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## LICENSING APPLICATION – LICENSING ACT 2003

### Premises:

**Select & Save, 133 High Street, Rayleigh, SS6 7QA**

#### **1 SUMMARY**

- 1.1 This report introduces an application for Review of a Premises Licence made under section 51 of the Licensing Act 2003.
- 1.2 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.
- 1.3 Notice has been received from all persons required by the Act that a Hearing is unnecessary. It is, therefore, proposed that this matter will be determined solely on the basis of written submissions.

#### **2 BACKGROUND**

- 2.1 The application was given to the Licensing Authority by Police Constable 1724 Hemsworth, Licensing Officer of Essex Police on behalf of the Chief Officer of Police and refers to premises known as Select & Save, 133 High Street, Rayleigh, SS6 7QA.
- 2.2 The grounds for the application are based upon the licensing objectives prescribed under section 4 of the Licensing Act 2003 of: -
  - (a) The protection of children from harm
- 2.3 Appendix A consists of a copy of the original application form with copies of the police evidence.
- 2.4 Appendix A1 is a letter sent to the licence holder, Mr Kirit Patel and lists five conditions that the police propose be added to the premises licence.

#### **Description of Premises**

- 2.5 The premises to which the application relates comprise of a purpose built shop with accommodation above. The shop is a grocery based convenience store and off licence.
- 2.6 The premises are situated in a commercial area at the southern end of High Street, Rayleigh and approximately 50 metres south of the police station.

**Licensing History**

- 2.7 On 1 June 2007 an application was made for the grant of a premises licence for the off sale of alcohol at the premises under Section 17 of Licensing Act 2003.
- 2.8 After a hearing before a Licensing Sub Committee on 20 July 2007 the premises licence was granted, with conditions, to Mr Avinash Suchak.
- 2.9 The granted application permitted the licensable activities within the times and days shown below: -

Activity	Time/s	Days
Sale of alcohol for consumption off the premises.	(a) 07.00 to 23.00 hrs	(a) Daily

- 2.10 On 17 June 2010 an application was received for an immediate transfer of the premises licence to Mr Kirit Patel of Fullers Road, South Woodford.
- 2.11 On 28 July 2011 an application was made for the name of the premises to be changed to Premier Rayleigh Store.
- 2.12 Himakshi Patel of Fullers Road, South Woodford is the current Designated Premises Supervisor.
- 2.13 Appendix B consists of a copy of the premises licence.

**Premises History**

- 2.14 There have been no complaints recorded by the Council against these premises.

**3 APPLICATION**

- 3.1 The application is made in accordance with section 51 of the Licensing Act 2003 on the grounds of the licensing objectives relating to the protection of children from harm arising from an underage sale on 20 July 2011 when, without challenge, a 15 year old female tester was sold a bottle of 4% alcohol WKD Vodka.

**4 REPRESENTATIONS**

- 4.1 No representations have been received from other Responsible Authorities or Interested Parties.

**5 NOTICES**

- 5.1 Notices advertising the application were placed by the Licensing Authority at or near the premises, at the Council's offices in Rayleigh and Rochford and on the Council's website, as required by paragraph 38 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.
- 5.2 All parties involved have been served with the relevant notices and documentation required by paragraphs 6 and 7 of The Licensing Act 2003 (Hearings) Regulations 2005 and included an explanation of the rights of persons to attend hearings and to be represented, to give evidence and to call witnesses, the consequences of not attending, the procedure to be followed at a hearing, and, for applicants only, a copy of all relevant representations made.
- 5.3 Paragraphs 8 and 9 of those regulations require that parties notify the Licensing Authority, no later than 5 working days before the hearing, of those matters mentioned in paragraph 5.2 above. A pro-forma and pre-paid envelope was included for that purpose with the notices and documentation mentioned paragraph 5.2 above.
- 5.4 Mr Patel, in his letter to the police, dated 1 August 2011, agrees to all conditions proposed by the police being added to the premises licence. (Appendix C)

**6 POLICY CONSIDERATIONS****Legal provisions**

- 6.1 The provisions of Licensing Act 2003, The Licensing Act 2003 (Hearings) Regulations 2005, Guidance issued under Section 182 Licensing Act 2003 and the Statement of Licensing Policy, approved by Full Council for the period 7 January 2011 – 6 January 2014 need to be considered by Members in determining the application.
- 6.2 Section 10 of the Guidance provides advice and recommendations concerning best practice in relation to attaching conditions to premises licences and club premises certificates. Paragraphs 10.11 onwards are of particular relevance to Licensing Sub Committees where consideration is given to imposing conditions.
- 6.3 As agreement has been reached, both parties consider that a hearing is unnecessary and ask the Licensing Authority to proceed to determination in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005.

**7 OPTIONS**

- 7.1 The following options are available to Members: -

- (a) To modify the conditions of the licence;
- (b) To exclude a licensable activity from the scope of the licence;
- (c) To remove the Designated Premises Supervisor;
- (d) To suspend the licence for a period not exceeding 3 months;
- (e) To revoke the licence.
- (f) Subject to paragraphs 11 - 13 of the Licensing Act 2003 (Hearings) Regulations 2005, adjourn the hearing to a specified date or arrange for a hearing to be held on specified additional dates, where Members consider this to be necessary for their consideration of any representations or notice made by a party.

## **8 RECOMMENDATION**

8.1 It is proposed that the Sub-Committee **RESOLVES**

- (a) To dispense with the holding of a Hearing on the basis that all persons required by the Act have agreed that such a Hearing is unnecessary.
- (b) To determine the application having considered all representations made at the hearing.

Richard Evans  
Head of Environmental Services

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### **Background Papers:-**

None.

For further information please contact Peter Nellies (Senior Licensing Officer) on:-

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If you would like this report in large print, Braille or another language please contact 01702 318111.