

**Item 5 Application for variation of a Premises Licence to
 specify a new Designated Premises Supervisor –
 Forbuoys/McColls, 3-7 Fleming Avenue,
 North Baddesley SO52 9EJ**

1 The application

- 1.1 The application is by Martin McColl Limited for the premises known as McColl's, 3-7 Fleming Avenue, North Baddesley, Southampton SO52 9EJ. The premises previously traded under the name of Forbuoys and this is the name used on the application submitted by solicitors acting on behalf of the applicants. The premises hold a Premises Licence issued under the Licensing Act 2003 permitting supply of alcohol for consumption off the premises for 0800 to 2300 hours Monday to Saturday and 1000 to 2230 hours Sunday. The Licence was issued on 2 November 2005 to become effective on 24 November 2005, the date of final implementation of the Licensing Act 2003. Prior to this the premises benefited from a Justices Off-Licence issued under the Licensing Act 1964. A copy of the current Premises Licence is attached as Annex 1 to this report.
- 1.2 The applicant has now applied under section 37 of the Act to vary this Licence by specifying a new Designated Premises Supervisor (DPS), namely Michaelanne Tucker. This application has attracted a representation from Hampshire Constabulary, the only persons able to object to such an application thus needing the matter to be determined by a hearing.
- 1.3 The Licensing Act 2003 states that in the case of this type of application, if the chief officer of Police is "satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied". The Act further states that where such a notice is given the licensing authority must hold a hearing (unless all parties agree a hearing is unnecessary) and having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.

A copy of the application form is attached as Annex 2 to this report.

2 Background

- 2.1 The current DPS, Brenda Lawson, has been so since May 2006. On 20 December 2006 the applicants applied to vary the Licence by changing the DPS to an Ms N King. On 2 January 2007 the applicants withdrew this application. On the same date Hampshire Constabulary submitted an objection to this application on the basis that they had attempted to make contact with King and upon speaking to a member of staff at the premises were advised that King no longer worked for the applicants. Had the application not been withdrawn then this application would have proceeded to a hearing. The current application to replace Lawson was dated 9 January 2007. It is alleged that the new DPS does not regularly work at the premises and this is the reason for the Police objection (see paragraph 4 below).

3 Promotion of the Licensing Objectives

- 3.1 In this type of application only the licensing objective of prevention of crime and disorder can be considered. The applicant is not required to make any comments in relation to the steps taken to promote this licensing objective. The ability of the applicant to achieve the licensing objective of the prevention of crime and disorder must be considered in light of the representation from the Police (see 4 below).

4 Relevant Representations – Responsible Authorities

- 4.1 **Hampshire Constabulary** – The Police are lodging an outright objection to the application. The Police have called the store on two separate occasions to speak with Tucker, each time she has not been on the premises. A lady working at the store on the afternoon of 16 January 2007 informed the Police that Tucker had been called in to cover from another shop in Bedford Place [Southampton] where she is the DPS. During the week commencing Monday 15 January 2007, Tucker was due to work at the premises on Tuesday 16, Wednesday 17 and Thursday 18 January from 0600 to 1400 hours. The times worked mean that the shop will not be managed during the afternoons or evenings, which the Police feel is not complying with the licensing objective of prevention of crime and disorder.
- 4.2 No other responsible authorities are entitled to make representations on this application.

5 Relevant Representations – Interested Parties

- 5.1 Interested parties are unable to make representations on this application.

6 Policy Considerations

- 6.1 It is considered that the following extracts from the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 are relevant.

4.18 – Designated Premises Supervisors

A copy of the Secretary of State's Guidance will be provided at the meeting for Members of the Committee. Additional copies can be obtained from the website of the Department of Culture Media and Sport.

- 6.2 It is considered that the following extracts from the Licensing Authority's own Statement of Licensing Policy are relevant to this application:

Section A: The Prevention of Crime and Disorder

The Statement of Licensing Policy is enclosed with a copy of this report for Members of the Committee. Additional copies will be provided at the hearing. Copies can also be obtained from the Licensing Section of the Administration Service or downloaded from the Council's website.

7 Observations

- 7.1 The Committee is obliged to determine this application with a view to promoting the licensing objective of prevention of crime and disorder. In making its decision, the Committee is also obliged to have regard to the national Guidance and the Council's own Statement of Licensing Policy. The Committee must also have regard to the representation made and the evidence it hears. The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objective:

- a) Grant the application.
- b) Reject the application.

The Committee is asked to note that it may not reject the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objective of the prevention of crime and disorder.

Background Papers (Local Government Act 1972 Section 100D)

Premises Licence variation application to specify a new DPS for McColls (formerly Forbuoys), 3-7 Fleming Avenue, North Baddesley

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	Two		
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