

# Minutes

## Licensing Sub-Committee



19<sup>th</sup> August 2009

<b>Councillors</b>
M J Banthorpe (Chairman)
Mrs S A Howell
E R Lynch

Councillor Mrs J A Smith was also in attendance.

1. DECLARATIONS OF INTEREST

**INFORMATION:** There were no personal, or personal and prejudicial interests declared.

Councillor Banthorpe indicated that he knew Mr Reed who was representing Essex Police, through Braintree District Council/Essex Police licensing related matters.

2. APPLICATION UNDER THE LICENSING ACT 2003 FOR A REVIEW OF THE PREMISES LICENCE IN RESPECT OF TEXACO PLAISTOW BROADWAY FILLING STATION, RAYNE ROAD, BRAINTREE

**INFORMATION:-** The Chairman welcomed everyone to the Hearing and he introduced the Members and Officers present. The Hearing had been called following an application by Essex Police for a review of the Premises Licence in respect of Texaco, Plaistow Broadway Filling Station, Rayne Road, Braintree. The application had been made on the grounds that the Premises Licence Holder was not promoting the licensing objectives of the 'Prevention of Crime and Disorder' and the Protection of Children from Harm', as information had been obtained regarding the sale of alcohol to children. A letter of representation had also been submitted by Essex County Council's Children's Safeguarding Services regarding the sale of alcohol to people under 18 years of age. However, agreement had subsequently been reached between the County Council and the Premises Licence Holder's solicitor on the basis that the following condition would be implemented and made a condition of the Premises Licence.

'The "Challenge 25" scheme shall be adopted to ensure that alcohol will not be sold on the premises to those under the age of 18 years. Only approved proof of age identification will be accepted, such as a passport, photo driving licence and a pass accredited card'.

*The following persons indicated their intention to speak on this application:-*

In support of the applicant's case:-

Mr Martin Reed, Essex Police Licensing Officer Central Division

In support of the Premises Licence Holder's case:-

Mr David Hook, Solicitor for Hook and Partners

Mr Panormo, Managing Director, Texaco Plaistow Broadway Filling Station Ltd

Mr Mike Stancevic, Operations Manager, Texaco Plaistow Broadway Filling Station Ltd

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Mr Reed presented the applicant's case on behalf of Essex Police and he answered questions put to him by Mr Hook, Solicitor for the Premises Licence Holder, and Members of the Sub-Committee. Mr Hook presented the case for the Premises Licence Holder and he answered questions put to him by Mr Reed and Members.

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The Members of the Sub-Committee left the Hearing to make their decision accompanied by the Council's Governance Lawyer and Member Services Officer, who would offer advice on legal points and procedural matters.

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The Hearing was subsequently re-convened and the Sub-Committee's decision was announced as follows:-

#### **DECISION:-**

The Sub-Committee has read the material presented to it and has listened to all the evidence and submissions.

In considering National Guidance and its Licensing Policy the Sub-Committee has come to the following decision:-

It is evident that the Premises Licence Holder considers this to be a very serious matter and shares the concerns of the Applicant, Essex Police. The Premises Licence Holder has acknowledged that there have been underage sales from their premises, which has been demonstrated by the evidence of the Applicant Essex Police, and which is not disputed and is accepted by the Premises Licence Holder.

The Sub-Committee is greatly concerned that despite the "negative" test sales, evidence has been presented that underage sales have continued from the premises.

However, the Sub-Committee has confidence that the Premises Licence Holder will promote the Licensing Objectives in the future, based upon their submission during the Hearing in that systems have been put in place to ensure that the Licensing Objectives are not undermined and that due diligence is exercised on all occasions.

Having regard to Paragraph 11.23 of the Guidance, the Sub-Committee is mindful that it has a duty to promote the Licensing Objectives in the interests of the wider community and not those of the individual licence holder. Evidence has been presented of the effect of underage sales, in particular the letter from the parent of an intoxicated child and the witness statements in which it has been stated that the premises is known to be

premises where underage persons can purchase alcohol.

In order to promote the Licensing Objective of the Prevention of Crime and Disorder the Sub-Committee considers it proportionate to take the following action:

1. To **suspend** the Premises Licence for a period of 2 days which will commence the day following the expiry of the appeal period to the Magistrates' Court.

The Sub-Committee considers that the suspension is necessary to deter any future acts which would undermine the Licensing Objectives, or breach the Conditions of the Premises Licence.

2. To **modify** the Premises Licence by adding the following conditions, which are set out on pages 9 & 10 of the Premises Licence Holder's Legal Representative's (Mr David Hook) written submission, with the exception of k, namely:

- a. the Challenge 25 initiative to be adopted
- b. only a 'PASS' accredited proof of age card, valid passport or current photo-driving licence to be acceptable as identification and proof of age
- c. appropriate signs to be displayed on Challenge 25 in the store
- d. a system of staff training to BIIAB Level 1 or equivalent (such as Texaco "Retail Sale of Alcohol" training) to be carried out with 6 monthly refresher training.
- e. records to be kept of staff training which will be made available to the Police or Trading Standards on request
- f. a refusal log to be maintained which will be made available to the Police or Trading Standards on request.
- g. Records required by e. and f. above to be retained for at least 12 months
- h. Digital CCTV to be maintained at the Premises which:
  - i. Covers all entrances and exits, the frontage of the premises and such other areas as may be agreed with the Police from time to time.
  - ii. Records all cameras simultaneously throughout all trading hours during which alcohol is sold.
  - iii. Retains recordings for a minimum of 31 days.
  - iv. Recordings to be made available to the Police upon reasonable notice.
- i. A member of staff qualified to operate the CCTV system to be available at all reasonable times.
- j. At least two members of staff to be on the premises at all times during which alcohol is sold.

**And the condition agreed prior to the Hearing with the Children's Safeguarding Service, namely:**

The "Challenge 25" scheme shall be adopted to ensure that alcohol will not be sold on the premises to those under the age of 18 years. Only approved proof of age identification will be accepted, such as a passport, photo driving licence and a pass accredited card.

Note: The condition agreed by the Premise Licence Holder with the Children's Safeguarding Service is the same as Conditions "a" and "b" above and it will not be included in the Premises Licence as a separate condition.

## **Right of Appeal**

The parties present were advised of their Right of Appeal to the Magistrates' Court against the Council's decision.

The Hearing commenced at 10.00am and closed at 1.15pm.

COUNCILLOR M J BANTHORPE

(Chairman)

Note:- *This Hearing was audio-recorded.*