

**LICENSING SUB-COMMITTEE C**

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

**PRESENT:** Councillors Taylor (Chair); Councillors Hubbard and Mawston

**ALSO IN ATTENDANCE:** Sgt P Higgins - Cleveland Police  
PC Fixter - Cleveland Police  
PCSO N Fuller - Cleveland Police

A Kurian & Partner - Applicant  
P Burrell - Applicant's Legal Representative

Councillor R Arundale - On behalf of Cllr H Pearson OBE - Objector  
R Mann - Lodore Residents Association

**OFFICERS:** B Carr, C Cunningham, J Hodgson and S Morris.

**DECLARATIONS OF INTERESTS**

There were no declarations of interest at this point of the meeting.

12/6 **LICENSING ACT 2003:-  
APPLICATION FOR PREMISES LICENCE - FINLAYS, 267 ACKLAM ROAD,  
MIDDLESBROUGH, REF NO. PR0004.**

A report of the Assistant Director Community Protection had been circulated outlining details of an Application for a Premises Licence from Mr A Kurian in relation to Finlays Newsagents, 267 Acklam Road, Middlesbrough, Ref No. MBRO/PRO004.

**Summary of Proposed Licensable Activities**

Supply of Alcohol (Off Sales) - 6am to 11pm - Monday to Sunday

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 Senior Licensing Officer presented the report in relation to an application for a Premises Licence, received on 2 October 2012, in relation to Finlays Newsagents, 267 Acklam Road, Middlesbrough, Ref No. MBRO/PRO004 as outlined above.

The report provided background information in relation to the premises which, operated as a shop located in a retail block on Acklam Road between the junctions of Church Lane and Coniston Grove in close proximity to residential properties.

A representation was received on 15 October 2012 from Councillor H Pearson OBE, the Councillor for the Kader Ward (the Ward adjoining the Ward where the premises were located), objecting to the proposal on the grounds of the prevention of public nuisance and the protection of children from harm. A copy of the representation was attached at Appendix 3 to the report.

On 24 October 2012, a representation was received from Lodore Residents Association objecting to the proposal on the grounds of the prevention of public nuisance. A copy of the representation was attached at Appendix 4 to the report.

On 30 October 2012 a representation was received from Cleveland Police objecting to the

proposal on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. A copy of the representation was attached at Appendix 5 to the report.

Additional evidence from Cleveland Police received in support of their representation was circulated to Members of the Committee on 16 November and 22 November 2012.

### **Applicant in Attendance**

The Applicant's Legal representative advised Members that the applicant had lived in the area and had been operating the premises for the last twelve months and during that time he had not experienced any issues with regard to the sale of age restricted products. The staff employed at the premises had worked there for over four years and they both knew the area well.

With reference to the representations from Councillor Pearson OBE, the applicant's legal representative pointed out that the letter referred to current issues in the area and as his client did not currently sell alcohol, the problems could not be attributed to his premises. He also stated that the number of premises selling alcohol in the area was not a relevant consideration.

The applicant's legal representative referred to the representations from Lodore Residents Association in which it stated that residents valued the local newsagents which was run efficiently by Mr Kurian and offered a useful delivery service which served the community well. The legal representative pointed out that his client had a proven business track record. He stated that his client wanted to improve the business offer at the premises.

The premises operated primarily as a newsagent however, the business had been affected by the number of other businesses that had commenced selling alcohol.

The applicant's legal representative referred to the statement of PC Fixter in relation to the 19 incidents dating from March to the present day involving anti social behaviour carried out by youths under the influence of alcohol. He stated that none of the incidents listed by PC Fixter implicated his client or his client's premises. He emphasised that where incidents had been reported by staff from the various outlets already selling alcohol, it proved that the staff were doing their job by reporting incidents and refusing to sell alcohol to people who failed to supply the relevant identification.

The applicant's legal representative also referred to the fact that PCSO Fuller had emphasised in his statement the Police did not believe that any of the current off-licences situated in the Acklam area were responsible for selling alcohol to underage youths. He stated that parents had to take some responsibility for the behaviour of their children.

The applicant's legal representative made reference to the Thwaites - High Court Decision (March 2008) and Section 182 of the Government Guidance. He advised that the authority should follow the guidance in the Wirral v Thwaites case and grant the licence to his client. He stated that many of the incidents were attributed to the lack of parental control rather than the number of outlets selling alcohol.

The applicant's legal representative produced a list of further conditions that his client would offer if the licence was granted which was circulated to members of the Committee and the other interested parties.

In response to a query from Sgt Higgins regarding the applicant's retail experience, Members were advised that the applicant had just finished his Masters degree so had only taken over responsibility for the premises in 2012. He had in the past worked as a retail trader in India. The applicant had lived in the area for 7 years so he knew the area well.

In response to a query whether the applicant perceived if there were problems with anti social behaviour in the area, the applicant indicated that he felt there were no major problems in the area. Sgt Higgins advised that the Police did feel there was a problem and it was driven by

youths consuming alcohol. He asked if the applicant would be strict with regard to under age sales.

The applicant confirmed that he would be operating a Challenge 25 policy. He advised that the staff would undergo training in respect of underage sales. The Police stated that when somebody purchased alcohol, the shop that sold the alcohol would have no control over what would happen to the alcohol once the person left the premises.

Councillor Hubbard asked the applicant what type of clientele he was hoping to attract at 6am in the morning. The applicant advised that he was hoping to attract shift/night workers. The applicant confirmed in response to a query from a Member that there were no problems with anti social behaviour at his premises or near to his premises.

The applicant was asked what he would do with the premises, should his application fail to succeed. The applicant advised that he delivered newspapers to over 300 houses however he was struggling to make the premises work. He had paid 3 months rent up front but the business was currently not making any money because the bigger supermarkets were now selling newspapers. He advised members that he didn't have the money to go forward with his business and his wife had put money into the business to help it function.

In response to whether the applicant had obtained a Personal Licence, the applicant's legal representative advised that his client did not assume that his licence would be granted however if his application was granted, the applicant would obtain a personal licence.

In response to a query about what the applicant would do if youths congregated outside his premises, Members were advised that the applicant would install more cameras inside and outside the premises to prevent crime.

### **Cleveland Police**

Sgt Higgins pointed out that the paper work submitted in respect of the application referred to a closing time of 11.00pm but he understood that the closing time had been revised to 10.00pm. He advised Members that there were currently 3 existing off-licences in an area that was blighted by anti social behaviour.

Members were advised that youths congregated on Mill Hill playing fields to drink alcohol. Sgt Higgins asked PC Fixter to go through his statement and give an overview of the 19 incidents included in his statement. He stated that the 19 incidents were only a fraction of those that had occurred, however the 19 specifically related to alcohol, youths and anti social behaviour. He advised that there was no criticism of the shops in the area, it was the youths that were causing the problems.

Sgt Higgins referred to the report entitled "One on every corner" produced by Alcohol Concern which outlined the relationship between off-licence density and alcohol harms in young people. He drew Members attention to the key findings of the report detailed at page 4 in particular the statement that in general as the density of off licences in an area increases, so do alcohol specific (hospital) admissions in young people.

Sgt Higgins advised that there were three off-licences located on the parade of shops where there were already problems with alcohol fuelled behaviour and one more licensed premises would cause harm to children.

Sgt Higgins asked PCSO Fuller to go through his statement and give an overview of the problems he had experienced in the area. Members were advised that the area had been a police priority 3 times; 23/7/2009 - 28/01/2010, 7/6/2010 - 29/7/2010 and 26/7/2012 to the present day.

The area was also subject to a dispersal order which ran from 14/8/2009 - 15/11/2009 which had assisted in removing gang nuisance.

The public footpath/cut through to Acklam Road with Tesco Express and the Coronation

Public House (Marlsford Grove) was also a Ward priority in relation to anti social behaviour which ran from 19/9/2011 - 19/01/2012.

The area of Mill Hill Field was also the subject of a POP which is the next level up from a priority from 25/5/2007 - 2/8/2008 which highlighted issues with youths under the influence of alcohol causing anti social behaviour and criminal damage.

Residents in Coniston Grove were questioned in relation to issues of anti social behaviour. Residents had indicated that they were concerned with anti social behaviour, noise, youth nuisance and alcohol related issues. PCSO Fuller indicated that the perpetrators of anti social behaviour were a mixture of ages ranging from 13 - 20 year olds.

In response to a query whether any of the youths had been prosecuted, Members were advised that some had been subjected to anti social behaviour orders and there had been a prosecution for criminal damage. There had not been any convictions in respect of buying alcohol for minors, however an adult had been issued with an anti social behaviour order in relation to supplying alcohol to children. Members were advised that because the Police were dealing with children they were usually issued with a reprimand for a first offence and a second offence would result in a final reprimand.

In response to a query whether the Police had seen an increase in alcohol related incidents since the other outlets had been issued with licences, Members were advised that the number of incidents had stayed the same because of the strategies used to minimise the incidents.

#### **Councillor R Arundale on behalf of Councillor H Pearson OBE**

Councillor Arundale read a statement from Councillor Pearson which stated that she wished to object to the licence on the grounds of public nuisance and the protection of children from harm . Members were advised that there were many instances of difficulties in the evening concerning the behaviour of youths in the area. There were already three outlets located in the vicinity and one extra would increase the problems already prevalent in the area. There was already a problem with sales to school children and elderly people were afraid to go out on a night time. If the licence was granted it would add to anti social behaviour in the area.

#### **Mr Mann - Lodore Residents Association**

Mr Mann advised that the applicant operated a very good business which served the community well. Mr Mann advised that he had lived in the area for 40 years and there had always been problems with youths and alcohol in the area, in particular near the cut at Honister Grove/Trimdon Avenue. He questioned whether the applicant could find other ways other than selling alcohol as a way of retaining the newsagents.

The applicant's legal representative advised that years ago shops sold specific products but to survive in the current economic climate they needed to widen their range of products in order to be competitive with other businesses.

#### **Cleveland Police - summing up**

Sgt Higgins advised that Members had heard evidence of 19 incidents of anti social behaviour near to the store. He asked Members to consider the report produced by Alcohol Concern and the relationship between off-licence density and alcohol harms in young people.

Sgt Higgins advised that the applicant had accepted that he would have no control over the alcohol once it left the store. He drew Members attention to 9.12 (page 60) of the Home Office Guidance in relation to representations from the Police. In particular he pointed out that the licensing authority should accept all reasonable and proportionate representations made by the police unless the authority had evidence that to do so would not be appropriate for the promotion of the licensing objectives.

Sgt Higgins contended that the representations put forward by the police demonstrated the problems of alcohol fuelled anti social behaviour and the granting of another licence in this

area would cause harm to under 18 year olds.

### **Summing up - The Applicant**

The applicant's legal representative advised that the Police had stated that there had been ongoing problems with anti social behaviour in the area for over 5 years. Since then 2 licences had been granted, however the Police had stated that there had not been any increase in anti social behaviour as a result of these premises receiving a licence.

Members had also heard from the representative from the Residents Association that the applicant's premises were a valued and well run business. He referred to the incident of anti social behaviour at Tescos and pointed out that the youth's father was with him at the time of the incident. He reiterated that parents should have more control over their children and he didn't see that a lack of parental control should deter his client from being granted a licence.

### **DECISION**

**ORDERED** that the application for a Premises License in respect of Finlays Newsagents, 267 Acklam Road, Middlesbrough, Ref No. MBRO/PRO004 , be refused.

The Committee considered the Home Office Guidance under Section 182 of the Licensing Act and the Council's Licensing Policy.

It considered the representations made by the applicant, the police, the representative for the ward councillor and the representative of Lodore Grove Resident's association.

The Committee decided that it was appropriate in order to promote the prevention of crime and disorder, the prevention of public nuisance and to protect children from harm to refuse to grant the application for a premises licence to sell alcohol from 6.00am until 10.00pm at Acklam Shops Middlesbrough.

The police presented evidence of alcohol fuelled serious anti social behaviour at the parade of shops and surrounding residential area since March this year to date. The evidence showed that numerous residents made complaints to the police about disorder and nuisance caused by gangs of youths who had been drinking. Some of the complaints confirmed that this type of anti social behaviour occurs regularly in the area.

Staff at premises that currently sell alcohol in the area have also made complaints to the police about groups of youths congregating, causing a nuisance, drinking and asking members of the public to buy alcohol on their behalf.

The police informed the committee the groups are of mixed ages including children and adults over 18. The police advised the committee the young adults purchase the alcohol from the premises in the area and share it among the group who then, fuelled by alcohol, go on to cause serious anti social behaviour.

The police and the premises licence holder confirmed premises licence holders in the area have no control over what customers do with the alcohol when they leave the premises.

The police advised that they have put various measures in place to tackle anti social behaviour and the area has been and is currently subject to Police Priority.

The police informed the committee that there are already three premises that sell alcohol off the premises in the area within 1 minute walking distance, and two public houses. The police informed the committee that they considered the availability of alcohol from an additional outlet in this area will exacerbate the problem of alcohol fuelled gang anti social behaviour and undermine the licensing objectives.

For these reasons and in view of the written evidence submitted and the oral evidence and representations provided by the parties including the police officers themselves the committee decided that shorter hours or conditions on the licence which are referred to in its policy at

9.39 and those submitted by the applicant would not resolve the problem. The committee noted there was no special policy for the area, but decided after considering the representations another premises selling alcohol in the area would be likely to give rise to a negative cumulative impact on the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm.