

**LICENSING SUB-COMMITTEE C**

A meeting of the Licensing Sub-Committee C was held on 10 February 2014.

**PRESENT:** Councillors B E Taylor (Chair); M Hudson and T Mawston.

**ALSO IN ATTENDANCE:** On behalf of the applicant:-

S Coates – Regional Manager, One Stop Stores Ltd  
N Yeeles – Area Manager, One Stop Stores Ltd  
S Marklew – Trading Law Manager, One Stop Stores Ltd  
G Anderson – Store Manager, One Stop Stores Ltd  
N Smith – Applicant's Legal Representative

Making Representations:-

H Simpson – Lifestyle Express Store.  
J Kurian – Local Resident.

**OFFICERS:** C Cunningham, J Dixon and J Hodgson.

**DECLARATIONS OF INTERESTS**

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

13/11 **LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE - ONE STOP STORES LTD, 59-61 EASTBOURNE ROAD, MIDDLESBROUGH, TS5 6QN. REF NO: MBRO/300.**

A report of the Assistant Director - Community Protection had been circulated outlining an application for a Premises Licence in relation to One Stop Stores Ltd, 59-61 Eastbourne Road, Middlesbrough, TS5 6QN, Ref No. MBRO/300, as follows:-

Summary of Proposed Licensable Activities and Hours for Proposed Licensable Activities

Sale of Alcohol (off sales) - 6.00am to 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, One Stop Stores Ltd, was represented by their Acquisitions Manager, Area Manager, Trading Law Manager, Store Manager and legal representative, and 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, received on 17 December 2013, for a Premises Licence in relation to One Stop Stores Ltd, 59-61 Eastbourne Road, Middlesbrough, as outlined above. The applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 20 December 2013, 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 located in a parade of shops in close proximity to residential premises. (A location plan was attached at Appendix 2).

On 30 December 2013, correspondence was received from the applicant agreeing to amend the operating schedule to include a number of conditions following concerns raised by the Area Child Protection Officer. A copy of the correspondence was attached at Appendix 3.

Between 13 and 14 January 2014, six representations were received from local business people and one from a local resident, objecting to the application on the grounds of the prevention of crime and disorder and the prevention of public. Copies of the representations were attached at Appendices 4 to 10 inclusive.

### **Applicant in Attendance**

The applicant, One Stop Stores Ltd, was represented at the Hearing by their Area Manager, Acquisitions Manager, Trading Law Manager, Store Manager and legal representative.

The applicant's legal representative presented the case in support of the application. It was confirmed that all parties had received a copy of the additional documentation submitted prior to the meeting, circulated on 5 February 2014, containing:-

- Statement of the Acquisitions Manager.
- Photograph of the existing site.
- Layout plan for the proposed store.
- Statement of Trading Law Manager (Licensing).
- One Stop Information for Enforcement Officers - Age Restricted Sales Management.
- 'Staff Safe' Poster.
- Statement of the Area Manager.

The Committee was advised that the applicant wished to open the premise as a general convenience store. Goods would include groceries, newspapers and magazines, an ATM cashpoint and Paypoint facility. It was not intended to operate as a dedicated off-licence and it was highlighted that, on average, 90% of One Stop's sales were not alcohol sales.

The applicant intended to operate between the hours of 6.00am and 11.00pm daily and wished to sell alcohol in line with the opening hours of the store. Reference was made to the Government Guidance in relation to hours of trading and it was noted that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet was open for shopping unless there were good reasons, based on the licensing objectives, for restricting those hours. In relation to concerns raised by the Council's Young People's Risk Reduction Manager, the applicant had agreed to seven additional conditions being placed on the licence. There were no other representations from the Responsible Authorities.

Members were advised that the premise had been vacant for approximately eight months. It had previously been leased to a charity shop on a temporary basis.

The applicant was looking to invest approximately £220,000 to refurbish the store to the Company's standard and it was noted that the landlord had carried out repair work to the roof. The applicant intended to employ 12 members of staff at the store and had appointed an experienced Store Manager who had worked for the Company for 16 years and would also be the appointed DPS. Shift supervisors at the store would be experienced One Stop staff and the remainder of the team would be recruited from the local area. The benefits of recruiting local staff were that they would have local knowledge and become familiar with local customers. It was highlighted that within four days of advertising for staff at the store, over 200 applications were received.

The lease at the premise was for 15 years with the first break not being until year 10, which demonstrated the applicant's long term commitment to investing in the area.

The Committee's attention was drawn to the submitted plan of the proposed store layout. The till points were located immediately adjacent to the entrance and the Store Manager's office was located adjacent to the other side of the entrance, enabling the Manager to come to the door or till point quickly if necessary. The plan also showed the location of CCTV cameras, including one situated externally covering the entrance and immediate frontage, one covering the alcohol display and others throughout the store. In addition, there would be a monitor relaying the CCTV footage just inside the entrance so that staff behind the tills and customers themselves could be seen. There would also be a monitor in the Manager's office.

The applicant's legal representative advised that the applicant operated over 700 stores nationally, had adopted national policies and employed local people.

S Coates was the Area Manager and was currently responsible for 17 stores in the area, six of those being in Middlesbrough. She was, therefore, familiar with managing stores in the local area.

G Anderson had been appointed as the Store Manager and had 16 years' experience working for One Stop, and had worked in all six current Middlesbrough stores. Most recently he had worked in the Berwick Hills store which was the busiest and most challenging. Mr Anderson would be the DPS at the store and was very experienced.

It was highlighted that there was no history of any enforcement issues, licence reviews or failed test purchases in any of the Middlesbrough stores in the last eight years. The Company had robust policies in place which had been developed in partnership with Walsall Metropolitan Borough Council (the Company's home authority).

In terms of the acquisitions process, it was stated that the applicant had examined provision in the area and discovered that there were over 1,900 dwellings within 500m of the store, therefore, it was a highly-populated area.

Of the seven representations received, five were from local businesses including Premier Happy Shopper and Lifestyle Express, both of whom were licensed to sell alcohol. Mr Simpson, the proprietor of Lifestyle Express had, in his written representation, indicated that he would be concerned as to how the proposed One Stop would affect his own business. Mr Simpson had attached a 20-signature petition to his letter of objection and the applicant's legal representative expressed concern that the petition had no heading - indicating that, potentially, signatories did not know what they were signing - and some signatures were from local businesses that had been signed more than once.

A further petition was attached at Appendix 4, accompanying the letter of objection from the Premier Happy Shopper. Whilst the petition did explain what it was for, there was no mention of the licensing objectives and the applicant's legal representative expressed concern that the petition may have been signed on the basis of customer loyalty.

The applicant's legal representative stated that the letters of objection suggested that there was no demand for another convenience store selling alcohol in the area, however, it was highlighted that commercial demand was a planning issue and not a consideration for the Licensing Committee.

With regard to the licensing objectives, the applicant's legal representative stated that there appeared to be two key issues expressed by those making representations. One was in relation to potential anti-social behaviour and the other was in relation to a potential increase in litter. The Committee was informed that the applicant had a number of measures in place to assist with both potential issues and had experience of dealing with such matters at its other stores.

In relation to the concerns regarding upholding the licensing objectives, Members were notified that some of the measures in place included:-

- Internal and external CCTV at the premises.
- 'Staff Safe' system, (explained at page 18 of the additional information submitted by the applicant). The system was installed in all One Stop stores as standard and consisted of a console, panic button and wristbands which must be worn by all members of staff and activated in situations such as shoplifting, anti-social behaviour, threatening behaviour and robbery. The system was linked to a Monitoring Centre which would then listen in to the store and assess the situation and determine whether to speak into the store or dial 999 on behalf of the staff.
- All staff trained in conflict management which included dealing with anti-social behaviour situations and refusals of alcohol sales.

- All staff trained in underage sales which was included within the induction training and regularly refreshed.
- Challenge 25 was operated as standard in all One Stop stores and refusals records were viewed by store managers on a daily basis.
- Third party test purchasing carried out in stores approximately eight times per year.
- Staff would be requested to undertake daily litter-picks in the area outside the store and a litter bin would also be placed outside.

#### Questions to the Applicant from those making representations

Those making representations who were present at the meeting, were afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- It was queried why the applicant wished to sell alcohol from 6.00am. The applicant's legal representative responded that the proposed opening hours of the store were 6.00am to 11.00pm and that the applicant wished to be able to sell alcohol in accordance with the store's trading hours. It was highlighted that over 90% of the applicant's sales were non-alcohol sales.
- An objector stated that his home and car had been damaged as a result of anti-social behaviour in the area and asked what the applicant would do to prevent anti-social behaviour. The applicant's legal representative advised that all staff were trained in conflict management and worked closely with the Police. The store would employ local staff who would be more likely to know the area well and would get to know regular customers. CCTV would also be operational at the store. The Store Manager advised that he had managed the store located at Berwick Hills which was also a very busy store in a challenging area. He acknowledged that, from time to time, groups would gather outside the shops but generally moved on when asked. Staff had a good relationship with local PCSOs and Police and in emergencies the 'Staff Safe' system was available to staff.
- With regard to a query about deliveries, the applicant's legal representative advised that the premises shared a delivery yard at the rear of the premises and that deliveries would either be made at the rear of the store or at the front, depending on the landlord. It was stated that a risk assessment would be carried out at the site in relation to restrictions, size of vehicles, etc.

#### Questions to the Applicant from Members

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

- A Member queried why the applicant needed to sell alcohol given that 90% of sales were not alcohol sales. The applicant's legal representative stated that whilst alcohol accounted for approximately 10% of sales, the applicant wished to be able to offer that choice to customers and to enable customers to do all of their shopping in one place.
- In response to a query, the applicant's legal representative advised that approximately 10% of the total floor space of the store would be taken up by the display of alcohol. This would include displays of ambient wines, chilled wines, chilled beers and lagers. Spirits would be kept behind the till point. In response to a further query, it was confirmed that the applicant intended to sell a range of perry and did not have any restricted sales within its Middlesbrough stores.
- It was queried how many staff would be on duty at the store at any one time. The Committee was advised that there would be a minimum of two staff at the store, at all times, in addition to the Duty Manager.
- In relation to the applicant's CCTV system, the Store Manager confirmed that it was a digital system which met with Police approval. Further clarification was also provided in relation to the 'Staff Safe' system. It was pointed out that Staff Safe did not replace the good relationship that the applicant had with the Police and PCSOs.
- It was queried whether the applicant had any stores that did not sell alcohol. The Regional Manager advised that there were some One Stop stores that did not sell alcohol but this was due to the location or size of the store.
- The applicant was asked whether the Staff Safe system would still be used if the store

did not sell alcohol. The Regional Manager confirmed that it would as it was standard procedure throughout the Company.

### **Relevant Representations**

#### **Mr Simpson, Lifestyle Express Store**

Mr Simpson, proprietor of Lifestyle Express Store, was in attendance at the meeting and presented his representations in relation to the application.

Mr Simpson stated that he had purchased the store from Mr Kurian (the other objector in attendance), approximately six months ago. He stated that there had been problems at his premises with stealing and youths harassing older people to purchase alcohol for them which was causing concern to local residents. Mr Simpson added that he considered that the hours applied for by the applicant for the sale of alcohol from 6.00am to 11.00pm to be too long and that 6.00am was too early to start the sale of alcohol as he considered it provided people with more opportunity to drink all day and that there were many people in the area who misused alcohol.

Mr Simpson also considered that the new store might cause further issues with parking as it would attract more cars. He stated that this might stop customers from shopping in his store and also increase the number of accidents in the car park. He stated that another off-licence was not needed in the area and that a community centre would be more beneficial to young people in the community.

#### **Mr Kurian - Local Resident**

Mr Kurian, a local resident (and former proprietor of Lifestyle Express Store) was also in attendance at the meeting and presented his representations in relation to the application.

Mr Kurian stated that he believed there were too many establishments selling alcohol in the area and that another was not needed and would only add to the current problems with anti-social behaviour. He advised that he had experienced attacks on his own home and car. Mr Kurian stated that when he had been the proprietor of Lifestyle Express, he had opened at 7.00am and had experienced people stealing alcohol from the store, therefore, he objected to the application submitted by the applicant.

### **Questions to those making Representations from the Applicant**

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, Mr Simpson confirmed that he sold alcohol at his store but stated his main concern was the application to sell alcohol from 6.00am. He confirmed that his store opened at 7.00am and that he was licensed to sell alcohol from 8.00am.
- It was queried how the petitions, submitted by Mr Simpson, were compiled. Mr Simpson advised that they had been on the counter in his shop and that some had been taken to other local shops. Mr Simpson confirmed that the signatures had been a mixture of local businesses and regular customers who did not drink alcohol.

### **Summing Up**

#### **Those Making Representations**

#### **Mr Simpson and Mr Kurian**

The objectors summed up by stating that they had concerns regarding the proposed 6.00am licence for the sale of alcohol and felt that this was too early. They considered that there was already a sufficient number of outlets selling alcohol in the area and that granting another alcohol licence would add to the current anti-social behaviour in the area.

Applicant

The applicant's legal representative summed up by reiterating that the application was for a general convenience store and whether there was a need for a store in the area was a matter to be considered by planning.

Government guidance in relation to trading hours stated that shops and supermarkets should be free to provide sales of alcohol at any time the outlet was open for shopping unless there were good reasons for restricting the hours. The applicant's legal representative highlighted that there had been no representations from any of the responsible authorities, including the Police.

The applicant's legal representative advised that there was no evidence to suggest that the Licensing Objectives would not be upheld as a result of the safeguards that would be put in place by the applicant nor was there any evidence that the applicant would contribute to problems in the area, indeed, the premises was not currently operational, therefore, could not have contributed to any existing problems. The applicant's legal representative requested that the application be granted, as applied for, subject to the additional conditions that were agreed prior to the Hearing.

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 License in respect of One Stop Stores Ltd, 59-61 Eastbourne Road, Middlesbrough, Ref No: MBRO/PR0052, be granted in part, as follows:-

Sale of Alcohol (off sales) - Monday to Sunday 8.00am to 11.00pm.

The reasons for the decision were as follows:-

1. The Committee considered the guidance, as referred to by the applicant, however, in view of the location of the premises, its close proximity to residential premises and the existing anti-social behaviour problems in the area, the Committee (with its local knowledge) and in order to prevent further anti-social behaviour, did not consider it appropriate for the premises to sell alcohol from 6.00am.
2. The applicant had agreed a number of conditions with Middlesbrough Council's Young People's Risk Reduction Manager. The Committee considered these conditions to be appropriate but re-worded some in order to make them enforceable in line with meeting the Licensing Objectives. The Committee added an additional condition in relation to keeping an incident book at the premises which would list incidents of crime and disorder inside and directly outside of the premises in order to assist in tackling and preventing such anti-social behaviour.
3. The Committee also considered it appropriate to add a condition that alcohol be displayed at the premises in accordance with, and as identified on the floor plan submitted to the Committee. The applicant confirmed to the Committee that the premises was a convenience store and generally 90% of the products sold were not alcohol.

The conditions were as follows:-

1. Internal digital colour CCTV cameras must be installed in the premises and maintained in good working order at all times covering the entrance / exit, till areas, areas displaying alcohol for sale and other areas identified on the floor plan submitted to the Committee, during the period the premises were open for the sale of alcohol. All CCTV recordings must be retained for a minimum period of 28 days and evidential

- quality CCTV footage must be made available to the Police, Trading Standards Officers and Licensing Officers on request and/or during an inspection.
2. External digital colour CCTV cameras must be installed on the Premises and maintained in good working order at all times covering the frontage and rear of the Premises during the period the Premises were open for the sale of alcohol. All CCTV recordings must be retained for a minimum period of 28 days and evidential quality CCTV footage must be made available to the Police, Trading Standards Officers and Licensing Officers on request and/or during an inspection.
  3. Staff must require ID in the form of a current ten year passport, photo card driving licence or PASS logo identity card from any customer who appeared to be under the age of 25 and verify that the customer was over 18 before any sale of alcohol was made.
  4. Training in relation to Challenge 25 policy, underage sales, sales to adults purchasing alcohol on behalf of a minor (proxy sales), sales to intoxicated persons, refusals register and incident records must be provided and undertaken by all staff, whether paid or unpaid, before he/she makes a sale or supply of alcohol and at least every six months thereafter.
  5. Electronic or paper 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 trained and the Designated Premises Supervisor.
  6. Electronic or paper training records must be kept at the premises and made available to the Police, Trading Standards Officers or Licensing Officers upon request and/or during an inspection.
  7. An electronic or paper incident record must be kept at the premises and maintained up to date at all times recording the date, time and details of all incidents of crime and disorder at the premises or directly outside of the premises. The incident record must be made available to the Police, Trading Standards Officers or Licensing Officers upon request and/or during an inspection.
  8. An electronic or paper refusals register must be kept and maintained at the premises and maintained up to date at all times recording the date, time and reason for every refusal to sell alcohol to a customer. The refusals register must be made available to the Police, Trading Standards Officers or Licensing Officers upon request and/or during an inspection.
  9. The premises will be fitted with an industry standard approved Intruder Alarm System.
  10. A system of prompts will be in place to ensure staff undertake age checks on age restricted products.
  11. Alcohol will be displayed in the Premises in accordance with, and identified on, the floor plan of the premises submitted to the Committee.

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

1. The case was considered on its own merits taking into account the four licensing objectives of The Licensing Act 2003.
2. The Licensing Act 2003 (and Amended Government Guidance issued under Section 182 of the Act).
3. Middlesbrough Council's Licensing Policy.
4. The case presented by the applicant.
5. The representations made by a local businessman and a local resident at the Hearing.
6. The written representations submitted by local businesses and residents.
7. The conditions agreed between the applicant and Middlesbrough Council's Young People's Risk Reduction Manager.

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