application by the Sub-Committee

The Sub-Committee felt that there were no grounds for refusal, and that the application should be granted with standard conditions for both retail and warehouse use.

Resolved:

- (1) That the application by Mr Shazad Ahmed to renew the Sex Establishment Licence at Unit 11G, chase Farm, Vicarage Lane in North Weald be granted, subject to the Council's standard licensing conditions; and
- (2) That retail use of the premises by customers be permitted, subject to the Council's standard licensing conditions.

CHAIRMAN