



Leicester
City Council

WARDS AFFECTED
City Wide

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Licensing Committee

18 MAY 2010

LICENSING ACT 2003 - REVIEWS AND APPEALS

Report of the Director of Environmental Services

1 Purpose of Report

- 1.1 To provide the Licensing Committee with details of the outcome of review hearings undertaken by members, and appeals made under the Licensing Act 2003, since February 2010.

2 Summary

- 2.1 Three reviews were carried out by members between 1 February and 30 April 2010. At the time of writing the report, a further review applications is pending and due to be heard in June 2010. One appeal was lodged with the Magistrates' court during the same period following a review hearing under the Licensing Act 2003.

3 Reviews

- 3.1 A premises licence or club premises certificate can be reviewed at any time once it is in force. Applications for review may be made by any of the responsible authorities, or by an interested party. They must be based on one or more of the four licensing objectives.
- 3.2 Three review hearings have been held in the last three months. Brief details are set out in the table below:

Premises	Applicant	Reason	Outcome	Appeal
Jam Jar	Police	Underage sales	DPS removed and conditions added	No
Music Café	Police	Underage sales	DPS removed and conditions added	No
Lucky Supermarket	Police	Underage sales	Revoked and DPS removed	Yes

4 Appeals

- 4.1 Section 181 of the Licensing Act 2003 allows for applicants and representees to appeal against the outcome of a licensing hearing. The right of appeal is set out in the decision letters that are sent to every party involved in a hearing. This includes anyone who makes a representation but does not attend the hearing.
- 4.2 Any appeal must be lodged with the Magistrates' Court within 21 days of the date of receipt of the decision letter. An appeal has to be accompanied by a fee of £400.
- 4.3 On appeal, a Magistrates' court may:
- a) dismiss the appeal,
 - b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
 - c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court
- and may make such order as to costs as it thinks fit.
- 4.4 Due to the time between a hearing and an appeal, the licence holder has time to take whatever action they think is necessary to assist them in their appeal. This may be undertaking training, introducing new policies and procedures, or even arranging to sell the business to a new owner. The Licensing section takes Legal advice on the best way to proceed in order to promote the licensing objectives and protect the authority against an award of costs.
- 4.5 One appeal has been heard in the last three month:

4.5.1 Market Tavern, Hotel Street

The Police applied for a review of the premises licence for the Market Tavern as a result of concerns relating to crime and disorder, public safety and the prevention of public nuisance. Leicestershire Constabulary had received complaints from members of the public and business people in the vicinity that smokers were blocking the pavement on both sides of the road and creating an intimidating atmosphere. Following a licensing hearing in September 2009 additional conditions were added to the licence. The licence holder appealed against a condition to have door staff on duty at all times, saying that this was not necessary on a Sunday. The court accepted an agreed compromise and allowed the appeal, amending the condition so that that there be SIA door staff save for on Sundays. The licence holder agreed to pay our costs.

- 4.6 There are two appeals pending:
- Mills off licence (Bewcastle Grove) against a decision to suspend the licence for one week, remove the designated premises supervisor and add conditions to the licence. The review hearing was held in September 2009 but the appeal is still delayed due to the ill health of the appellant,
 - Lucky Supermarket (Abbey Park Street) against a decision to remove the DPS and revoke the premises licence.

5 Recommendations

5.1 Licensing Committee is asked to note this report.

6 Financial Implications

6.1 There are no significant financial implications arising from this report.
Martin Judson – Head of Finance

7 Legal Implications

7.1 There are no significant legal implications arising from this report.
Jamie Guazzaroni - Legal Services

8 Crime and Disorder Implications

8.1 None.

9 Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	

10 Background Papers – Local Government Act 1972

None

11 Consultations

None

12 Report Author

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