

**Minutes of the Licensing Sub-Committee
of the Test Valley Borough Council**
held in Council Chamber, Duttons Road, Romsey
on Tuesday 20th March 2007 at 9.30 a.m.

Attendance:

Councillor J.N.S Anderdon	(P)	Councillor J. Budzynski	(P)
Councillor M.G. Cooper	(P)		

Also in attendance:

Councillor A Hope
Mr P Savill, Barrister for the Police
Inspector P Funnell
Sgt T Adams
Sgt B Hardcastle
Mr A Arthur
Mr C Bruder, Solicitor for McColls
Mr G Morris, Regional Manager McColls
Mr N Gradon, Area Manager, McColls
Ms M Tucker, Designated Premises Supervisor, McColls

1

Appointment of Chairman

Resolved:

That Councillor Anderdon be appointed Chairman for the duration of the meeting.

2

Declarations of Interest

The Chairman declared a personal interest in item 6 as he had patronised the premises twice during the past six months.

3

Minutes

Resolved:

That the minutes of the meeting held on 9th January 2007 be confirmed and signed as a correct record.

4 Application for a Personal Licence – Police objection as applicant has a relevant offence

The Sub-Committee considered an application for a Personal Licence under section 117 of the Licensing Act 2003 by Mr Alan Arthur.

The Licensing Manager introduced the report and explained to the Sub-Committee that as part of the application the applicant had provided a criminal records disclosure which showed a conviction for a “relevant offence”. The Hampshire Constabulary, the only persons able to object to such an application, had made objections so a hearing was required to determine the matter.

Sgt Adams presented the case on behalf of the Hampshire Constabulary. Sgt Adams outlined the nature of the offence committed by the applicant disclosed as a result of the criminal records disclosure. He reminded the Sub-Committee that the licensed trade was expected to set a good example to the public by upholding the licensing objectives.

The Sub-Committee noted that the guidance issued by the Secretary of State in cases of this nature recommended refusal of a Personal Licence, unless exceptional circumstances could be presented.

The Chairman adjourned the meeting to enable the Sub-Committee to consider the matter.

Decision

Upon return, the Chairman informed the meeting that the Sub-Committee, in reaching its determination upon the matter, had had regard to the National Licensing Guidance issued under Section 182 of the Licensing Act 2003, Test Valley Borough Council's own Licensing Policy, together with the representations made at the Hearing and in writing.

The applicant had failed to demonstrate compelling or exceptional circumstances why a Personal Licence should be granted, so the request of the Hampshire Constabulary was upheld.

Resolved:

That the request for a Personal Licence by Mr Alan Arthur be refused.

5 Application for variation of a Premises Licence to specify a new Designated Premises Supervisor – Dukes Head, Greatbridge Road, Romsey SO51 0HB

The Sub-Committee considered an application for variation of a premises licence to specify a new Designated Premises Supervisor for the premises known as the Dukes Head, Greatbridge Road, Romsey.

The Licensing Manager explained that this application had attracted a representation from Hampshire Constabulary, the only persons able to object to such an application thus requiring the matter to be determined by a hearing.

He also confirmed that the applicant and the proprietor of the premises had been notified of the hearing, although neither was present.

Peter Savill of Counsel presented the case for the Hampshire Constabulary outlining the reasons for the outright objection to the application to specify Mr A J Cottingham as the Designated Premises Supervisor. The fact that Mr Cottingham had failed to inform the relevant authority of conviction for a “relevant offence”, in the Constabulary’s view undermined the application under the licensing objective to prevent crime and disorder.

The Chairman adjourned the meeting to enable the Sub-Committee to consider the matter.

Decision

Upon return, the Chairman informed the meeting that the Sub-Committee, in reaching its determination upon the matter, had had regard to the National Licensing Guidance issued under Section 182 of the Licensing Act 2003, Test Valley Borough Council’s own Licensing Policy, together with the representations made at the Hearing and in writing.

The Sub-Committee were of the view that conviction of the proposed DPS of a relevant offence, compounded by his failure to notify the relevant authorities of that conviction, justified a refusal of the application.

Resolved:

That the application for the variation of a Premises Licence to specify a new Designated Premises Supervisor for the premises known as the Duke’s Head, Greatbridge Road, Romsey be refused.

6

**Application for Review of a Premises Licence –
McColls, 3/7 Fleming Avenue, North Baddesley,
Southampton SO52 9EJ**

The Sub-Committee was requested to consider an application by Hampshire Constabulary for a Review of the Premises Licence for the premises known as McColls, 3/7 Fleming Avenue, North Baddesley. The application was requested in accordance with the provisions of Section 51 of the Licensing Act 2003.

The Licensing Manager introduced the report and explained that the request for the Review related to the following licensing objectives:-

- a) The prevention of crime and disorder.
- b) Public safety.
- c) The protection of children from harm.

Peter Savill, of Counsel for the Hampshire Constabulary, outlined the reasons why the review had been requested by the Police. He drew the Sub-Committee's attention to the points contained in annex 3 of the report and to the representations made by Councillors Mrs Dowden and Mrs Tupper, and also a local businessman, Mr Bunyan.

The Sub-Committee were then given the opportunity to question the Police representatives on matters relating to the presentation.

Mr Bruder, Solicitor for McColls, then presented his case to the Sub-Committee. He responded to each point raised in the submission of the Police. He also proposed a number of additional conditions be included in the Premises Licence. When challenged by Councillor Cooper as to whether the information presented by Mr Bruder was admissible, the Council's Solicitor confirmed that both parties could make oral representations, but written evidence must be submitted in advance of the hearing and could not be admitted unless both parties were in agreement that it should be admitted.

Peter Savill contended that the proposals made on behalf of McColls should have been advised to the Police and the Sub-Committee prior to the hearing. Mr Bruder stated that he had attempted to contact the Police by e-mail and telephone to discuss the proposals, but had been unable to do so.

The Sub-Committee were then given the opportunity to question the representatives of McColls.

The Chairman adjourned the meeting to enable the Sub-Committee to consider the matter.

Decision

Upon return, the Chairman informed the meeting that the Sub-Committee, in reaching its determination upon the matter, had had regard to the National Licensing Guidance issued under Section 182 of the Licensing Act 2003, Test Valley Borough Council's own Licensing Policy, together with the representations made at the Hearing and in writing.

Resolved:

- A) That the conditions of the Premises Licence be modified by the addition of the following conditions:**
- (1) No persons under the age of 18 years to serve alcohol on the tills with immediate effect.**
 - (2) No future employment of persons under the age of 18 years at the premises.**
 - (3) The premises to adopt a "Challenge 25" policy with immediate effect.**
 - (4) All staff employed at the premises to complete the due diligence distance learning packs as part of an internal review of due diligence training.**
 - (5) The Area Manager to attend the premises for review on a weekly basis (subject to holiday and sickness) and thereafter to report directly to the Regional Manager the basis of the weekly report.**
 - (6) A new CCTV System to be installed with immediate effect.**
 - (7) The premises to adopt the local "Store Watch" scheme.**
 - (8) A magna lock to be fitted to the front door of the premises.**
 - (9) The Designated Premises Supervisor to be employed full time at the premises and not to be employed in the role of DPS at any other premises.**
 - (10) A Personal Licence Holder shall be present at the premises at all times when alcohol is sold with effect from 3 months of the date of the review. subject to holidays and sickness.**
- B) The licence be suspended for a period of 4 weeks to enable McColls to put in place the conditions outlined a A) above.**

(Meeting terminated at 12.48 p.m.)