



Lewes District Council

www.lewes.gov.uk

Licensing Sub-Committee

Minutes of a meeting of the **Licensing Sub-Committee** held in the **Warren Room, Lewes House, 32 High Street, Lewes** on **Monday, 20 December 2010** at 10.00am

Present:

Councillor C Butler (Chair on election)
Councillors M A Cutress and J F Daly

Officers Present:

Mr G Clark, Licensing Officer
Ms Z Downton, Committee Officer
Mr R Harris, Senior Legal Assistant
Ms S Lindsey, Assistant Licensing Officer

In attendance:

Mr E Hele, Principal Environmental Health Officer

Applicant Attending:

Mrs A Hindocha

Representing the Applicant:

Mr D Simmonds, Licensing Consultant

Representors Attending:

Mr A Conibear
Mr P Pert

	Minutes	Action
1	Election of Chair of the Sub-Committee <u>Resolved:</u> 1.1 That Councillor Butler be elected Chair of the Sub-Committee for this meeting.	
2	Apologies for Absence/Declaration of Substitute Councillors An apology for absence had been received from Councillor Howson.	

3 Application for a Premises Licence for Angie's News Agent, 23 Claremont Road, Seaford, BN25 2PF

Those attending the hearing introduced themselves and the procedure under the Licensing Act 2003 was read out to all parties present.

The Sub-Committee considered Report No 268/10 to determine the Application for a Premises Licence at Angie's News Agent, 23 Claremont Road, Seaford.

The Licensing Officer presented the Report to the Sub-Committee.

The Application related specifically to:

- The sale of alcohol for consumption off the premises from Monday to Sunday between 5am until 10pm.
- The premises opening hours to the public from Monday to Sunday between 5am until 10pm.

Angie's News Agent was a family owned newsagents and shop situated in a parade of seven other retail outlets in Claremont Road, Seaford, including an existing off licence called Claremont Wines. The shops were set back from the road with a lay by for vehicle parking and access to the various premises. Claremont Road and the surrounding area comprised of residential accommodation and the shops serviced a large number of residents in that area of Seaford. Similar shops and other retail premises were a considerable distance away from the location.

Angie's News Agent had not previously applied for an alcohol licence and the premises had been owned and managed by the Applicant, Mrs Hindocha, since 1987. During her ownership of the premises, there had been no complaints recorded by the Council from local residents about noise or nuisance.

The Applicant had offered to apply conditions to promote the four licensing objectives and further details were set out in Section 1.5 of the Report.

Letters had been received within the relevant 28 day notice period from people who wished to make representations about the Application, copies of which were set out at Appendix 1 of the Report. Five written representations had been received from residents in the vicinity of the premises and one from a nearby premises freeholder who resided in Seaford. The grounds for their objections were that the Application would undermine one or more of the licensing objectives relating to crime and disorder, public nuisance and public safety. They were considered to be relevant and were not frivolous or vexatious.

The Licensing Officer commented that no representations had been received from the responsible authorities.

A plan of the premises layout, street plan of the premises location and photographs of the premises were included at pages 45 – 47 of the Report.

Paragraph 1.5.5 of the Report related to the conditions put forward under the licensing objective regarding the Protection of Children from Harm. Mr Simmonds highlighted, and the Licensing Officer clarified that it was not only Portman Group identification cards that were acceptable, but that other recognised proof of age identification cards bearing the 'Pass' mark hologram would also be accepted on the premises.

The Sub-Committee expressed its thanks to the Licensing Officer for providing a comprehensive Report.

Mr Simmonds, Representative of the Applicant, stated that:

- The requested opening hours and sale of alcohol from 5am to 10pm were the maximum hours that could be applied for in compliance with the Licensing Policy which stated that 'Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet was open' (paragraph 4.7 of the Report). The Applicant did not anticipate selling alcohol at 5am.
- The Applicant had been operating the business for many years and was experienced in selling 'age-tested' goods such as cigarettes and lottery tickets. The retailer was frequently tested and had passed test purchases on a number of occasions.
- The Applicant and her staff were responsible and used to dealing with young people in the shop. There was a refusal policy in operation and the number of young people allowed on the premises at any one time was controlled.
- Staff on the premises had received quality training on licensing law and on their responsibilities when serving customers.
- In terms of the licensing objective relating to crime and disorder, the premises had good general security throughout. An additional fire and risk assessment, to that already in place, was to be carried out regarding the storage and display of alcoholic goods.
- There would be no further effect on crime and disorder by the premises selling alcohol as alcohol was clearly available already at the off licence nearby. There was nothing to suggest that the sale of alcohol on the premises would alter the current level of anti-social behaviour in the area relating to alcohol use.
- In terms of the licensing objective relating to the protection of children from harm, the display of alcohol (behind the counter) would be a relatively small part of the overall appearance of goods inside the premises and there would be no undue over exposure of

alcohol to children.

- The premises had a good reputation and the Applicant was a responsible retailer who had demonstrated that she would comply with the licensing regulations and had put forward such conditions.
- Certain points raised by representors ought to be disregarded as he believed they were irrelevant to the Application. Some issues expressed were more to do with a business objection from another alcohol retailer in the vicinity of the premises.

In response to a question from the Sub-Committee, Mr Simmonds confirmed that the premises did not usually remain open beyond 8pm. He clarified that the requested trading hours, from 5am until 10pm, were the maximum that could be applied for within the licensing regulations. The retailer would have the potential to open for longer at night but those occasions were likely to be rare.

Mr Conibear, owner of the off licence Claremont Wines who had made a representation against the Application, stated that he considered the security at the premises was not as effective as at his business where CCTV had been installed. He was concerned that Angie's News Agent would not be able to properly monitor activity on the premises due to insufficient security.

In response, Mr Simmonds stated that both premises had different layouts and the installation of CCTV at Claremont Wines off licence was because of the particular layout of the shop. He considered that security on both premises was sufficient.

Mr Pert, who had made a representation against the Application, explained that he had no involvement with Claremont Wines, but was employed by Mr Conibear at one of his other businesses, Claremont Foods, in the locality of Angie's News Agent. He felt that the potential to sell alcohol from 5am would attract more people wanting alcohol at that time. He was concerned that children would be over exposed to alcohol as they were allowed in Angie's News Agent, but that was not an issue at Claremont Wines as children were not allowed on the premises.

The Sub-Committee withdrew to consider the Application. The decision was delivered as follows:

Resolved:

- 3.1** "Having had regard to the terms of the application and all of the relevant evidence that has been put before us today, we have decided to deal with this application by granting it in its entirety.

The reason for our decision is that we are of the view that there is insufficient evidence to satisfy us of the need to amend or impose further conditions other than those proposed by the Applicant or to

DPES

refuse the application.

In reaching our decision we have taken into account all of the representations and submissions that were made. We have also taken into account the nature and location of the premises.

We have had particular regard to:-

1. The fact that there have been no representations or objections to the licence application from the police or other responsible authorities.
2. The fact that the applicant is already familiar with the operation of a refusals register and test purchasing. No complaints have been received in either regard.

We understand the concern expressed about the early opening hours but are satisfied with the applicant's explanation given in this regard.

We did not attach any weight to those parts of the representations that were received which were not grounded in one of the four licensing objectives. Therefore, we could not consider any objection that related to the impact of the application on the commercial interests of other businesses in the area.

We also gave full consideration to the relevant terms of the Statutory Guidance as well as our own Statement of Licensing Policy, in particular, paragraphs 6.2.1 and 6.2.2 of the Policy which states that shops should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open and that the Council will generally permit the sale of alcohol when the retail outlet is open for shopping.

A written notification of the decision will be despatched in due course.

Furthermore, we would like to remind those present that under Section 51(1) of the Licensing Act 2003, an interested party or responsible authority may apply to the Licensing Authority at any time for a licence to be reviewed.

In any event, there is a right of appeal under the provisions of section 181 and Schedule 5 of the Licensing Act 2003 against the decision of the Licensing Committee should you be aggrieved at the outcome. This right of appeal extends to the Applicant in the case of refusal or restrictions on the licence or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations either where the licence has been granted or, where they do not consider that relevant conditions

have been set.

Full details of the right of appeal can be found within Schedule 5 of the Act while any appeal should be made within 21 days of notification of this decision.“

The meeting ended at 11.10am

C Butler
Chair