

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B was held on 5 April 2016.

PRESENT: Councillors S Biswas (Chair), R Brady and J A Walker

ALSO IN ATTENDANCE: L Wild - Applicant
Councillor Rathmell - Nunthorpe Ward Councillor (making representations)

OFFICERS: J Dixon, J Hedgley and J Nurtney (legal representative, Stockton Council)

DECLARATIONS OF INTERESTS

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

15/1 **APPLICANT FOR PREMISES - 90 THE AVENUE, NUNTHORPE MIDDLESBROUGH - REF.NO. OL/16/05**

A report of the Director of Culture and Communities had been circulated outlining an application for a premises licence in relation to 90 The Avenue, Middlesbrough, Ref No. OL/16/05.

Summary of Proposed Licensable Activities and Hours

Supply of Alcohol (off sales) - 6.00am to 10.00pm Monday to Saturday
10.00am to 10.00pm Sunday

Full details of the application and accompanying operating schedule were attached at Appendix 1.

The Chair introduced those present and outlined the procedure to be followed at the meeting. It was confirmed that the Responsible Authorities had been notified of the application and that a copy of the application, in accordance with the requirements of the Licensing Act 2003, was advertised in the Evening Gazette on 13 February 2016. All parties confirmed that copies of the report and accompanying documents had also been received in accordance with the Licensing Act (Hearings) Regulations 2005.

Details of the Application

The Licensing Manager presented the report outlining the application for a premises licence in respect of 90 The Avenue, Nunthorpe, Middlesbrough, Ref OL/16/05.

The application sought a premises licence for the supply of alcohol, off the premises, for the hours outlined above. The premise was located in a parade of shops close to residential properties, opposite a green field/play area. The premise was not currently operating in any capacity.

During the 28 day consultation period in respect of the application to review, several representations were received as follows:-

- Councillor Rathmell, Nunthorpe Ward Councillor (11 February 2016) - Appendix 2.
- Nunthorpe Community Council (8 March 2016) - Appendix 3.
- Nunthorpe Parish Council (9 March 2016) - Appendix 4.

A further representation was received on 9 March 2016 from Cleveland Police, however, the applicant agreed to a number of further conditions being placed on the operating schedule and Cleveland Police subsequently withdrew its representation on 16 March 2016.

In addition, the Licensing Manager advised that since the report was circulated, both Nunthorpe Community Council and Nunthorpe Parish Council had advised that they wished to amend their representations to state that they would have no objections to the premises

licence being granted should the opening hours be amended to 10.00am to 10.00pm daily.

Applicant in Attendance

Mrs Wild, the applicant, who was in attendance at the meeting, advised that the application was submitted by herself and her husband who had experience of operating the Premier Convenience Store at Flatts Lane since 2009 without any issues. The Flatts Lane store currently operated during the hours proposed for the subject premises. The applicant stated that when she and her husband had taken over the operation of the Flatts Lane premises, there had been issues with young people congregating outside and litter, however, those issues had been resolved and the couple had a good relationship with the local community.

The applicant stated that there had been no representations from the responsible authorities and that they had agreed to the conditions proposed by the Police. The applicant added that it would be a small business that would have little impact on traffic. It was anticipated that the premises would be predominantly used by local residents and attract passing trade. The reason for the requested licensing hours was to be in line with their other store.

Having spoken to other shop owners in the parade, the applicant stated that they had been supportive of the premises being occupied and upon checking with the Licensing Department they confirmed that they were not aware of any issues with the premises when it previously held a premises licence.

Questions to the Applicant

All parties were afforded the opportunity to ask question of the applicant. Members of the Committee raised the following issues:-

- Clarification was sought in relation to the licensing hours requested. The applicant confirmed that the original application was for the hours 6.00am to 10.00pm Monday to Saturday and 10.00am to 10.00pm Sundays, however, the applicant now requested the hours for licensable activity to start at 8.00am Monday to Saturday. The applicant confirmed that whilst she intended to open the premises at 6.00am to sell newspapers and groceries, she was happy to commence the sale of alcohol from 8.00am and 10.00am on Sundays.
- A Panel Member asked the applicant to what extent she had consulted with local residents regarding the application. The applicant stated that whilst she had not received any comments from residents regarding the application, other shop owners at the parade of shops had been supportive and wanted the premises to be occupied as it was currently dilapidated.
- In response to a query regarding staffing at the premises, the applicant confirmed that there would be one member of staff working in the premises during the day and two members of staff at night. In addition, the applicant's husband would visit both premises throughout the day on a daily basis.
- In response to a question, the applicant confirmed that she had agreed to conditions proposed by the Police which included no sale of alcohol above 6% ABV and no sale of Perry products and would ensure that she had full understanding of what Perry products were.
- Reference was made to the plan of the store layout and it was confirmed that alcohol would be displayed near the till and away from the entrance. The store would be covered by CCTV cameras internally and externally.
- The applicant provided the Committee with photographs of the parade of shops, highlighting her own premises which was set back from the road. The applicant advised that there were off road parking spaces available at the front and rear of the premises.

Making Representations

Councillor Rathmell, Nunthorpe Ward Councillor

Councillor Rathmell, Ward Councillor for Nunthorpe, spoke on behalf of himself, Nunthorpe

Community Council and Nunthorpe Parish Council.

Councillor Rathmell noted that the applicant had agreed to a number of conditions proposed by Cleveland Police, including the requirement for CCTV and its recording retention period.

Councillor Rathmell stated that he had requested that the sale of alcohol commence from 10.00am daily as the car park was heavily populated with school children being dropped off at the nearby school. Many of the children would use the shop and he believed it would not set a good example to observe people purchasing alcohol before 10.00am - by which time children would be in school.

Councillor Rathmell highlighted that the applicant would be required to keep the alcohol screened away from the opening time of the shop up until the premises licence commenced. The applicant had indicated that she intended to open the store at 6.00am and had applied for the premises licence to commence at 8.00am, therefore, there would be no additional burden in commencing the sale of alcohol at 10.00am.

Conditions agreed with the Police included the implementation of a Challenge 21 Policy at the premises, however, the application alluded to a Challenge 25 Policy. Councillor Rathmell requested that the Challenge 25 Policy be implemented by condition on the licence as this would have the additional benefit of deterring proxy sales and reducing the risk of anti-social behaviour.

Councillor Rathmell closed by stating that he, and both the Community and Parish Councils, supported the business and acknowledged that Premier Stores offered a wide range of goods. The premises had previously been popular with children passing on their way to senior school on a morning and felt that 10.00am for the sale of alcohol was a more appropriate time. This was the only sticking point with the application.

Questions

All parties were afforded the opportunity to ask questions of Councillor Rathmell and the following issues were raised by the Committee:-

- It was queried what the difference was between children potentially seeing alcohol being sold before 10.00am, before school, and at 4.00pm, after school. Councillor Rathmell replied that it did not set a good example for children to witness alcohol being purchased at such an early hour in the day and normalised drinking. It was about being responsible and setting a good example. This was an opportunity to set high standards from the start.
- It was queried whether there was any evidence to suggest that any other shops selling alcohol had a detrimental effect on children. Councillor Rathmell stated that the nearest premises selling alcohol was Tesco Express located on Dixon's Bank. The footfall at those premises was predominantly from over 18 car drivers and had a completely different demographic to the subject premises whose footfall included primary and senior school children walking past the shop on the way to and from school.

Summing Up

Applicant

The applicant summed up by stating that she and her husband were experienced in running a similar premises and were used to dealing with the licensing objectives. They intended to run the subject premises in the same way as their other premises which had not encountered any issues.

Councillor Rathmell

Councillor Rathmell summed up by stating that he sought two minor amendments - that the conditions relating to the Challenge 21 Policy be amended to a Challenge 25 Policy and that

the sale of alcohol commence at 10.00am. This would satisfy the licensing objectives by preventing a recurrence in anti-social behaviour that previously occurred at the premises.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal and Democratic Services, withdrew whilst the Committee determined the review. Subsequently, all interested parties returned and the Chair announced the Committee's decision.

DECISION

ORDERED that the application for a Premises License in respect of 90 The Avenue, Nunthorpe, Middlesbrough, Ref No: OL/16/05, be granted for the supply of alcohol (off the premises) from 8.00am to 10.00pm Monday to Saturday and 10.00am to 10.00pm Sunday, subject to the addition of the following conditions, as agreed by Cleveland Police and the applicant:-

1. A digital CCTV system will be installed and maintained in good working order and be correctly time and date stamped. Cameras will encompass all ingress and egress to the premises, outside areas and all areas where alcohol sales occur. There will be a minimum of 31 days recording. The system will incorporate a means of transferring images from the hard drive to a format that can be played back on a desktop computer. There will be, at all times, a member of staff who is trained in the use of the equipment and, upon receipt of a request for footage from a governing body such as Cleveland Police or other Responsible Authority, that is able to produce footage within a reasonable timescale, eg 24 hours routine or less if urgently required for investigation of serious crime.
2. The premises will not stock, display or sell any lager, beer or cider with an ABV content above 6.5% and the premises will not sell single cans of alcohol.
3. No Perry products to be stocked or sold at the premises.
4. Only UK photo card style driving licence, valid non-expire passport or PASS approved proof of age ID to be accepted as a form of identification at the premises.
5. A Challenge 21 Policy will be implemented with all staff insisting on evidence of age from any person appearing to be under the age of 21 years of age and who is attempting to buy alcohol. There shall be notices at all points of sale and at all entrances and exits informing customers and reminding staff that the premises are operating a Challenge 21 Policy.
6. Staff will be fully trained and re-trained on a six-monthly basis and the training must include the laws relating to the sale of alcohol to underage persons, persons buying on behalf of under 18s (proxy sales), persons appearing under the influence of alcohol and also the operation of the associated Challenge 21 Policy.
7. Training records must be signed by both the members of staff and the DPS/Store Manager/Business owner and will be retained for future reference and must be updated at least every six months. All training records must be made available to Police and/or a Responsible Authority upon request.
8. A refusals book to be maintained and kept at the premises at all times and be made available to the Police and other Responsible Authorities upon request.
9. An incident book must be maintained and kept on the premises at all times. It must be made available to Police and other Responsible Authorities upon request.

In reaching the above decision Members had considered the following:-

1. The case was considered on its own merits taking into account the four licensing objectives of The Licensing Act 2003.
2. The Licensing Act 2003 (and Amended Government Guidance issued under Section 182 of the Act).

3. Middlesbrough Council's Licensing Policy.
4. The application presented by the applicant.
5. The representations, both written and made verbally at the meeting by Councillor Rathmell, Nunthorpe Ward Councillor, on behalf of the Ward Councillors, Nunthorpe Parish Council and Nunthorpe Community Council.

The Chair advised all parties of the Right of Appeal to the Magistrates Court within 21 days of the decision.