

LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 4 January 2011.

PRESENT: Councillor Taylor (Chair); Councillors Lancaster and J Walker.

OFFICERS: J Dixon, J Hedgley, J Hodgson and S Vickers.

ALSO IN ATTENDANCE: In relation to Agenda Item 3 only:-

A Woods – Tesco (Applicant) Legal Representative.
A Davies – Tesco Area Manager.
T Sissons – Store Manager.
L O'Brian – Police Legal Representative.
Sergeant P Higgins; PC J Arbuckle – Cleveland Police.
Councillor Mrs H Pearson OBE – Kader Ward Councillor.
Councillor G Rogers – Brookfield Ward Councillor.

In relation to Agenda Item 4 only:-

B Khaleel; A Said – Applicants.
P Sharratt – Applicant's legal representative (Licensing Matters).
L O'Brian – Police Legal Representative.
PC F Helyer; PCSO M Crinnion – Cleveland Police.

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – TESCO STORES LTD, 288-290 ACKLAM ROAD, MIDDLESBROUGH - REF. NO. MBRO/PRO271

A report of the Head of Community Protection had been circulated outlining an application for a Premises Licence in relation to Tesco Stores, 288-290 Acklam Road, Middlesbrough, Ref No. MBRO/PRO271, as follows:-

Summary of Proposed Licensable Activities and Proposed Hours for Licensable Activities

Sale of Alcohol (Off Sales) 6.00am - 11.00pm daily.

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.

The applicant's legal representative, accompanied by T Sissons, Store Manager and A Davies, Area Manager, confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Senior Licensing Officer presented the report in relation to an application for a Premises Licence received on 11 November 2010 in relation to Tesco Stores, 288-290 Acklam Road, Middlesbrough, as outlined above. Members' attention was drawn to an amendment to the application which was that the proposed Designated Premises Supervisor (DPS) was now to be T Sissons (Store Manager). The applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 17 November 2010, which was confirmed as being an accurate reflection of the facts by the applicant's legal representative.

It was highlighted that the premises consisted of a convenience store situated in close proximity to residential premises and a public house.

A representation was received from Cleveland Police on 7 December 2010 objecting to the application on the grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. A copy was attached at Appendix 2) to the submitted report.

A representation was received on 7 December 2010 from Councillors G and P Rogers (Brookfield Ward), Councillors Mrs H Pearson OBE and Whatley (Kader Ward) and Councillor Lowes (Acklam Ward), objecting to the application on the grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. A copy was attached at Appendix 3) to the submitted report.

Applicant in Attendance

The applicant's legal representative, accompanied by the Store Manager and Area Manager, was in attendance at the meeting and presented the case in support of the application.

The applicant's legal representative first addressed the representations made in relation to the application, as follows:-

- In relation to training, Members were asked to note that the training policies implemented at the premises were in line with the policies implemented at all Tesco stores and were fully accredited by the British Institution of Inn Keeping (BII). The legal representative added that should the Committee wish to change any aspect of the current training policy, the applicant would be happy to negotiate. All staff at the premises would receive training, and refresher training, in relation to the policies around the sale of alcohol.
- The store would operate the 'Challenge 25' policy whereby any customer who appeared under the age of 25 would be asked for an approved form of photographic identification, ie driving licence, passport, proof of age card. All tills at the store would provide a prompt when alcohol was scanned, requesting ID. The sale could not be completed until proof of age had been supplied. The store would also display prominent notices in relation to underage sales.
- In relation to anti social behaviour in the area, the store would operate CCTV inside and outside the premises. The applicant was willing to work with the Police and Local Authority at all times in relation to any incidents that might occur. The legal representative stated that the applicant would be willing to agree to an additional condition on the licence that details of any incidents witnessed by the store would be recorded and made available, including CCTV footage, to the Police.
- The Police representation had referred to a nearby Tesco express store at the Blue Bell, Acklam, that had its premises licence reviewed recently due to underage sales. The applicant's legal representative asked Members to bear in mind that Tesco operated approximately 1,300 express stores across the country and 2,300 large stores, taking a total of approximately half a billion alcohol transactions, with only three of those stores not permitted to sell alcohol and eight stores prohibited by the lease not to sell alcohol. The two underage sales made from the Blue Bell store were due to regrettable human error despite the policies and procedures being in place. On that occasion Members determined that the licence should be retained with additional conditions on the licence.
- The Police representation also referred to a failed test purchase at Tesco's Coulby Newham store in January 2007 and the legal representative explained that the failed test purchase was made from a self-service till. Members were assured that the tills had been updated and a sale of alcohol could only be made if authorised by a supervisor.
- The legal representative advised that during a meeting with the Police on 21 December 2010 the applicant had offered to attach various conditions to the licence, including: the DPS to provide written consent to staff to sell alcohol, to adopt and operate the Challenge 25 policy, to provide training and refresher training to all staff in relation to alcohol sales, including proxy sales, ensuring the area outside the store was kept clean, no alcohol to be displayed within 3 metres of the entrance, people congregating outside the store to be moved on quickly and to assess whether security was required outside the store.

- The applicant's legal representative concluded that, given the location of the store, the applicant was committed to training and working in partnership with the responsible authorities. The applicant considered that granting the premises licence would not be detrimental to the licensing objectives.

The applicant's legal representative circulated a copy of the suggested additional conditions to Members of the Committee and the Police representatives confirmed that they had seen a copy of the conditions.

Questions to the Applicant

Cleveland Police

The Police legal representative was afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- In response to a query, it was confirmed that the Challenge 25 policy had been in operation in Tesco stores since 2008.
- In relation to the failed test purchases at the Blue Bell store, the Police legal representative highlighted that alcohol was sold to a 14 and 15 year old respectively and that their ages were significantly lower than 25 years. In response to a query regarding the self-service tills, the Store Manager stated that alcohol could not be taken past the tills as it would alert staff/ the supervisors. The Police stated that they considered this to be inadequate.

Councillor Mrs H Pearson OBE

Councillor Mrs H Pearson OBE, was afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- Reference was made to the training provided to staff in relation to the sale of alcohol and it was queried whether it was considered sufficient. The applicant's legal representative responded that he considered it sufficient and the best in the country.
- Councillor Pearson queried how the training could be considered sufficient when a 14 and 15 year old had been sold alcohol at the Blue Bell store. The applicant's legal representative agreed that it should not have happened.

Councillor G Rogers

Councillor G Rogers, was afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- Reference was made to youths wearing hooded tops and whether anyone wearing a hood would be challenged upon entering the premises as it would render the CCTV footage pointless. The applicant's legal representative confirmed that the applicant would be willing to add a condition to the licence that anyone entering the premises wearing a hood would be asked to remove it.
- In response to a query regarding the deterrent of groups of youths, the Area Manager stated that the health and safety of the store's staff was paramount and that the applicant would be willing to employ external security personnel.
- It was confirmed that there would be three or four staff working at the store after 9.00pm.
- Reference was made to the Challenge 25 scheme that the store intended to operate. It was clarified that alcohol would only be sold to persons over the age of 18 on production of a valid form of ID (eg photocard driving licence, passport) when challenged upon appearing under the age of 25 years.

Members of the Committee

Members of the Committee were afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- In response to a query regarding the layout of the store, the Area Manager advised that fresh produce would be on display upon entering the store and would account for 50% of the stock. Alcohol would be situated in cabinets on the left-hand side of the store beside the tills.
- When asked whether cheap ciders and perry would be sold from the store, the Store Manager stated that strong cider would be on sale but not 'White Lightning'.

Relevant Representations

Cleveland Police

Representatives of Cleveland Police were in attendance at the Hearing to present their objections in relation to the application to vary.

Cleveland Police objected to the application to vary on the grounds of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm.

The Police legal representative referred to Sergeant Higgins' statement. Sergeant Higgins made reference to the review of the recent review of the Premises Licence at the Tesco's Blue Bell store which had been brought about in relation to underage sales. He advised that at the Review Hearing on 9 December 2010, a number of conditions had been imposed on the licence relating to the prevention of underage sales, some of which were over and above Tesco's current policies.

The statement referred to an 'Area Dispersal Order' (ADO) which was implemented from 14 August to 15 November 2009, in proximity to the store. Sergeant Higgins advised that this legislation gave the Police the power to disperse groups of two or more people engaging in anti-social behaviour. On that occasion residents had reported noise disturbance, urinating in gardens and damage to vehicles. The ADO had a positive affect on the area, however, all factors leading to anti-social behaviour were still in place. Only a small number of ADOs had been used in Middlesbrough – approximately one per year.

The Police legal representative referred to PC Arbuckle's statement that referred to a number of incidents in various wards, and asked how many incidents were specific to the Acklam shops area. PC Arbuckle responded that whilst he had no specific figures in relation to Acklam shops, the wards of Acklam, Kader and Brookfield covered a relatively small area with a high percentage of incidents occurring close to the shopping areas.

PC Arbuckle confirmed that regular meetings between residents, Police and the local authority had taken place to set ward priorities and that anti-social behaviour in Kader ward, particularly the Heythrop Drive area, was the main concern.

PC Arbuckle's statement highlighted a number of thefts of alcohol at the Tesco's Blue Bell store, outside of the licensed hours, and made reference to there being no physical barrier to prevent the selection of alcohol. PC Arbuckle explained that this store simply had a curtain across the alcohol display allowing easy access to the alcohol. It was confirmed that there had been 21 reported thefts at this store in the last six months, nine of which were alcohol.

Councillor Mrs H Person, OBE – Kader Ward Councillor

Councillor Mrs H Pearson, OBE, Kader Ward Councillor, was in attendance at the meeting to present her objections to the application.

Councillor Mrs Pearson, OBE, wished to thoroughly endorse the comments already made by Cleveland Police and stated that she had been inundated with complaints in relation to youths

obtaining alcohol from the Blue Bell store and causing stress to residents in Medina Gardens and also in the area of Acklam Grange School. It was highlighted that, following discussions with Police, Acklam Grange School had placed restrictions on pupils using Coniston shops and this had been successful. Councillor Mrs Pearson OBE stated that the new store intended to sell alcohol prior to the commencement of the school day and was very concerned that underage sales would be made.

Councillor G Rogers – Brookfield Ward Councillor

Councillor G Rogers, Brookfield Ward Councillor, was in attendance at the meeting to present his objections to the application.

Councillor Rogers expressed concern in relation to the amount of alcohol-fuelled anti-social behaviour, theft and crime that occurred around the shopping areas in Acklam, all of which were in residential areas. Councillor Rogers considered that, should the licence be granted, alcohol would be more available to young people in the area. Councillor Rogers felt that the stores selling alcohol were not addressing the problem of anti-social behaviour/crime and that by agreeing to install CCTV, putting in physical barriers to alcohol and employing security personnel, they were aware that crime was going to occur as a result of selling alcohol but were accepting it and that such measures would not be necessary if problems were not caused by youths buying alcohol. Councillor Rogers considered that the licence should be refused.

Questions to those making Representations

Applicant's legal representative

The applicant's legal representative was afforded the opportunity to ask questions of those making representations and the following issues were raised:-

- The applicant's legal representative asked Sergeant Higgins whether there were any additional conditions he would like to see on the licence. Sergeant Higgins responded that the Police were opposed to the licence being granted and that any conditions would need to be very specific and enforceable.
- Sergeant Higgins explained that the applicant had proposed a number of conditions for the Police to consider to be added to the licence, however, the Police considered the wording to be vague. For example, in relation to assessing the need for security personnel if appropriate, this should state the days and hours that such personnel would be employed, and more robust wording in relation to the maintenance of refusals and incident books. Sergeant Higgins stated that he also had concerns in relation to the sale of cheap alcohol and perry.
- The Police legal representative submitted on behalf of the Chief Constable that if the licence were granted, the Police would request prohibiting the use of any kind of self-service till and staff making alcohol sales be of a certain age, ie over 25 years. Also limiting the times of alcohol sales and making security personnel conditions on the licence. The Committee was also asked to consider imposing a condition in relation to minimum pricing of alcohol products as prohibiting the sale of specific brands would be null if the products changed. However, it was reiterated that the Police were opposed to the application.
- Sergeant Higgins was asked whether he considered anything to be missing from Tesco's training policies. Sergeant Higgins replied that the training video was well structured but considered that the training was only as good as its delivery. He believed the recording of training, ie delivery and frequency, to be very important.
- In response to a query, PC Arbuckle stated that whilst no specific store had been linked with the sale of alcohol to anti-social behaviour in the area, alcohol was the common thread.

Questions from Members

Members of the Committee were afforded the opportunity to ask questions of those making representations and the following issues were raised:-

- A Member asked where the staff training took place and what it consisted of. The Store Manager advised that training in relation to age restricted product sales consisted of a multiple choice question sheet of 20 questions, depending on the training requirements, and a training DVD. A training session would last between approximately two to four hours depending upon the person(s) being trained and their level of understanding.
- A Member of the Committee asked the Police whether they had any evidence in relation to the number of arrests made in the Acklam area whilst the Area Dispersal Order had been in place. PC Arbuckle replied that, whilst he did not have statistics with him at the meeting, the ADO had been very effective whilst in place and there was evidence that anti-social behaviour and criminal damage had reduced during that period.
- When asked how he could be certain that the youths involved in the anti-social behaviour had been drinking alcohol, PC Arbuckle stated that a number of alcohol bottles had been smashed and white carrier bags containing alcohol had been found. He added that when the youths were approached by Police they were usually under the influence of alcohol and that any alcohol discovered was confiscated.
- Sergeant Higgins made reference to Operation Corkscrew that had operated on Friday and Saturday nights and seized a significant amount of alcohol from young people in problem areas.
- In response to a query in relation to evidence of Anti-Social Behaviour Orders being issued in respect of underage drinking, Sergeant Higgins stated that he had not brought any evidence to the meeting.
- A Member queried whether it would assist Police if stores stamped their products so that it was easier to identify where products had been purchased. Sergeant Higgins stated that the Police would certainly support such a policy as it was currently difficult to identify where the alcohol had been purchased. It was highlighted that a big problem at the moment was 'proxy sales' and that some groups of youths would have someone over the age of 18 who could legally purchase alcohol.
- In response to a query regarding CCTV, Sergeant Higgins confirmed that CCTV footage, particularly good quality systems, assisted the Police in identifying people.
- Reference was made to incident and refusals books and it was queried whether they were kept at the Tesco's Blue Bell store. Sergeant Higgins responded that he understood the till to prompt the member of staff to request ID and if the sale was refused this was recorded. A refusals book would require the member of staff to write down a description of the person refused.
- Sergeant Higgins highlighted that a further concern raised with the Tesco Blue Bell store was the lack of a physical barrier to the alcohol which allowed easy access and had led to alcohol being stolen. The Store Manager advised that the new store had glass display cabinets for the alcohol which were lockable and that all alcohol apart from red wine would be stored within these cabinets.

SUMMING UP

Cleveland Police

The Police legal representative summed up by stating that if the store were to trade with the benefit of a Premises Licence, it would require conditions that were strict and enforceable and robust policies that could be implemented without fault. The Blue Bell store had a number of problems with underage sales to 14 and 15 year olds – 11 years below its age challenge policy.

In addition the store had problems with a number of thefts, with nothing in place other than a curtain in front of the alcohol display. The Police considered that granting the licence would exacerbate problems with anti-social behaviour already encountered in the area, therefore undermining the licensing objectives.

Councillor Mrs H Pearson OBE – Kader Ward Councillor

Councillor Mrs Pearson OBE summed up by stating that her gravest concern was the proposed opening hours and the proximity of the store to the school. She considered that the store would be another outlet to use after the nearby pub had closed and would spoil the environment further for local residents.

Councillor G Rogers – Brookfield Ward Councillor

Councillor Rogers summed up by stating that the proposed trading hours for the sale of alcohol was 6.00am to 11.00pm daily and that he believed there to be no requirement for any sale of alcohol prior to 2.00pm or after 10.00pm. Councillor Rogers considered there to be a number of alternative outlets selling alcohol in the vicinity and believed that the application should be refused and added that if it were granted severe restrictions should be implemented.

The Applicant

The Applicant's legal representative summed up by stating that the applicant wished to work with authorities to ensure that the licensing objectives were promoted. He believed that Tesco's training was one of the best schemes available but relied on human implementation.

The legal representative referred to the Licensing Act 2003 and highlighted that the default position with any application was to grant unless representations were made then the Committee would consider what was necessary to promote the licensing objectives. The legal representative stated that the applicant's policies and conditions proposed, if complied with, would promote the licensing objectives – and would be reviewed if not complied with.

The legal representative stated that the reason he asked Sergeant Higgins whether he could suggest further conditions was to give a flavour of what the Store's position was and the policies in place, particularly given what had happened at the nearby Blue Bell store. Sergeant Higgins had made further suggestions in relation to potential conditions, however, the applicant felt satisfied that the store's self-service tills worked efficiently and considered there would be an issue of legality if a minimum product pricing strategy was imposed.

The legal representative stated that the applicant was committed to working with the community and that all staff employed at the store would be local people. He assured Members that the applicant would ensure that any conditions imposed would be complied with.

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

ORDERED that the application for a Premises Licence in respect of Tesco Stores Ltd, 288-290 Acklam Road, Middlesbrough, Ref No. MBRO/PRO/271, be refused, for the following reasons:-

1. The Committee was concerned regarding the cumulative impact in the area and believed that the four Licensing Objectives would not be upheld.
2. The Committee considered that residents in the vicinity would be directly affected by disturbance and disorder occurring or potentially occurring, if the licence were granted.

3. The Committee did not believe that the imposition of any conditions, however strict or robust, would overcome its concerns.

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

1. The case presented by the applicant.
2. The representations made, both written and verbally at the meeting, by Cleveland Police.
3. The written representations made by local Ward Councillors.
4. The representations made, both written and verbally at the meeting, by local Ward Councillors Mrs H Pearson OBE and G Rogers.
5. The four Licensing Objectives of the Licensing Act 2003.
6. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Public Nuisance, starting at paragraph 2.32, Annex D.
 - Protection of Children from Harm, starting at paragraph 2.41, Annex D.
 - Prevention of Crime and Disorder, starting at paragraph 2.1, Annex D.
 - Determining applications, starting at paragraph 9.3.
7. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Prevention of Public Nuisance, Pages 10 to 15 (particularly paragraph 38).
 - Prevention of Crime and Disorder, pages 17 and 18.
 - Protection of Children from Harm, pages 19 to 22.

The applicant was reminded of the right of appeal to the Magistrates Court within 21 days of the decision.

LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – 108-112 PARLIAMENT ROAD, MIDDLESBROUGH - REF. NO. MBRO/PR0263

A report of the Head of Community Protection had been circulated outlining an application for a Premises Licence in relation to 108-112 Parliament Road, Middlesbrough, Ref No. MBRO/PR0263, as follows:-

Summary of Proposed Licensable Activities and Proposed Hours for Licensable Activities

Sale of Alcohol (off sales). 8.00am – 11.00pm daily.

Full details of the application, 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.

The applicants, accompanied by their legal representative, were present at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Environmental Health Manager presented the report in relation to an application for a Premises Licence, received on 1 November 2010, in relation to 108-112 Parliament Road, Middlesbrough, as outlined above. The applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 26 November 2010, which was confirmed as being an accurate reflection of the facts by the applicant.

It was highlighted that the premises consisted of a convenience store/off licence situated in close proximity to residential premises.

A representation was received from Cleveland Police on 22 November 2010 objecting to the application on the grounds of the prevention of public nuisance, prevention of crime and disorder and the protection of children from harm. A copy of the representation and accompanying witness statements were attached at Appendix 2 to the submitted report.

Applicants in Attendance

The applicants, Mr Khaleel and Mrs Said, were in attendance at the meeting accompanied by their legal representative.

The applicants' legal representative presented the case in support of the application and explained that the applicants wished to operate a traditional off-licence with hours designed to match the current trading hours of the store. The store had been operating as a convenience store for the last six months and would be part of the Select Convenience Range of the 'Bargain Booze' franchise.

The store had recently benefited from a Regeneration grant that was match-funded by the applicants and works had included the provision of new windows to the store. However, should the application be granted, Bargain Booze would refurbish the store, providing CCTV, new layout including storage of alcohol behind tills and to the right of the counter away from the entrance. A new till system, unique to Bargain Booze, would be installed which prompted staff once an age-restricted product was scanned. If the customer was unable to produce approved ID, the refusal would be logged on the till system and this information was sent to Bargain Booze's Head Office every hour.

The applicants' legal representative advised that both applicants were experienced in alcohol sales and had experience of operating off-licences. During that time no test purchase sales had been made. Mrs Said was a Personal Licence holder and would be the Designated Premises Supervisor (DPS) should the application be granted. The applicants intended to employ one part-time member of staff at the store and to ensure that one of them was always present at the premises.

The applicants intended to operate the 'Challenge 21' scheme and would only accept approved forms of ID such as passport, photo-card driving licence or the Government approved PASS cards.

The applicants' legal representative advised that Bargain Booze had a robust training system and offered an intensive training package to new franchisees and the opportunity to complete the National Certificate for Personal Licence Holders course at half price. Bargain Booze had its own Licensing department and Licensing Matters to support franchisees on a 24/7 basis to ensure the Licensing Objectives were met at all times.

The applicants' legal representatives stated that the applicants had attempted to negotiate conditions with the Police and, whilst they were more than willing to assume responsibility for matters occurring on their premises, they felt unable to take responsibility for matters that occurred off the premises which were out of their control. The legal representative stated that he considered the application to be supported by the Licensing Act 2003 and that the Police had not considered the application on its own merits.

Questions to the Applicant

Members of the Committee

Members of the Committee were afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- In response to a query, it was confirmed that the training in relation to the sale of alcohol was carried out at the Bargain Booze head office in Crewe. The applicants confirmed that they had attended the training and received refresher training by email every six months.
- Reference was made to the Regeneration grant received in relation to the premises and it was queried whether the grant had been awarded in relation to the refurbishment of the convenience store. The applicant advised that the grant was awarded in relation to refurbishing the shop frontage, ie new windows and shutters, etc.
- In response to a query, the applicants confirmed that the size of store was approximately 800 – 900 square feet and that spirits would be displayed behind the till and that beers and wines would be displayed at the back of the store to the right of the counter and away from the entrance.

Relevant Representations

Cleveland Police

Representatives of Cleveland Police were in attendance at the Hearing to present their objections in relation to the application.

Cleveland Police objected to the application to vary on the grounds of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm.

The Police legal representative advised that it was the view of Cleveland Police that the area in which the premises was situated was already saturated with similar premises and that the area suffered with alcohol-fuelled anti-social behaviour.

PC Helyer was in attendance at the Hearing and advised that she had served in the Police Licensing Unit since 2006 and was very familiar with the area, particularly the Gresham Ward. PC Helyer stated that she also worked in the Vice Unit and confirmed that the area in which the premises was situated had problems with prostitution.

PC Helyer advised the Committee that there was at least five off-licences situated on Parliament Road and that although residents had not made representations today, they were suffering from anti-social behaviour. Some residents were reluctant to speak out.

PC Helyer's statement (attached to the submitted report) highlighted the problems experienced in the area, including public disorder, drugs and thefts. PC Helyer had also submitted an event chronology for Parliament Road of alcohol-related incidents from September 2010 to the present time. It was highlighted that nearby Princes Road and Ayresome Park Road also had a number of off-licences and had similar problems to Parliament Road.

The Police legal representative made reference to the involvement of Bargain Booze with the premises and it was queried whether PC Helyer had any issues with the Company. PC Helyer responded that prior to today's Hearing, she had been unaware of Bargain Booze being involved in the premises. PC Helyer stated that she had evidence of Bargain Booze outlets making underage sales, which she would have submitted had she known of their involvement in the application. PC Helyer advised that the evidence related to underage sales made from premises on Acklam Road in February 2009 and from premises in Ormesby in February 2010.

PCSO Crinnion was in attendance at the Hearing and confirmed that she had worked in the Gresham area for three years. PCSO Crinnion advised that she and her colleagues attended monthly residents meetings and that residents often had problems with alcohol-related anti-social behaviour and provided examples.

PCSO Crinnion provided clarification in relation to Neighbourhood Policing and advised that Gresham was one such area. Anti-social behaviour linked to alcohol was mentioned at each Neighbourhood Watch meeting. Areas became designated 'hotspots' for particular issues when they continually occurred in the area and became policing priorities.

Questions To Those Making Representations

Applicant's legal representative

The applicant's legal representative was afforded the opportunity to ask questions of those making representations and the following issues were raised:-

- In response to a query, PC Helyer confirmed that she had not spoken to the applicants and that during the course of dealing with applications it would depend upon the circumstances as to whether she would speak to an applicant.
- The applicants' legal representative stated that he had requested the information provided by PC Helyer in relation to the incidents that had occurred in Parliament Road. The legal representative raised several queries in relation to the incidents and responses were provided by PC Helyer.
- PC Helyer confirmed that she was not aware that any of the incidents were directly linked to the applicants and that references to solvent abuse generally involved alcohol. PC Helyer stated that the evidence was not being used against the applicants but was being presented to demonstrate what local residents were being subjected to.
- When asked what the current policing priorities for Gresham were, PCSO Crinnion responded that the current priorities were: cycling on pavements and drug dealing.
- In relation to attendance at Community Council meetings, PCSO Crinnion confirmed that she and her five colleagues attended the meetings on a rota basis and that she had personally attended three meetings. She also confirmed that residents had raised issues relating to anti-social behaviour linked to alcohol at Community Council and Neighbourhood Watch meetings and had requested an alcohol exclusion zone across the whole of Gresham Ward.

Questions from Members

Members of the Committee were afforded the opportunity to ask questions of those making representations and the following issues were raised:-

- It was queried at what stage Bargain Booze had become involved with the application. The applicants' legal representative responded that the Bargain Booze head office had submitted the application.
- It was highlighted that there was no reference to Bargain Booze within the application. The applicants advised that their store was currently named 'Global Foods' but this would change to 'Select Convenience' should the application be granted. Reference to Bargain Booze would only be on the window of the premises and not the fascia.
- In response to a query, PCSO Crinnion advised that alcohol had previously been a neighbourhood priority in Gresham, however, the priorities changed every three months and there were currently only two priorities.

Summing Up

Cleveland Police

The Police legal representative summed up by stating that the Police had no issue with the applicants but had an issue with the area in which the premises was situated. PC Helyer had referred to 729 incidents that had occurred in the Gresham Ward and had provided examples of the ones that had involved alcohol. Whilst alcohol was not a current neighbourhood priority, it had been in the past and was an issue continually raised by residents. Alcohol played a significant part in anti-social behaviour in the area and many off-licences already existed in the vicinity of the applicants' premises.

The Police legal representative requested that a number of conditions be considered should the licence be granted, including prominent display of notices in relation to illegal alcohol sales to under 18s, employee able to operate CCTV system, regular training provided and monitored on a regular basis, signs to remind staff at till points to request ID, incident book to be kept recording any incidents of crime and disorder, refusals book to be kept providing description of person trying to obtain alcohol, no sales of perry, operation of Challenge 25 scheme. The Police also believed that the trading hours for the sale of alcohol should cease at 9.00pm or 9.30pm.

The Applicant

The Applicant's legal representative summed up by stating that the Police had requested that the application be refused but had outlined conditions that might be appropriate. He believed that the Police were looking at the area in which the premises was situated and had not considered the applicants' maintaining the licensing objectives at their premises. The Police had not stated that the applicants would not uphold the objectives.

He stated that there had been six incidents between September and December 2010 and he did not feel that this reflected an area that had real problems with alcohol. Also the area did not have alcohol as a current priority and he considered it would have been made a third priority if it was a problem but there were currently only two priorities. Of the incidents referred to, three had occurred outside the applicant's operating hours and two related to shop-keepers telephoning the Police for assistance.

The applicants' legal representative highlighted that the applicant would be willing to agree to certain conditions on the licence, however, the legal representative did not consider the Challenge 25 scheme appropriate for the premises and also considered a condition relating to a Personal Licence Holder always being present on the premises inappropriate as, should the applicants need to leave the premises in an emergency situation, they would be in breach of a condition.

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

ORDERED that the application for a Premises Licence in respect of 108-112 Parliament Road, Middlesbrough, Ref No. MBRO/PRO/263, be refused, for the following reasons:-

1. The Committee was concerned regarding the cumulative impact in the area and believed that the four Licensing Objectives would not be upheld.
2. The Committee considered that residents in the vicinity would be directly affected by disturbance and disorder occurring or potentially occurring, if the licence were granted.
3. The Committee did not believe that the imposition of any conditions, however strict or robust, would overcome its concerns.

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

1. The case presented by the applicant.
2. The representations made, both written and verbally at the meeting, by Cleveland Police.
3. The four Licensing Objectives of the Licensing Act 2003.
4. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Public Nuisance, starting at paragraph 2.32, Annex D.

- Protection of Children from Harm, starting at paragraph 2.41, Annex D.
- Prevention of Crime and Disorder, starting at paragraph 2.1, Annex D.
- Determining applications, starting at paragraph 9.3.

5. Middlesbrough Council's Licensing Policy particularly in relation to:-

- Prevention of Public Nuisance, Pages 10 to 15 (particularly paragraph 38).
- Prevention of Crime and Disorder, pages 17 and 18.
- Protection of Children from Harm, pages 19 to 22.

The applicants were reminded of the right of appeal to the Magistrates Court within 21 days of the decision.