

Minutes of the Meeting of the LICENSING (HEARING) SUB-COMMITTEE held on 10 November 2020

PRESENT -

Councillor Liz Frost (Chairman); Councillors Neil Dallen and Robert Foote

In Attendance: Joe Annarajah (Premises Licence Holder), Peter Mayhew (Premises Licence Holder's representative) Jenny Billin (Surrey Police), Peter Saville (Surrey Police)

Officers present: Claire Beesly (Assistant Solicitor), Rachel Jackson (Licensing, Grants and HIA Manager), Tim Richardson (Committee Administrator) and Danny Surowiak (Principal Solicitor)

1 DECLARATIONS OF INTEREST

No declarations of interest were made regarding items on this agenda.

2 EXCLUSION OF PRESS AND PUBLIC

The Committee resolved to exclude the Press and Public from the meeting in accordance with Section 100A (4) of the Local Government Act 1972 on the grounds that the business involved the likely disclosure of exempt information as defined in paragraphs 1, and 2 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

3 LICENSING ACT 2003 - APPLICATION FOR REVIEW OF A PREMISES LICENCE - EPSOM CONVENIENCE STORE, 8 EAST STREET, EPSOM

The Sub-Committee was requested to consider the Review of the Premises Licence for Epsom Convenience Store, 8 East Street Epsom under the Licensing Act 2003.

Representations had been received from Surrey Social Services' Child Employment Team.

A verbal representation was received by the Sub-Committee from the Consultant representing the licence holder. He outlined the experience that the license holder had in managing licenced premises.

Following consideration of the written and verbal representations made the Sub-Committee retired to make its decision.

Notice of the Sub-Committees decision was issued on 12 November 2020 and is attached to these Minutes as Appendix 1.

The meeting began at 10.00 am and ended at 2.39pm.

COUNCILLOR LIZ FROST (CHAIRMAN)

Epsom & Ewell Borough Council - Licensing Sub Committee - Hearings Decisions Notice for Review of Premises Licence

Hearing Date 10 November 2020		Chairman: Councillor Liz Frost
Councillor Neil Dallen		Councillor Robert Foote
Applicant name	Surrey Police	
Premises Address	Epsom Convenience Store, 8 East Street, Epsom	
Legal Advisers	Claire Beesly & Danny Surowiak	

The Sub Committee has read the material presented to us in the agenda and all of the written representations made, and have listened to all the evidence and submissions presented at the hearing on 10 November 2020. This decision is being made within 5 working days of the hearing and is being provided in writing.

The Sub Committee has also had regard to the Statutory Guidance, the Licensing Policy of the Council and the Human Rights Act 1998.

The Sub Committee has decided to refuse the application to revoke the Premises Licence as this is not considered proportionate, although the incident giving rise to this application was very serious it is noted that evidence has not been provided that this is a persistent occurrence which would justify the revocation of the premises licence. The cause of the incident appears to the Sub Committee to be poor management and practice and the Sub Committee has decided that this can be addressed by modification of the conditions of the premises licence which includes adding new conditions as well as altering or omitting existing conditions and the removal of the designated premises supervisor from the licence.

In reaching this decision the Sub Committee is mindful that the Police have provided evidence that in 2011, 2013 and 2017 concerns were raised with the Premises Licence holder that conditions in the premises licence were being breached but that at the Police's follow up visit 17 October 2017 no concerns were raised (Appendix 1, page 25) and there have been no further concerns raised prior to the incident in September 2020. The evidence presented by the Police about the incident on 19 September 2020 demonstrates that alcohol was sold to under age children and that this played a part in an alleged, serious, offence. The Premises Licence holder accepts that the sale of alcohol was not made in accordance with the licence conditions and that the Police observed a number of further breaches of the premises licence when they visited on 23 September 2020.

Review Applications

The following conditions in Annex 2 of the premises licence are to be altered or omitted as set out below:

Number	Condition	Reason
1.		This condition is to be removed as a more onerous condition is being added requiring that a Personal Licence holder is on the premises at all times that a licensable activity is taking place. It

		is also recognised that the ambiguity of this condition does not offer adequate support to the Licensing Objectives and therefore a more robust condition is required.
2.		This condition is to be removed as it is ambiguous and a new condition 2. will replace this.
5.		This condition is to be removed as it is ambiguous and a new condition 3. will replace this.
6.		This condition is to be removed as a new Challenge 25 policy is to be enforced in order to meet the Licensing Objective to protect children from harm.
7.	Clear notices shall be prominently displayed at the premises confirming the Challenge 25 policy and requirement for identification to be provided with respect to the purchase of alcohol.	The condition is amended to reflect the new Challenge 25 policy.

The following conditions are to be added to Annex 3 of the premises licence:

Number	Condition	Reason for condition
1.	A Personal Licence holder shall be on the premises at all times that a licensable activity is taking place.	To meet the requirements of the Licensing Objectives of the protection of children from harm, crime and disorder and public safety. This is to ensure that the sales of alcohol are made by, or under the direct supervision of, staff who are trained in licensing thus protecting children from harm, preventing crime and disorder and promoting public safety. The incident which resulted in this application was caused by the sale of alcohol to children by a person who was not authorised in accordance with the conditions of the premises licence and when there was no Personal Licence holder on the premises. To avoid this happening again, and taking into account the description as to the operation of the business by the licence holder, it is considered proportionate that the sale of alcohol should be restricted to those times when a Personal Licence holder is present. This condition has been agreed by the both the applicant and the Premises Licence holder.
2.	CCTV shall be installed and working to the satisfaction of the Police and Authorised Officers of the Licensing Authority at all times that the premises are open to customers. There shall be a minimum of two cameras covering the till area. One camera must cover the entrance to the premises and capture clear facial images of all persons entering and exiting the premises. Recordings shall be kept for a minimum period of 31 days. All recordings will be made available on demand to a Police Officer and / or an Authorised Officers of the Licensing Authority. There shall be a member of staff on duty at all times that a licensable activity is taking place,	This is to ensure that sales of alcohol are not made to under age children or those already intoxicated thus protecting children from harm, preventing crime and disorder and promoting public safety. It is noted that the Police evidence is that at the time of the incident "CCTV was in place and recording to a satisfactory level" (Appendix 1, page 22) the Sub Committee have noted the difficulties experienced in extracting this information and therefore the new condition will ensure such difficulties are avoided in the future. This condition has been agreed by both the applicant and the Premises Licence holder.

	who knows how to use the system including the ability to download the CCTV.	
3.	Alcohol may only be displayed in the area indicated on the submitted plan and cannot be displayed as a 'promotion item'. When there is no Personal Licence holder on the premises alcohol must be kept behind a locked shutter so as not to be on display.	This is to ensure that sales of alcohol are not made by staff who are not Personal Licence holders thus protecting children from harm, preventing crime and disorder and promoting public safety. The Sub Committee noted that the condition 5 in Annex 2 and the submitted plan were ambiguous and would ask that a new plan is submitted within 21 days.
4.	A Challenge 25 policy will be enforced, where any person reasonably looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol; signs to this effect will be displayed at the premises. The only acceptable forms of identity will be those photographic identification documents recognised in the Home Office guidance; including passports, photo-card driving licence or proof of age card bearing a PASS hologram. If a customer is unable to provide identification then no sale shall be made.	Adopting a Challenge 25 policy will protect against any future sales of alcohol to under age children thus promoting the Licensing Objectives to protect children from harm, prevent crime and disorder and promote public safety.

For Removal of the DPS Applications

	Reasons for removal of the DPS
	<p>The Sub Committee considers that the DPS has demonstrated that he is not behaving as a responsible DPS and is not meeting the Licensing Objectives of protecting children from harm, preventing crime and disorder and ensuring public safety. There has been a disregard to the licensing conditions which has resulted in the Police raising this with the Premises Licence holder in 2011, 2013 and 2017 and whilst sufficient improvements were made these were not sustained. When the Police visited on 23 September 2020 their evidence is that there continued to be breaches, similar to those observed previously, and it is the Sub Committee's view that these contributed to the serious incident leading to the review occurring.</p> <p>It is a mandatory condition that every supply of alcohol shall be made or authorised by a Personal Licence holder. There was no record of authorisation in place for the person who made the sale of alcohol to the under age children on 19 September 2020 which is also a breach on Annex 2, condition 4.</p> <p>Annex 2, condition 7 requires that clear notices are prominently displayed at the premises confirming the Challenge 21 policy and the requirement for identification to be provided. In 2017 it was observed that no Challenge 21 sign was present and the DPS was unable to locate a copy of the licence. When the Police visited in 2020 again the DPS was unable to locate a copy of the licence. This is in breach of statutory requirements about the display and production of the licence. It also demonstrates that the DPS is not ensuring that the licence conditions are consistently kept.</p> <p>A sale of alcohol to under age children occurred despite the Challenge 21 policy which is evidence that this was not sufficient.</p>

	<p>The DPS was unable to provide information from the till or a refusal book when requested to do so by Police on 24 September 2020 in breach of Annex 2 condition 8.</p> <p>The Chair wishes for it to be recorded that this was not a unanimous decision.</p> <p>Timescale of removal of DPS</p> <p>Date Removal takes place 21 days from the date of this notice.</p>
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The applicant, the premises licence holder and the any other person who made relevant representations has a right of appeal against the decision of the Sub-Committee, within 21 days of the notification in writing to the applicant, to the Magistrates Court. Conditions cannot take effect for 21 days to allow for the period of appeal.

Signed Councillor ...*Liz Frost*..... (Chairman)

Councillor...*Robert Foote*.....

Councillor ...*Neil Dallen*...