

9 January 2018		ITEM: 4
Licensing Sub-Committee		
Determination Of An Application For A Review Of A Premises Licence		
Wards and communities affected: East Tilbury	Key Decision: Non-key	
Report of: Paula Parrott, Licensing Officer		
Accountable Assistant Director: Andrew Millard, Assistant Director Planning, Transport and Public Protection		
Accountable Director: Steve Cox, Corporate Director of Place		
This report is public		

Executive Summary

An application has been received for a review of the premises licence at Costcutter (formerly known as East Tilbury Supermarket), 87-89 Coronation Avenue, East Tilbury, Essex RM18 8SW. The review relates to the Licensing Objective protection of children from harm, following an application received from Trading Standards officers at Thurrock Council regarding underage sales.

1. Recommendation(s)

1.1 That the Sub-Committee considers this report and appendices together with any oral submissions at the hearing and determines the application for the review of the premises licence in line with the options open to the committee under the Licensing Act 2003.

2. Introduction and Background

2.1 On 2nd November 2017, an application for a Review of the premises licence for Costcutter (formerly known as East Tilbury Supermarket), 87-89 Coronation Avenue, East Tilbury, Essex RM18 8SW, was received from Principal Trading Standards Officer, Charlotte Edwards, of Thurrock Council, Civic Offices, New Road, Grays, Essex RM17 6SL. A copy of the full application and associated documentation is attached as **Appendix A**.

2.2 The application for Review relates to the following licensing objectives-

Protection of Children from Harm

In summary the application provides:

- On 14th August 2017, officers from Thurrock Council's Trading Standards department carried out an underage test purchasing operation in Thurrock. They were accompanied by two female volunteers aged 15 and 16.
- The 16 year old volunteer, accompanied by the 15 year old, purchased a bottle of wine (11%ABV) from the assistant on duty, Mr Tajinder Singh Khurana,. Mr Khurana did not ask for ID or confirm her age.
- Mr Khurana was subsequently interviewed on the 14th September 2017 to discuss the procedures he had in place to prevent underage sales from occurring. Mr Khurana claimed that he was very tired and had been working extra-long shifts to cover absence.

2.3 The premises licence is held by Mr Tajinder Gurver & Mr Tajinder Singh Khurana. The designated premises supervisor named on the licence is Mr Mustafa Er.A copy of the licence is attached as **Appendix B**. An application has subsequently been received from Mr Tajina Khurana to become the DPS for the premises and this attached at **Appendix C**.

2.4 Following the consultation, a representation has been received from Jackie Cooper, Thurrock Licensing Officer for Essex Police, in support of the review, and this is attached at **Appendix D**.

2.5 Under the Licensing Act 2003 the licensing objectives are –

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

2.6 Any representation must relate to a particular premise and must be relevant to the promotion of one or more of the four licensing objectives.

3. Issues, Options and Analysis of Options

3.1 The Committee, after considering the review application and all of the relevant representations, will need to consider what action, if any, to take in order to ensure that the Licensing Objectives are complied with.

- 3.2 The following options are available to the Licensing Sub-Committee:
- Do nothing with the licence;
 - To modify the conditions of the premises licence. This can include adding new conditions or alterations to existing conditions e.g. reducing the hours of operation;
 - To suspend the licence for a period not exceeding three months;
 - To revoke the licence.
- 3.3 The decision made by the committee will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.
- 3.4 In determining this application for review of the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 3.5 Paragraphs 2.22 to 2.32 of the statutory guidance relates to the protection of children from harm licensing objective and may be relevant to this review.
- 3.6 The Sub-Committee are advised that the hearing is a statutory exercise of power delegated by local residents to consider what the public interest requires. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 3.7 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.
- 3.8 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.
- 4. Reasons for Recommendation**
- 4.1 These are the options available to the Sub-Committee.
- 5. Consultation (including Overview and Scrutiny, if applicable)**
- 5.1 The application has been consulted on in accordance with the requirements in the Licensing Act 2003.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The Council has a duty under Section 17 of the Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Sub-Committee should have due regard to the submissions made by the applicant and interested parties, the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accounts

There are no financial implications associated with the report

7.2 Legal

Implications verified by: **Simon Scrowther**
Litigation Lawyer

Thurrock Council as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature. Notice must be given of the Licensing Authority's decision on this matter. The decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant or the person who made the representation.

7.3 Diversity and Equality

Implications verified by: **Rebecca Price**
Community Development Officer

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to promote the licensing objectives and its duties under Section 17 of the Crime and Disorder Act 1998. This includes full consideration of the need to prevent crime and disorder, ensure public safety, the prevention of public nuisance

and the protection of children from harm. Where it finds that the need to comply with those duties is reasonably inferred, it must determine the application appropriate.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The implications of Section 17 Crime and Disorder Act 1998 have been considered at 6.1 above.

8. Background papers used in preparing the report:

- The Licensing Act 2003
- Guidance issued under Section 182 Licensing Act 2003
- Thurrock Council's Statement of Licensing Policy

9. Appendices to the report:

- A - Copy of review application
- B - Copy of the current premises licence
- C – Copy of DPS application
- D – Copy of Essex Police Representation

Report Author:
Paula Parrott
Licensing Officer