

CENTRAL BEDFORDSHIRE COUNCIL

Record of Licensing Sub Committee hearing convened under The Licensing Act 2003 (Hearings) Regulations 2005 on Friday, 13 January 2012

Licensing Sub Committee Composition

Cllrs D Bowater (Chairman) K Janes
I A MacKilligan

Members' Interests

(a) **Personal Interests:-**

None.

(b) **Personal and Prejudicial Interests:-**

None.

Name of the Applicant

Central Bedfordshire Council – Trading Standards

Premises Address

Choice Foods
62A High Street South
Dunstable
Bedfordshire
LU6 3HD

Name of Parties (including the Applicant, Observers and Persons who have made relevant representations together with any person representing each party)

Cllr D Bowater	- Central Bedfordshire Councillor
Cllr I MacKilligan	- Central Bedfordshire Councillor
Cllr K Janes	- Central Bedfordshire Councillor
Mr A Hussain	- Personal Licence Holder
Mr D Dadds	- Counsel to the Personal Licence Holder
Mr Weights	- Solicitor to the Personal Licence Holder
Mr T Argent	- Senior Enforcement Officer – Trading Standards
Mr D McBain	- Licensing Enforcement Officer
Mrs J Borthwick	- Service Manager
Mrs M Clampitt	- Committee Services Officer
Mr M Woolsey	- Managing Solicitor
Mr A Hussain	- Designated Premises Supervisor

Names of Parties submitting representations and indications of their representations

Mr T Argent – objecting to the retention of the premises licence for the sale of alcohol.

Procedures for Hearings of Applications for Authorisations under the Licensing Act 2005 by the Licensing Sub Committee

The Procedures for hearing the applications for Authorisations under the Licensing Act 2005 by the Licensing Sub Committee was noted.

Amendment to Application (if any) requested by the Applicant

There were no amendments to the application by the applicant.

The Application

The Application was for the review of a premises licence for Choice Foods, 62A High Street South, Dunstable, Bedfordshire LU6 3HD.

The Four Licensing Objectives

The Chairman drew attention to the four licensing objectives which were set out in the report circulated with the Agenda.

LICENSING ACT 2003 - A hearing called to determine an application for a review of a premises licence for Choice Foods, 62 High Street South, Dunstable, Beds LU6 3HD

The Committee received and considered an application submitted by Central Bedfordshire Council Trading Standards for the review of a Premises Licence for Choice Foods, 62A High Street South, Dunstable, Beds LU6 3HD. The Applicant and the Premises Licence Holder both attended the meeting and made representations.

The Chairman outlined the procedure to be followed.

The Chairman invited the Licensing Enforcement Officer to present the report to the Sub-Committee. The Sub-Committee were advised that the applicant had submitted an application for the review of a premises licence under the Licensing Act 2003. A copy of the application was attached to the report. The Applicant had recommended the permanent revocation of the licence to sell alcohol.

The Chairman invited the Applicant to present its case to the Sub-Committee. Mr Argent, on behalf of the Applicant, presented the case to support the above recommendation; to prevent further underage sales at Choice Foods. Mr Argent set out the occasions when test purchases had taken place at the store, and provided information as to when the store had been provided with information and assistance with a view to ensuring further underage sales did not take place. Mr Argent provided the Sub-Committee with a history of the issues at the store which showed that there had been 6 visits to the store.

The attention of the Sub-Committee was drawn to the fact that there had been 3 occasions of alcohol sales to children and 1 occasion of cigarette sales to children. It was further brought to the Sub-Committee's attention that one bottle of the alcohol sold was classed as high strength (37.5%) for which the sales assistant was 15 years old. Choice Foods was prosecuted for the underage sales from both sides of the counter. Following the prosecution additional conditions were agreed between Choice Foods and the Trading Standards Officer. These conditions were listed on page 44 of the agenda.

On behalf of the Applicant, Mr Argent made clear to the Sub-Committee that the Applicant considered a revocation of the licence appropriate due to the failed test which occurred after the additional conditions had been agreed.

The Chairman invited the Premises Licence Holder and his legal representatives to present their case. Counsel for the Premises Licence Holder confirmed that there had been a prosecution for underage sales and that additional conditions had been installed on 21 September 2011 within 2 months of the conditions being agreed. It was noted that two additional tests had been carried out following the installation of the new till system and both tests had been successful as the purchaser was refused alcohol. The request was made for a suspension rather than a revocation of the licence.

The Chairman invited the Applicant and the Premises Licence Holder to ask questions of each other. Mr Argent asked which type of till they had installed. Mr Dadds confirmed it was the bar code reading till. Mr Dadds asked how many tests had been carried out on 18 August 2011 and Mr Argent confirmed 6 tests and it was a 50/50 success/fail rate.

The Chairman invited the Applicant and the Premises Licence Holder to sum up their cases.

The Sub-Committee adjourned to deliberate upon the application. The Managing Solicitor for Central Bedfordshire Council joined the panel to provide clarification of questions.

Decision

That having taken into account the Licensing Act 2003 Guidance issued under Section 182, Central Bedfordshire Council's Licensing Policy and representations from the Applicant and parties, the application of objection by Central Bedfordshire Trading Standards be upheld and the premises licence for Choice Foods be revoked.

The Sub-Committee agreed the following finding of facts:-

- Test purchases throughout Dunstable Town Centre were triggered following anti-social behaviour investigations by the Police.
- The licence holder showed some measure of disregard for the law and contempt for the advice offered by Trading Standards. This continued after the prosecution of the store for persistently selling alcohol to children.
- Condition 4 on page 44 (of the agenda) was ignored.
- It was clear, at the time of the August test purchase, that there was no documentation in place.
- Mr Hussain agreed to the conditions set out on page 44 (of the agenda) but failed to comply with them particularly conditions 1 and 4.

In coming to its decision, the Sub-Committee had taken into account the following:-

- The Licensing Act 2003 Guidance issued under Section 182 of the Act;
- The Secretary of State's Guidance issued under Section 182 of the Act;
- Central Bedfordshire Council's Licensing Policy; and
- The merits of the application and the representations (including supporting information) presented by all parties.

Right of Appeal

Following the revocation of a premises licence, the former licence holder was informed of his right of appeal to the Magistrates Court within 21 days of the date on which they were notified of the decision.

(Note: The meeting commenced at 1.40 p.m. and concluded at 3.00 p.m.)