

**LICENSING SUB-COMMITTEE A**

A meeting of the Licensing Sub-Committee A was held on 21 September 2012.

**PRESENT:** Councillors J Walker (Chair); Councillors Arundale and Mawston.

**ALSO IN ATTENDANCE:** K Singh - Applicant  
M Foster - Applicant's Legal Representative  
B Hodgson - Licensing Consultant  
Mr M Aslam accompanied by Mr Aslam - Objector  
Residents in support of application: A Caddick, M Johnson and S Widdowfield

**OFFICERS:** B Carr, C Cunningham and T Hodgkinson.

**DECLARATIONS OF INTERESTS**

There were no Declarations of Interest made by Members at this point of the meeting.

12/1 **LICENSING ACT 2003 - APPLICATION FOR A PREMISES LICENCE - THE POST OFFICE, 119 CRESCENT ROAD, MIDDLESBROUGH, REF NO: PRO/250.**

A report of the Assistant Director Community Protection had been circulated outlining an application for a Premises Licence in relation to The Post Office, 119 Crescent Road, Middlesbrough, Ref No. MBRO/PRO250.

Summary of Proposed Licensable Activities

Supply of Alcohol (Off the Premises) 7.00am - 9.00am

Full details of the application and accompanying Operating Schedule were attached at Appendix 1 to the submitted report.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

Details of the Application

The Principal Licensing Officer presented the report in relation to an application, received on 28 June 2012, for a Premises Licence in relation to 119 Crescent Road, Middlesbrough, Ref No. MBRO/PRO250 as outlined above. A copy of supporting documentation from the applicant in respect of the application had been circulated to Members of the Committee prior to the meeting.

The report provided background information in relation to the premises which, operated as a post office and an unlicensed convenience retail outlet situated on Crescent Road close to its junction with Essex Street in close proximity to residential properties.

Initially representations were received from Gresham Community Council on 20 July 2012 and Cleveland Police on 26 July 2012. However following the distribution of additional information from the applicant including a copy of a petition from local residents in support of the application, some suggested conditions from the applicant to alleviate concerns raised by the Police and local residents and a change of the terminal hour from 10.00pm to 9.00pm, both objections were subsequently withdrawn.

On 26 July 2012, a representation was received from Mr M Aslam, a local resident, objecting to the application on the grounds of the prevention of crime and disorder and the prevention of public nuisance which was attached at Appendix 4 to the report.

A revised copy of the plan showing the alcohol licensed area was submitted by the applicant's legal representative.

**Applicant in Attendance**

The applicant's legal representative presented the case in support of the application.

Members were advised that the applicant had been a Sub Postmaster responsible for the operation of the premises for over 3 years and during that time he had developed the store and invested time and money in the staff employed at the store. He had listened to the feedback from customers and extended the range of goods available at the premises. Prior to becoming a Sub Postmaster, the applicant had spent 15 years in the clothing manufacturing business and prior to that he had worked in a retail store.

The legal representative advised that the Police and the Community Council had withdrawn their objections following receipt of the petition in support of the application, the additional conditions suggested by the applicant and the decision to amend the terminal hour to 9.00pm. Members were advised that the Council's Trading Standards department, one of the bodies with responsibility for enforcement in respect of the sale of alcohol in relation to licensed premises had not submitted any objections to the application.

The applicant's legal representative advised that the applicant promoted the licensing objectives by practising good management, providing up to date training for his staff and maintaining a robust operating schedule.

Members were shown a plan of the alcohol licensed area and the legal representative indicated to Members on the plan where the alcohol would be displayed at the premises.

Members were advised that the premises differed from other off licences in that they sold a range of products alongside the Post Office business. The premises also offered banking services for local business people and bill paying facilities.

The legal representative advised that the Post Office was encouraging branches to adopt a new local model of operating and had committed to investing up to £10,000 in 50% of the Post Office branches over the next three years. Branches were encouraged to operate longer trading hours and offer a wider range of services including the sale of alcohol. The applicant's branch had been one of those Post Offices that had been selected to take advantage of the offer.

The legal representative referred to the representation submitted by the local resident, Mr Aslam. He referred to Page 335, paragraph 13 of the Patersons manual and advised Members that they needed to consider whether the objection was in relation to the promotion of the licensing objectives. It was highlighted that the premises were not located in a cumulative impact area.

Members were advised that the premises' operating schedule and the additional information contained in Tab 1 specifying what the applicant intended to implement at the premises mirrored the requirements set out in the Council's Licensing Policy statement. The legal representative pointed out that the applicant had taken account of the feedback from the Community Council, the Police and residents and made the necessary amendments to his application.

The legal representative advised that all staff training at the premises was carried out by D & B Licensing Consultant's every six months and staff would not be allowed to sell alcohol until they had undertaken the necessary training in relation to alcohol sales. The applicant also intended to ensure that an additional member of staff would undergo the necessary training to obtain a Personal Licence. The applicant had also indicated that he did not intend to sell any perry or cider with an alcohol by volume (abv) of more than 1.5%.

The premises intended to operate the Challenge 25 policy and posters would be placed in the premises with regard to age restricted products. The premises also intended to have a refusals and incidents book and install a good quality internal and external CCTV system which would cover the interior and the front and the side of the premises. The legal representative advised that the green arrows on the plan submitted with the application

represented the location of the cameras.

The legal representative invited Mr Hodgson from D & B Licensing Consultants to outline his experience in the trade and provide an overview of the licensing training provided for staff at the premises in relation to the promotion of the licensing objectives. The legal representative invited Ms M Johnson, a local resident to speak in support of the application. Two other residents were present at the meeting to give their support to the application.

Ms Johnson advised that she had difficulty in walking and if she wanted to purchase alcohol the premises were conveniently located. She had not experienced any issues with regard to anti social behaviour at the premises.

A Member queried whether the CCTV cameras and the lighting at the premises were of sufficient quality. Members were advised that the images captured by the CCTV system would be of evidential quality. The Principal Licensing Officer advised that the condition proposed by the applicant at 8.1 regarding the quality of the CCTV images would be enforceable by the Licensing Authority.

A Member acknowledged the fact that the applicant intended to place signage at the premises with regard to minimising disturbance to local residents. In response to a query from a Member with regard to the location of the alcohol at the premises, the applicant pointed out where the alcohol would be located on the revised location plan of the premises provided by his legal representative at the meeting.

### **Relevant Representations**

Mr Aslam, a local resident advised Members that he had lived opposite the premises for over 10 years and during that time he had suffered damage to his property and experienced problems with noise and litter. Mr Aslam advised Members that the applicant had given the impression to signatories of the petition that if his licence to sell alcohol was not granted then the post office could be forced to close.

Mr Aslam advised that he had had a camera fitted to his premises and had in the past provided images from his camera to the police as evidence of crime. He pointed out that the images obtained from CCTV footage were not always clear and it was difficult to identify perpetrators of crime. He also pointed out that as far as he was aware the applicant did not sell cigarettes at the premises.

The applicant advised that one of the reasons that he had installed a good quality CCTV system which covered the front and the side of the premises was in response to the concerns of residents. He advised that the Post Office operated very strict rules in relation to the premises which required Sub Postmasters to notify the Police if people loitered outside the premises. The applicant advised that he had only had cause to telephone the Police once in three years. The applicant also indicated out that he did sell cigarettes at the premises. The applicant also pointed out that customers were asked to remove hoods or head wear at the premises for security reasons.

Mr Aslam referred to a phone box located on the corner of Essex Street and advised that the applicant could not ask people using the phone box to move away. The applicant indicated where the phone box was in relation to the premises on the submitted plan. The applicant's legal representative advised that the side of the phone box visible from the premises was covered by the CCTV system. The legal representative for the applicant advised Members that for data protection reasons, premises licence holders were only allowed to point the CCTV cameras at their own premises however the outside of the premises was well illuminated and the 2 camera outside the premises covered the exterior and the side of the premises. The Principal Licensing Officer clarified that the CCTV cameras were only required to point at the applicant's premises.

Mr Aslam queried what would happen if the applicant were to sell the business. The Principal Licensing Officer advised that the licence as granted would be transferred to the new Premises Licence holder. If the new licence holder did not wish to operate as a Post Office

then they would have to apply for a variation to the licence.

Mr Aslam stated that the applicant planned to sell the business in the future and if they no longer operated a Post Office the licence would only be for an off licence. The applicant's legal representative advised that if the applicant were to sell the Post Office back to the head office the new applicant would still be subject to the Post Office's strict vetting criteria. The applicant also confirmed that he did not have immediate plans to sell the business.

The Council's legal representative asked what the applicant's view would be if the sale of alcohol was linked to the Post Office as a business. The applicant's legal representative advised that the applicant did not have any plans to give up the Post office part of the business as he preferred to have the flexibility offered by the wide range of services currently on offer at the premises.

The Chair referred to the wording of the petition and the reference to the retention of the Post Office and general convenience store. The applicant's legal representative advised that the Post Office nationally was encouraging branches to operate longer hours and to widen the range of options available for customers.

Mr Aslam advised that the premises currently closed at 6pm when it could technically stay open until 7.30pm as a national lottery agent. The legal representative for the applicant advised that his client could stay open for 24 hours however it was not viable to operate those hours.

The applicant's legal representative queried whether any of the crimes committed against Mr Aslam had been witnessed. Mr Aslam confirmed that some of the crimes had been recorded and some had been witnessed. He advised that some young children had been drinking alcohol and hanging around at the side of the premises. The applicant's legal representative advised that the additional CCTV cameras at the side of the premises would capture events of this nature in future.

Mr Aslam acknowledged that the additional CCTV cameras at the front and the side of the premises were a good idea. He advised that other residents may not have witnessed some of the incidents of anti social behaviour as he lived opposite the premises and many of the residents lived some distance away and could not hear the disturbances.

In response to a query whether the problems with anti social behaviour were linked to alcohol, Mr Aslam confirmed that the majority of incidents were alcohol related, however they were not linked to the applicant's premises.

### **Summing Up**

#### **Mr Aslam**

Mr Aslam advised that he had outlined his case and had nothing further to add.

#### **The Applicant's legal representative**

The Applicant's legal representative advised Members that any objections to an application had to demonstrate that the application would have a detrimental effect on the licensing objectives. An objector was also required to produce evidence of the effect on the licensing objectives and Members could not rely on speculation, gossip or fear of crime. The legal representative reminded Members of the relevance of the Thwaites v Wirral Borough Magistrates Court case 2008.

The legal representative referred to the contradictory views of the objector and the overwhelming local support from residents in the area and the fact that three residents had taken the time to attend the Committee to demonstrate their support for the application. The legal representative also referred to the many letters of support for the application and the petition included at Tab 7 of the applicants supplementary evidence. He reiterated that there had been no objections from any of the responsible authorities and advised that the

application fitted in with the town centre strategy.

He advised that this was a well considered application which had been adapted to address the views of residents. The applicant had made every effort to comply with all the requirements included in the Council's Licensing Policy. The legal representative asked Members to consider the Section 182 Guidance paragraph 9.39 and their own Licensing Policy in particular Paragraphs 2.10, 2.39 and 2.40. He referred to the mechanism of an application to Review the Premises Licence available for Members in respect of problem premises.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal Services and the Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

### **DECISION**

The Committee decided to grant the application for the sale of alcohol from 7.00am until 9.00pm daily in accordance with the revised plan submitted by the applicant's representative showing the alcohol licensed area.

The licence will be subject to the conditions in the operating schedule as amended or modified by the conditions and information contained in tab one of the applicant's additional information and the Committee's clarifications which are set out below:-

1. The management and control of the premises is to be the responsibility of the nominated Designated Premises Supervisor.
2. A Challenge 25 age verification policy will be adopted to ensure no person under the age of 18 years is sold intoxicating liquor. This policy is to be supported by poster signage within the premises. Documentation will be displayed at the point of sale and where alcohol is displayed to explain that a Challenge 25 policy is in operation at the premises. Only passports, photographic driving licences and PASS approved cards will be accepted as proof of age.
3. No new member of staff will be involved in the sale of alcohol until completing full induction training and deemed to be competent to carry out that role.
4. There will be one additional member of staff trained to the Award for Personal Licence holder standard.
5. The Premises Licence Holder shall ensure that a digital CCTV system supported by 9 internal cameras will be installed and 2 external cameras (covering the front and side of the premises) will be installed to the satisfaction of Cleveland Police, and in respect of which the following conditions will apply:-
  - 5.1. Footage will be of such a quality that individuals can be readily identifiable from recordings made.
  - 5.2. The internal CCTV system shall cover all public entrances and points of sale and display of alcohol.
  - 5.3. The CCTV system shall be operated by properly trained staff.
  - 5.4. The CCTV system will be in operation at all times that the premises are being used for licensable activities.
  - 5.5. Recordings will be kept secure where they cannot be tampered with and retained for a period of no less than 30 days or such other period as shall be specified by Cleveland Police.
  - 5.6. Recordings will be made available on request of the Licensing Authority or Cleveland Police at the point of asking or within 24 hours. Footage will be supplied in a format that can

be played on any standard DVD or computer system.

5.7. A member of staff shall be present on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings if requested to do so in accordance with 5.6 above.

6. Any person believed to be purchasing alcohol on behalf of an underage person will be refused the sale.

7. The Premises Licence Holder will ensure that all staff are trained without exception every six months and regularly reminded of their responsibilities in relation to the provisions of the Licensing Act 2003 in particular with respect to the detection and prevention of underage sales including direct sales to underage persons or indirect sales of persons buying for or on behalf of under age persons.

8. A training record shall be kept at the premises containing the content and all forms of training given and the dates the training has taken place. The record shall be signed by the person receiving the training and the person delivering the training when each training session has been completed. The record shall be made available on the request of the Licensing Authority or Cleveland Police.

9. The Premises Licence holder shall ensure that the premises operate a refusals book recording all refusals of sales of alcohol and the reasons for the refusal. Any form of identification offered by the customer should also be recorded in the refusals book in the event of a refusal.

10. The Premises Licence holder shall ensure that the premises operate an incident book recording all incidents of crime and disorder or disturbances at the premises.

11. The refusals book and incident book shall be kept at the premises and shall be made available upon request to the Licensing Authority or Cleveland Police

12. The Premises Licence holder shall ensure that he or a person designated by him (that person being the holder of a Personal Licence) attend meetings of the Off Licensing Forum if such are held serving the area in which the premises is situated.

13. No Perry or ciders with an alcohol by volume (abv) or more than 5.1% shall be sold or offered for sale at the premises.

14. Entry to the premises will be refused to anyone who is drunk, threatening or violent.

15. The Premises Licence holder and all staff will monitor the patrons of the establishment arriving, whilst present and leaving the premises to minimise any likelihood of public nuisance.

16. Polite customer notices shall be displayed in a prominent position asking customers to respect the needs of other members of the public especially during early morning and evening periods.

## **REASONS**

1. The application was considered on its own merits, taking into account the licensing objectives.

2. Consideration was given to the Government Guidance and Middlesbrough Council's Licensing Policy.

3. Consideration was given to the case made by the Applicant and the representations from Mr Aslam.

4. The Committee considered that the applicant would be a responsible operator and uphold the licensing objectives.

5. The Police and the Community Council did not object to the application as they were satisfied that the proposals would not undermine the licensing objectives.

6. The Committee acknowledged that Mr Aslam stated that he had suffered anti social behaviour but accepted the majority of resident's views that alcohol fuelled anti social behaviour was not generally a problem near to the premises.

7. The reduction in hours to 9.00pm and the internal and external CCTV system together with the other proposed measures should prevent crime and disorder and nuisance in the area.

All parties were reminded of the right to appeal to the Magistrates Court within 21 days of the date of the decision.