

<b>LICENSING ACT 2003 SUB-COMMITTEE</b>		<b>AGENDA ITEM No. 3</b>
<b>22 NOVEMBER 2010</b>		<b>PUBLIC REPORT</b>
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**APPLICATION:** Review of Premises Licence

**PREMISES:** Westgate News & Off-Licence, 44 Westgate, Peterborough, PE1 1RE

**REFERENCE NUMBER:** MAU 060108

**GLOSSARY OF TERMS:** Attached at **Appendix A – Page 5**

**1. PURPOSE OF REPORT**

1.1 To consider and determine an application for a review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made by Cambridgeshire Constabulary in their capacity as a Responsible Authority. The review was bought under the Prevention of Crime and Disorder, Public Safety and Protection of children from harm objectives.

**2. BACKGROUND INFORMATION**

2.1 On the 21<sup>st</sup> July 2008, an application for a new premises licence was submitted by I Din & Sons Ltd to allow the sale of alcohol Monday to Saturday from 8.00am to 10.00pm and 8.00am to 6.00pm on Sunday. As no valid representations were received the licence was granted on 18<sup>th</sup> August 2008. The original name of the premises as per the application was Saunders News. A copy of the current licence is attached at **Appendix B - Page 9**.

2.2 On the 17<sup>th</sup> July 2010, an application to change the premises name to 'Westgate News & Off Licence' was made.

2.3 A Test Purchase of alcohol took place at the premises on 12<sup>th</sup> February 2009 and the premises refused the sale of alcohol to the underage volunteers.

2.4 A Test Purchase took place at the premises on 16<sup>th</sup> April 2009 and alcohol was sold to an underage volunteer. The member of staff who sold the alcohol, Mr Ishtiaq Ahmed, was, and still is, the Designated Premises Supervisor at the store. Mr Ahmed was issued with a Penalty Notice for Disorder (PND) for this offence. On this occasion both Police and Council Licensing Officers assisted the premises with putting in place guidance, policies and training records to prevent underage sales.

2.5 On the 3<sup>rd</sup> June 2010 a test purchase took place at the premises and alcohol was sold to the underage volunteers by a member of staff who later received a Penalty Notice for

Disorder (PND) for this offence. As there was due diligence in place on this occasion, including a 'Challenge 21' policy it was deemed not appropriate to prosecute the Designated Premises Supervisor or Premises Licence Holder on this occasion. The premises did however voluntarily change their age verification policy to 'Challenge 25' after this failure.

- 2.6 On 3<sup>rd</sup> September 2010 a further Test Purchase took place at the premises and alcohol was sold to an underage volunteer. A PND was issued to the seller of the alcohol and the investigation with regards to the Designated Premises Supervisor and Premises Licence Holder is ongoing.
- 2.7 As there had been two test purchase failures in the space of three months the Premises Licence Holder is also under investigation for the offence of 'Persistently Selling Alcohol to Children'.
- 2.8 A recent Test Purchase on 26<sup>th</sup> October 2010 resulted in shop staff refusing the sale of alcohol to the underage volunteers.

### 3. APPLICATION

- 3.1 In accordance with section 51 of the Licensing Act 2003, following the submission of an application to review the premises licence from Cambridgeshire Constabulary, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A copy of the application to review, which was received at these offices on 5<sup>th</sup> October 2010 is attached at **Appendix C – Page 17**.
- 3.3 A copy of the 'Notice' that was displayed on the premises in accordance with Part 5 no 38 of Statutory Instruments 2005 No. 42 – The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 is attached at **Appendix D – Page 25**.
- 3.4 A letter of support to the application was received from Children's Social Care Services in their capacity as a Responsible Authority. This letter can be found at **Appendix E – Page 27**. No other representations have been received from any of the remaining Responsible Authorities, interested parties or the Licence holder.

### 4. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
<p><b>Public Safety</b></p> <p><b>Prevention of Crime and Disorder</b></p> <p><b>Protection of Children from Harm</b></p>	<p><b>Responsible Authority:</b></p> <p>Cambridgeshire Constabulary</p> <p>As per the application for review attached at <b>Appendix C – Page 17</b></p> <p>A letter of support for the application was received from Children's Social Care Services. This can be found at <b>Appendix E – Page 27</b></p> <p><i>To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation</i></p>

#### 4.1 Summary of issues raised by Cambridgeshire Constabulary

- I. Sale of alcohol to individuals under the age of 18, on three separate occasions in two years.

- II. Advisory meetings, issuing training packages and advice regarding age verification policies have taken place, but sales to underage persons continue to occur.
- III. Concerns for the safety of children and the premises not upholding the objectives.

## **5 LICENSING OFFICERS COMMENTS**

- 5.1 Mediation had not been able to take place between the parties to the hearing as the representatives of the Premises Licence Holders were in Pakistan attending a family funeral.
- 5.2 All test purchasing is done in accordance with LACoRS Guidelines which are endorsed by the Home Office. The volunteers used are aged between 14 and 16 and must answer truthfully if questioned by a retailer. Premises are targeted for test purchasing following complaints made to the council from members of the public or intelligence received by the police.

## **6. POLICY & GUIDANCE IMPLICATIONS**

- 6.1 The following sections/paragraphs are applicable to this application:

### **6.2 Council's Statement of Licensing Policy**

- Children and Licensed Premises: *Section 9 on Page 12 to 14*
- Reviews: *section 15 on Page 18*
- Delegation / Decision Making / Administration: *Section 16 page 18*

### **6.3 Guidance Issued under Section 182 of the Licensing Act 2003 (October 2010)**

- The licensing objectives: *Section 2 pages 18 to 27*
- Reviews: *Section 11 pages 98 to 102*
- Determining applications: *Section 9 pages 78 to 82*

## **7. LEGAL OFFICER'S COMMENTS**

- 7.1 The Licensing Authority (hereafter referred to as "the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a review of a premises licence following the application by Cambridgeshire Constabulary (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

- 7.2 In this case, the application was received at these offices on 5<sup>th</sup> October 2010.

- 7.3 The application before this committee will consider –

- (i) The application to review the licence,
- (ii) Any relevant representations

- 7.4 The committee will take such of the steps as it considers that action is necessary for the promotion of the licensing objectives. The steps are –

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) to remove the designated premises supervisor from the licence
- (d) to suspend the licence for a period not exceeding three months, or
- (e) to revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

- 7.5 In addition the guidance issued under section 182 of the Licensing Act 2003 states:

'The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the

licence holder and/or to recommend improvement within a particular time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. But, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvements – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.