

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 14 March 2013.

PRESENT: Councillors Taylor (Chair): Biswas (substitute for P Sharrocks) and Harvey

ALSO IN ATTENDANCE: Applicants : Michael O'Gara and Emma Atkins

M Nevison - Police Legal Representative
PC J Arbuckle

OFFICERS: B Carr, C Cunningham and T Hodgkinson

APOLOGIES FOR ABSENCE Councillor P Sharrocks.

DECLARATIONS OF INTERESTS

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

12/12 **APPLICATION FOR PREMISES LICENCE - SANDY'S MINI MARKET, ADDINGTON DRIVE, PALLISTER PARK, MIDDLESBROUGH - PRO331**

A report of the Assistant Director Community Protection had been circulated outlining details of an Application for a Premises Licence from Mr M O'Gara in relation to Sandy's Mini Market, Addington Drive, Pallister Park, Middlesbrough, Ref No. MBRO/PRO331.

The original report detailed the proposed Licensable Activities as Sale of Alcohol off the Premises 11am to 10pm - Mon to Sat and 11am to 9pm - Sun. However the applicant requested that the proposed hours be amended as follows: -

Summary of Proposed Licensable Activities

Sale of Alcohol off the Premises - 12pm to 9pm - 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.

The report provided background information in relation to the premises which, currently traded as a convenience store in a predominantly residential area of the town.

A representation was received on 7 February 2013 from Pallister and Town Farm Community Council, objecting to the proposal on the grounds of the prevention of crime and disorder, 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 12 February 2013, 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. Further information in support of the objection from Cleveland Police was received on 6 March 2013. A copy of the representation was attached at Appendix 4 to the report.

Applicant in Attendance

The Applicant advised that he had lived in the Pallister Park area for over 36 years and he had been responsible for Sandy's Mini Market for the last 4 years. The premises had previously operated as Chsholm Bookmakers, however they had relocated because of a lack of business.

When the Applicant assumed responsibility for the premises, the building was run down and

attracted anti social behaviour and drug users. The Police were called to the premises regularly to deal with anti social behaviour issues. The Applicant had spent £2,570 on refurbishing the premises and staff training and built up the custom for the store from members of the community in particular the pensioners from Bellamy Court.

Members were advised that the Applicant had originally employed 5 members of the staff at the premises, however due to the reduction in business because of the economic climate the staff had been reduced to two plus the Applicant. The Applicant highlighted that the shop on the corner had closed due to lack of business.

The Applicant advised that he operated his premises in a responsible way by adopting the Challenge 25 Policy and ensuring that his premises adhered to the policy and never sold any age restricted products to people under age. He advised that he had an excellent working relationship with the local Police Officers and liaised regularly with them.

The Applicant advised that there were lots of premises in the Pallister Ward already selling alcohol and if he was granted a licence he would ensure that he would not sell the types of alcohol attractive to the younger generation e.g. Lambrini, Lambrusco, Frosty Jacks etc. He advised that PC Arbuckle had provided him with statistics regarding alcohol abuse and it was as a result of receiving that information he intended to restrict the alcoholic products on offer at his store.

The Applicant produced a copy of a petition containing 332 signatures from residents who were in favour of the application. The Applicant advised that in response to concerns from resident's he had advised that he intended to restrict the types of alcohol on sale at the premises. The Club Secretary of the Ayresome Quoit Club (who the Applicant rented the premises from) had also sent a letter of support for the application. The Applicant also pointed out that he had received one objection to the application.

The Applicant advised that he operated a boxing club three days a week for the young people in the area and as a consequence he knew many of the young people and had gained their respect. He advised that the Elected Mayor had written a letter of support when the boxing club had applied for affiliation.

In response to a query the Applicant advised that the Designated Premises Supervisor would be Miss Atkins. The Applicant advised that he would ensure that the alcohol would be located well away from the door and the entrance/exit. Spirits and wines would be located behind the counter. The Applicant advised that he would work with the Police with regard to the proposed location of the alcohol.

The Applicant advised that he was unaware of any issues with youths congregating outside the premises. In response to a query whether the Applicant intended to be part of a franchise, members were advised that the store was independent at the moment, however, the Applicant had made tentative enquires regarding the Lifestyle chain.

The Applicant advised that both he and Miss Atkins both held Personal Licences and he advised that if the licence was to be granted he would ensure that the premises would be very strict about what type of alcohol was available for sale at the premises and who was allowed to purchase the alcohol.

In response to a query with regard to CCTV at the premises, the Applicant advised that there was already CCTV in the interior of the premises and the exterior was covered by the CCTV cameras of the Ayresome Quoit Club. The Club had given permission for CCTV footage to be used when required.

The Police Legal Representative advised that extensive discussions had taken place between the Applicant and the Police with regard to conditions that could be included on the licence to alleviate the concerns of the Police. The Applicant had also suggested a number of conditions after taking into account the representations from the Police and the Community Council.

The Applicant had agreed a number of conditions with the Police with regard to the storage of

spirits and wine behind the counter, conditions in relation to CCTV, the retention of an incident and refusals book, the operation of a Challenge 25 policy and the training of staff at the premises. The Applicant had also agreed to liaise with the Police regarding the location of the remainder of the alcohol at the store. It was agreed that the alcohol would be stored in specified areas within the store subject to the approval of the Police, which would be marked on a plan and signed on behalf of the Premises Licence Holder and lodged with the Licensing Authority.

In response to a query regarding the prevention of proxy sales, the Police advised that they had measures in place to obtain evidence of proxy sales. If they suspected that a premises was carrying out proxy sales, they would target that particular shop and monitor it to gain the evidence they required to bring about a prosecution. They Police would also remind the Premises Licence Holder of the law with regard to proxy sales.

The Police Legal Representative summed up by stating that the Premises Licence Holder had satisfied the Police that he would make every effort to prevent the licensing objectives being undermined.

Decision

ORDERED that the application for a Premises License for sales of alcohol off the premises between the hours of 12.00 noon to 9.00pm daily in respect of Sandy's Mini Market, Addington Drive, Pallister Park, Middlesbrough, Ref No. MBRO/PRO331 be granted, subject to the following conditions:

CCTV

1. Internal digital colour CCTV cameras must be installed in the premises and maintained in good working order at all times covering the shop floor including the entrance / exit, till area and areas displaying alcohol for sale.
2. An external digital colour CCTV camera must be installed at the premises and maintained in good working order at all times covering the area directly outside of the premises.
3. All CCTV recordings must be retained for a minimum period of 31 days
4. CCTV footage must be capable of being produced on media that can be viewed on police and licensing authority computer systems.
5. A Member of staff who is capable of producing CCTV footage must be on the Premises at all times when it is open.
6. CCTV footage must be made available to the police, trading standards officers or licensing officers on request and /or during an inspection of the Premises.

INCIDENT BOOK

7. An incident book must be kept at the premises and maintained up to date at all times recording the time date and details of:-
 - all incidents of crime and disorder at the premises or directly outside of the premises,
 - all refusals of sale of alcohol
 - all challenges for proof of age for the sale of alcohol, and
 - all complaints received from members of the public.
8. The incident book must be made available to the police, trading standards and licensing officers on request and / or during an inspection.
9. The incident book must be checked by the Designated Premises Supervisor to ensure it complies with Condition 7 above on a monthly basis and Designated Premises Supervisor must sign and date the incident book after it is checked.

CHALLENGE 25

10. Staff must require proof of age in the form of a current ten year passport, photo card driving licence or PASS logo Identity card from any customer attempting to purchase alcohol who appears to be under the age of 25 and verify the customer is over 18 before any sale of alcohol is made.

11. At least two notices must be placed in the premises, one at the point of sale and one at the entrance / exit advising customers the Premises operates a Challenge 25 policy and all customers who appear to be under 25 will be challenged for ID proving they are over 18 in the form of a current ten year passport, photo card driving licence or PASS logo Identity card.

STAFF TRAINING

12. Training in relation to the Challenge 25 policy, underage sales, sales to adults purchasing alcohol on behalf of a minor (proxy sales), sales to intoxicated persons, Incident Book Records and all other conditions on the Premises Licence must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.

13. Documented training records must be completed in respect of every member of staff (whether paid or unpaid) and must include the name of the member of staff trained, date, time and content of the training and must be signed by the member of staff who has received the training, Designated Premises Supervisor and Premises Licence Holder.

14. Documented training records must be kept at the Premises and made available to the police, trading standards or licensing officers on request and / or during an inspection.

PROXY SALES

15 That one notice be prominently displayed at the point of sale area and the area where alcohol is displayed for sale informing customers that it is illegal to buy alcohol on behalf of a person under 18 years of age which can lead to prosecution and a fine.

RESTRICTED PRODUCTS

16. That no perry based alcohol products or ciders exceeding 6% ABV alcohol content be sold from the Premises at any time.

RESTRICTED DISPLAY OF ALCOHOL

17. That spirits and alcoholic drinks exceeding 30% ABV alcohol content be displayed behind the point of sale area only.

18. That the display of alcohol for sale below 30% ABV alcohol content must be located in a specific area of the premises to be agreed with the police and identified on a plan signed on behalf of the Premises Licence Holder and lodged with the Licensing Authority.

REASONS

The Committee determined that after considering the information from the applicant, Police and Community Council that the operation of the premises during the hours agreed and the conditions imposed will promote the licensing objectives.

The Committee considered that the additional conditions proposed by the police and the applicant regarding the location and restriction of alcohol products that are attractive to children and problem drinkers would achieve the promotion of the objectives by preventing thefts and reducing attempts for underage and proxy purchases which result in alcohol fuelled anti social behaviour in the area.

In reaching the decision Members had considered the following:-

1. The Licensing Act 2003 and amended Government Guidance issued under Section 182 of the Act.
2. Middlesbrough Council's Licensing Policy.
3. The case presented by the Applicant.
4. The representations received from the Police, Pallister and Town Farm Community Council.

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