

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 22 May 2012.

PRESENT: Councillors J A Walker, M B Williams and B E Taylor (Chair)

ALSO IN ATTENDANCE: P Baker - Area Manager, Savers; A Teasdale - Store Manager, Savers; G Jones - Regional Manager, Savers; T Reid - Project Leader Management Development, Savers; L Lewis - Chair Middlehaven Community Council/ Chair St Aidens Residents Association; B Wilson - Vice Chair Central Mews Residents Association; T McClurg - Vice Chair Middlehaven Community Council/Chair Central Mews Residents Association.

OFFICERS: C Cunningham, J Dixon, J Hodgson and S Morris.

DECLARATIONS OF INTERESTS

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

12/1 **LICENSING ACT 2003 - APPLICATION FOR PREMISES LICENCE: SAVERS HEALTH AND BEAUTY, 99-101 LINTHORPE ROAD, MIDDLESBROUGH. REF NO: PR/0252**

A report of the Assistant Director - Community Protection had been circulated outlining an application for a Premises Licence in relation to Savers Health and Beauty Ltd, 99-101 Linthorpe Road, Middlesbrough, Ref No. PR/0252, as follows:-

Summary of Proposed Licensable Activities and Hours for Proposed Licensable Activities

Sale of Alcohol (off sales) - 8.00am to 6.00pm Monday to Saturday.
- 10.00am to 6.00pm Sundays.

Seasonal variations - 8.00am to 8.00pm Mondays to Saturday in December.

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, represented at the meeting, confirmed that copies of the report and Regulation 6 Notice had been received.

The Senior Licensing Officer advised that Cleveland Police had withdrawn its representations to the application as the applicant had accepted revised conditions proposed by Cleveland Police which it believed would meet the crime and disorder objective.

Details of the Application

The Licensing Officer presented the report in relation to an application, received on 27 March 2012, for a Premises Licence in relation to Savers Health and Beauty, 99-101 Linthorpe Road, Middlesbrough, as outlined above. The applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 30 March 2012, which was confirmed as being an accurate reflection of the facts by the applicant.

It was highlighted that the premises consisted of a retail shop, located on Linthorpe Road (between the junctions of Grange Road and Borough Road), selling a range of health and beauty products, household goods and food. There were residential properties in close proximity to the premises.

The applicant previously made an application on 18 May 2011 and objections were received from Middlehaven Community Council and St Aidens Residents Association. A Hearing was arranged for 6 July 2011, however, the application was withdrawn prior to the Hearing.

Three representations were received between 17 – 23 April 2012 from Cleveland Police (attached at Appendix 2) (withdrawn prior to the meeting), Middlehaven Community Council (attached at Appendix 3) and Central Mews Residents Association (attached at Appendix 4). The representations were made on the grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection on children from harm.

Applicant in Attendance

The applicant, Savers Health and Beauty Limited, was represented at the Hearing by T Reid, Project Leader, P Baker, Area Manager, G Jones, Regional Manager and A Teasdale, Store Manager.

Mr Reid, Project Leader, presented the case in support of the application. He stated that the Company currently had 235 branches nationwide and was part of a parent group that owned other similar Companies.

Savers had been selling alcohol since 2010 and currently had 83 branches nationally that sold alcohol, (the nearest to Middlesbrough being located in Durham, Hull, Halifax, Beverley and Bishop Auckland), with further plans to expand this over the next 12 months. The stores sold wines, cider and beers but did not sell spirits or beers and ciders above 5.5% ABV. It was highlighted that wine was the main trade in terms of alcohol sales.

The Committee was advised that the Company carefully planned, and heavily invested in, those stores selling alcohol to ensure the Licensing Objectives were supported. The Company worked with Highfield Training to deliver accredited training to employees in relation to licensing law. All Personal Licence Holders were trained 'in-store' and all Store Management Team members were Personal Licence Holders. The Stores operated a 'Challenge 25' Policy and all employees were trained in relation to this. Regular test purchases were carried out to test the 'Challenge 25' Policy. Savers' Policy ensured that there was always at least one Personal Licence Holder on the premises when alcohol was being sold and each store employed a minimum of three Personal Licence Holders, including the Designated Premises Supervisor (DPS). Refresher training was completed every six months and there was a strict code of conduct in relation to audits of training records.

Savers stores predominantly sold food and soft drinks, beauty products, household/cleaning products and seasonal lines such as small toys. It was proposed that 3% of the Middlesbrough store layout would be for alcohol during the hours 8am to 6pm Monday to Saturday and 10am to 6pm on Sundays, with a seasonal variation in December due to Christmas trade. It was confirmed that there were no plans to extend the trading hours as outlined.

In terms of CCTV, the Project Leader, advised that all stores complied with guidelines at the highest level and it was highlighted that Savers' Blackpool store had been awarded 100% pass rate by the Police. The Middlesbrough store had liaised with Cleveland Police to agree a further seven conditions to be placed on the licence, thus reducing the concerns of the Police allowing them to withdraw their representations.

Questions to the Applicant

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

- It was queried who would be responsible for the Middlesbrough store. It was confirmed that A Teasdale was the Store Manager and would also be the DPS. In addition there was an Assistant Manager, Supervisor and part time members of staff. The staffing team included three Personal Licence Holders.
- In response to a question, it was confirmed that the store would not sell any strong ciders or high volume beers and that beers would be sold as single cans. Based on the other Savers stores selling alcohol, it was anticipated that approximately 80% of alcohol sales would be wine.

- In response to a query, Members were advised that no Savers stores had ever been prosecuted for underage alcohol sales. The Project Leader considered this to be due to the robust training programme and the investment made into training by the applicant.
- A Member asked why the applicant wanted to sell alcohol in a store that predominantly sold beauty products. The Regional Manager stated that Savers offered health, beauty and home products as well as other ranges to supplement its trade. Alcohol sales were trialled in 2010 and proved to be very successful with Savers customers. Approximately 90% of the customer base was women and Hardy's Shiraz was the top-selling wine at the stores selling alcohol. Numerous requests had been received from customers in the Middlesbrough store in relation to alcohol.
- A Member of the Committee asked the applicant to clearly identify the seven conditions agreed with the Police, allowing them to withdraw their representations. The Project Leader confirmed that the following conditions had been agreed with Cleveland Police:-
 1. The premise must be fitted with a colour digital CCTV system covering internal areas of the premise. The footage must be retained for a minimum of 31 days and must be transferrable onto a medium that can be viewed on Police computer systems.
 2. When the store is open and trading, there must always be a member of staff on duty who is fully trained to operate the CCTV system and who can provide a copy of the footage from the CCRV system to the Police or other responsible authority after being given a reasonable request for it.
 3. An incident book must be kept at the premise and maintained to record all incidents of crime and disorder that occurs at the premise. This incident book must be made available for inspection upon request by Police and other responsible authorities. The DPS is to check the incident book periodically and sign the incident book to ensure compliance.
 4. Training on 'Think 25', the legislation surrounding selling alcohol to persons underage and training in relation to only accepting photographic ID bearing a date of birth that is either a passport, driving licence or recognised proof of age card accredited under the proof of age standards scheme (PASS) is to be provided to all staff members, every six months. Written training records to this effect will be maintained and kept and must be made available for inspection.
 5. Challenge 25 signage to be displayed prominently in and around the store.
 6. A refusals book must be kept at the premise and maintained to record all incidents of all refusals to sell alcohol to any person. The DPS to check the refusals book periodically and sign the refusals book to ensure compliance.
 7. No alcohol to be displayed within five metres of any entry/exit door.
- The Council's legal representative sought clarification in relation to the agreed conditions as to what would be deemed 'periodically'. The Store Manager advised that she would personally check the incident and refusals books on a daily basis.
- In relation to staffing, the Project Leader clarified that the applicant would ensure that three staff members were qualified Personal Licence Holders and that one of those Personal Licence Holders must always be present at the premises whilst it was trading. In terms of staff numbers at the Middlesbrough store, it was confirmed that the Manager and Assistant Manager were full time employees and that there was a total of nine staff currently employed. In addition, Personal Licence Holders from surrounding stores could be called upon to cover for any periods of absence.
- It was highlighted that the Police representations had mentioned anti-social behaviour and alcohol-related crime and it was queried whether the applicant recognised this. The Store Manager advised that she had been employed by Savers for 13 years and at the

Middlesbrough store for the past four years. She stated that when she had first started working at the Middlesbrough store there had been a lot of trouble in the area but that this had improved. She added that the store had a good relationship with the Police and security and had a camera located at the store entrance and radio links to request assistance if necessary.

- It was acknowledged that the Police had now drawn their representations, however, local residents were still expressing concerns regarding anti-social behaviour. The Store Manager stated that she understood why residents might feel concerned initially but assured that upon asking their customers about the plans, they supported the sale of alcohol at the store. The Store Manager added that the store's customer base was predominantly mature people and young mums looking for good deals.

- In relation to the licensing objective 'protection of children from harm', a Panel Member queried whether the applicant was satisfied, given that the majority of customers were mothers, that children coming into the store were protected sufficiently from alcohol sales if the licence was granted. The Regional Manager advised that emphasis on the location of alcohol within the store was based on following guidelines and that it would be positioned next to the tills, so within clear sight of the tills. The CCTV camera would be repositioned to support this and there would be no issues regarding children and alcohol.

- A Member queried whether the store intended to advertise or promote alcohol sales in any way. The Project Leader responded that there would be limited advertising in the store windows, (examples of which were shown to the Committee), stating 'beers and wines now sold in this store' on A4 sized paper. He also confirmed that special deals would not be promoted.

- In response to a query regarding pricing, the Committee was advised that the average price of a bottle of wine would be approximately £4.00.

- In relation to whether there was a CCTV camera recording directly outside the premises, it was confirmed that although there were no cameras situated externally, a camera was positioned just inside the entrance and this recorded customers entering/exiting to/from the street. The Project Leader highlighted that this had been discussed with the Police who had confirmed that they were happy with this.

Those making representations were afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- The applicant was asked what size bottles of cider it intended to sell from the premises. The Regional Manager confirmed that no large volume bottles would be sold and that pear cider would be sold in 500 ml bottles.

Relevant Representations

Middlehaven Community Council/St Aidens Residents Association

Mrs Lewis, Chair of Middlehaven Community Council and St Aidens Residents Association, presented the representations on behalf of both organisations.

Mrs Lewis advised that there had been 15 deaths related to alcohol or drugs in the last year within the area covered by St Aidens Residents Association. She advised the Committee that there were some irresponsible residents living in the area who misused alcohol and responsible residents were already enduring noise nuisance, litter and other anti-social behaviour as a result. Mrs Lewis provided details of recent knife crimes that had occurred in the area and circulated the associated article that had been printed in the local newspaper.

There was sheltered housing accommodation in the area where vulnerable disabled and elderly people lived and they were afraid of further anti-social behaviour should another premises licence be granted in the area.

Mrs Lewis stated that, should the Committee be minded to grant the application, the

Community Council wished to propose further conditions to be added to the licence and circulated a copy of such for Members' consideration.

The Council's legal representative asked whether the applicant had previously had sight of the proposed additional conditions and it was confirmed that they had not. The Council's legal representative asked whether the applicant wished to have time to consider the proposed conditions and time to consider a response. The Project Leader confirmed that no extra time was required to consider the proposed conditions and agreed to accept them.

Central Mews Residents Association

Mr McClurg, Chair of Central Mews Residents Association, presented the representations on behalf of the residents of the Central Mews estate.

Mr McClurg stated that residents had expressed concerns if the licence were granted as they considered there would be an increase in anti-social behaviour which had reduced in the area over the past three to four years. Mr McClurg highlighted that the area in which the premises was situated was surrounded by residential dwellings and the residents of Central Mews estate were already suffering anti-social behaviour and considered that granting the application would add to this.

Questions to those making Representations

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

- Clarification was provided in relation to the proximity of the sheltered accommodation and residential streets in relation to the premises.
- Those making representations considered that anti-social behaviour in the area had reduced over the past four years due to some premises having their licences revoked and strict conditions being placed on the licences of other premises.
- A Member of the Committee queried whether the objectors were suggesting that they would not object to the application if their proposed conditions were applied to the licence. Mrs Lewis responded that in a recent similar application with another Authority, the conditions she proposed had been added to that licence.

Summing Up

Those Making Representations

Middlehaven Community Council/St Aidens Residents Association

Mrs Lewis summed up by stating that there was a high mortality rate, year on year, in St Aidens and that a contributory factor was alcohol. Mrs Lewis asked the Committee to please consider the effect granting a licence would have on local residents. She added that she had lived in the St Aidens area for 27 years and that it was not as peaceful as some people implied. She considered that the applicant was interested in financial gain and asked that the licence be refused. Mrs Lewis circulated further paperwork in relation to anti-social behaviour in the area in September 2011.

Central Mews Residents Association

Mr McClurg, Chair of the Central Mews Residents Association, summed up by stating that the town centre was already well served with off-licensed premises and requested that the Committee refuse the application.

Applicant

The applicant's Project Leader summed up by stating that the applicant was aware of its

corporate responsibilities and took them very seriously. The applicant had been selling alcohol since 2010 and there had been no issues in relation to breaching the licensing objectives. The training programme delivered to employees in relation to the sale of alcohol was highly accredited with Highfield Training and the applicant had worked closely with Cleveland Police to agree seven additional conditions to be placed on the licence. No other responsible authorities had objected to the application. The applicant did not believe that the sale of alcohol from the Middlesbrough store would fuel anti-social behaviour in the town. The applicant had accepted seven conditions proposed by Cleveland Police and the further conditions proposed by the objectors and wanted to work with the community, not against it.

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.

ORDERED that the application for a Premises License in respect of Savers Health and Beauty, 99-101 Linthorpe Road, Middlesbrough, Ref No: PR/0252, be granted to permit the sale of alcohol (off sales) 8.00am to 6.00pm Monday to Saturday, 10.00am to 6.00pm Sundays with a seasonal variation of 8.00am to 8.00pm Monday to Saturday in December, subject to the addition of new conditions, as follows:-

1. The conditions agreed between Cleveland Police and the applicant prior to the meeting:-
 - 1) The premise must be fitted with a colour digital CCTV system, covering internal areas of the premise. The footage must be retained for a minimum of 31 days and must be able to be transferred onto a medium that can be viewed on Police computer systems.
 - 2) When the store is open and trading there must always be a member of staff on duty who is fully trained and can operate the CCTV system and who can provide a copy of the footage from the CCTV system to the Police or other responsible authority after being requested.
 - 3) An incident book must be kept at the premise and maintained to record all incidents of crime and disorder that occurs at the premise. The incident book must be made available for inspection upon request by Police and other responsible authorities. The DPS to check the incident book on a weekly basis and to sign the incident book to ensure compliance.
 - 4) Training on 'Think 25' legislation, the legislation surrounding selling alcohol to persons underage and training in relation to only accepting photographic id bearing a date of birth, that is either a passport, driving licence or recognised proof of age card accredited under the proof of age standards scheme (PASS) is to be provided to all staff members, every six months. Written training records to this effect will be maintained and kept and must be made available for inspection.
 - 5) Challenge 25 signage to be displayed prominently in and around the store.
 - 6) A refusals book must be kept at the premise and maintained to record all incidents of all refusals to sell alcohol to any person. The DPS to check the refusals book on a weekly basis and sign the refusals book to ensure compliance.
 - 7) No alcohol to be displayed within five metres of any entry/exit door.

It was highlighted that in relation to conditions 3) and 6) above that the word 'periodically' had been replaced with 'on a weekly basis'.

2. The additional conditions proposed by the Middlehaven Community Council and agreed by the applicant at the meeting:-
 - 1) There shall be no sale of single cans or bottles of beer (including lager).
 - 2) There shall be no sale of beer (including lager) or cider of above ABV 5.5%.
 - 3) There shall be no sale of full strength spirits namely ABV of 20% or above.

3. That the Premises Licence Holder must carry out an audit of all conditions every six months.

The decision was made for the following reasons:-

1. The Council did not currently have a saturation policy in that area that applied to off licence premises.
2. The Committee considered that, with the conditions imposed and the type of products the applicant wished to sell, the premise was unlikely to attract people who would engage in anti-social behaviour after drinking alcohol.
3. The addition of the suggested conditions by residents making representations was to discourage alcohol related anti-social behaviour and alcohol abuse in the area.

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. Amended Government Guidance issued under Section 182 of the Licensing Act 2003, particularly in relation to:-
 - Prevention of Crime and Disorder, starting at paragraph 2.1.
 - Prevention of Public Nuisance, starting at paragraph 2.33.
 - Protection of Children from Harm, starting at paragraph 2.41.
3. Middlesbrough Council's Licensing Policy, particularly in relation to:-
 - Prevention of Public Nuisance, Pages 23 to 29.
 - Prevention of Crime and Disorder, Pages 32 to 42.
 - Protection of children from harm, Pages 43 to 46.
4. Consideration was given to the case made by the Applicant.
5. Consideration was given to representations made by Middlehaven Community Council and Central Mews Residents Association on behalf of local residents.

The Committee recommended that contact between the Manager of the premise and the local community remain open in order to discuss any issues or concerns that may arise.

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

12/2

LICENSING ACT 2003 - APPLICATION FOR A PERSONAL LICENCE - MR M A MCNULTY.

An application for a Personal Licence in respect of Mr M A McNulty, had been submitted on 23 April 2012. Cleveland Police objected to the application on 30 April 2012 believing that granting the licence would undermine the crime and disorder objective.

Prior to the meeting, the applicant withdrew his application In accordance with Section 9(1) of the Licensing Act 2003 (Hearings) Regulations 2005, all parties had agreed that the Hearing was unnecessary as the application had been withdrawn.