

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 4 April 2014.

PRESENT: Councillors B E Taylor (Chair), T Mawston and M B Williams

ALSO IN ATTENDANCE: P Armstrong - Chair of Friends of Newport Settlement
E Carter - 0 - 19 Youth Service
A and W Emakpor - Applicants
L Lewis - Middlehaven Community Council and St Aidan's Residents Association
S Ross - Neighbourhood Management Team Leader/Gresham Joint Action Group/Newport Settlement Hub
J Russell - Gresham Joint Action Group
U Scott - Local Resident and Representative of Friends of Newport Settlement
D Scourfield - Legal Representative for the Applicants
Pastor D Williams - Cannon Park Congregational Church

OFFICERS: B Carr, C Cunningham and T Hodgkinson

DECLARATIONS OF INTERESTS

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

13/12 **APPLICATION FOR PREMISES LICENCE - 16 GARRETT WALK, NEWPORT, MIDDLESBROUGH, TS1 5NE : REF NO: PRO/0468**

A report of the Assistant Director of Development and Planning Services had been circulated outlining an application for a Premises Licence in respect of 16 Garrett Walk, Newport, Middlesbrough, TS1 5NE - Ref No: MBRO/PRO/0468.

Summary of Proposed Licensable Activities

Sale of Alcohol (Off Sales) 8.00am to 9.00pm daily

The Chair introduced those present and outlined the procedure to be followed.

Details of the Application

The Principal Licensing Officer presented the report in relation to an application for a Premises Licence in respect of 16 Garrett Walk, Newport, Middlesbrough, received on 17 February 2014, as outlined above.

The applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 22 February 2014. It was highlighted that the premises consisted of a ground floor retail unit located near to the town centre in close proximity to residential properties, community premises and a primary school. A location plan was attached at Appendix 1 to the report.

On 17 March 2014, the Applicant had agreed with Cleveland Police to amend the operating schedule of the application to include a number of conditions. As a result of this agreement there had been no written representations received from Cleveland Police. Full details of the application and the conditions agreed with Cleveland Police were attached at Appendix 2 to the report.

Representations

On 4 March 2014 a representation was received from L Lewis on behalf of Middlehaven Community Council and St Aidan's Residents Association objecting to the application 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 5 March 2014 a representation was received from Pastor D Williams on behalf of Cannon Park Congregational Church objecting to the application 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 4 to the report.

On 10 March 2014 a representation was received from the Governing Body of Newport Primary School objecting to the application 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 5 to the report.

On 12 and 17 March 2014 representations were received from S. Ross, the Council's Neighbourhood Management Team Leader on behalf of the Joint Action Group for the Gresham Ward and on behalf of Newport Settlement Community Hub objecting to the application on the grounds of the prevention of public nuisance and the protection of children from harm. A copy of these representations was attached at Appendix 6 and Appendix 7 to the report.

On 12 and 14 March 2014 representations were received from Mrs U Scott, a local resident and representative of Friends of Newport Settlement objecting to the application on the grounds of the prevention of public nuisance and the protection of children from harm. A copy of the representations was attached at Appendix 8 and Appendix 9 to the report.

A copy of a google map plan of the area showing an aerial view of the premises was circulated by the Principal Licensing Officer to those present at the meeting. The representative from Middlehaven Community Council and St Aidan's Residents Association also circulated a more detailed plan to demonstrate the proximity of the premises to the school, church and Newport Settlement Community Hub.

Applicants in Attendance

The applicants were accompanied by their legal representative. The legal representative advised that the Committee should not place any weight on any of the objections as prior to the introduction of the Licensing Act 2003; the premises had previously held a Justices Licence which had been issued by the Magistrates Court. He advised that the premises had not held an alcohol licence since 2003/2004.

The legal adviser stated that this was the only shop in the area bounded by Hartington Road/Newport Road/Union Street; past the settlement up to Victoria Road. The applicants had re-opened the premises and intended to make them into a corner shop store. The applicants had been requested by residents to install a pay-point at the premises to prevent local residents from having to cross major roads.

The applicants had also initially provided a newspaper service for residents however this service had to be suspended due to the fact that the premises were required to meet a minimum target for sale of the newspapers and not enough people were taking up the service for it to be financially viable. The applicants had however purchased newspapers from other shops to enable customers to be able to access the newspapers. The applicants had received many positive comments from local residents in the area with regard to the service that they were providing.

The legal adviser advised that the conditions suggested by Cleveland Police would be included as part of the Premises Licence if granted however he advised that the details contained in the operating schedule at Paragraph N demonstrated that the applicants intended to take their responsibilities in adhering to the licensing objectives very seriously.

The legal adviser advised that the reasons given by the representatives of the various organisations for objecting to the application included that the premises were situated near a school or community centre. He stated that Archibald School which was a short distance away was located adjacent to an Off Licence. The legal adviser also stated that there was an Off Licence located near the Crescent Road entrance of Ayresome School. The Committee was

advised that there were also lots of other Off Licences based on Parliament Road. The legal adviser stated that the premises would be managed well and would be a benefit to the community.

In response to a query from the Chair, the Principal Licensing Officer stated that the Council did not have any record of the premises holding a premises licence as the owners at the time did not transfer the Justices Licence. Licensing Officers had spoken to residents in the area and they had confirmed that the premises had previously held a Justices Licence.

The Council's Legal Officer advised that the premises did not currently hold a licence to sell alcohol. The previous owners did not take the opportunity to transfer the licence in 2003 and as a consequence "grandfather rights" were not transferred with the licence.

The applicants confirmed that the shop had been operating for two months since re-opening. In response to a query with regard the CCTV coverage outside the premises, the applicant confirmed that the cameras would cover the door way of the premises. The Principal Licensing Officer confirmed that there were specific rules with regard to CCTV coverage and premises owners were only entitled to provide coverage to the entrance of their own premises due to Data Protection legislation.

In response to queries with regard to how the applicant considered that selling alcohol would enhance and benefit the community; the applicant's legal adviser stated that there were no other premises with a licence in the area. He stated that the premises would operate as a corner shop and the shop in itself would be a benefit to the community.

The representative from the Cannon Park Congregational Church acknowledged that the presence of the shop would be a benefit to the community but he stated that he failed to see how selling alcohol would benefit residents. The legal adviser stated that selling alcohol was much the same as selling bread or sweets. The Pastor advised that selling the above items would not likely lead to anti-social behaviour unlike the sale of alcohol. The Gresham area already had issues related to drugs and alcohol and the Pastor worked closely with the school and the church with people affected by these issues.

The Pastor stated that the premises were located just across the road from the school. There were concerns regarding the amount of litter, cans and bottles and youths hanging around the area. The premises would be a means of providing alcohol to youths and parents and could be the cause of anti-social behaviour. The Pastor stated that this was a safe-guarding issue in relation to the protection of young vulnerable children. The church worked with a number of young children who were afraid to walk home alone because of the amount of anti-social behaviour in the area.

The representative from Middlehaven Community Council and St Aidan's Residents Association stated that residents did not object to small businesses making a profit but not at the expense of the amenities of local residents. The premises were located very close to the school and residents had been advised by the Police that there were alcoholics who resided close to the premises. The premises had previously been broken into and that was the reason why they had eventually closed down.

The representative from Friends of Newport Settlement advised that she had lived in the area for over 20 years and had to pass the shop every day. The representative stated that if a licence were to be granted, youths could congregate outside the premises and residents could feel intimidated as people drinking alcohol often displayed noisy, loud behaviour and many of the people living next door to the premises were elderly and disabled.

The Chair of the Newport Settlement Hub advised that youths often wandered into the Hub when sessions were taken place and residents felt intimidated and access to alcohol could exacerbate the problem. The Committee was advised that a Youth Group met regularly in the Settlement and if the licence was granted they could be tempted to purchase alcohol and could cause anti-social behaviour in the building.

The Committee was advised that there was an area where the young people played games

next to Newport School and the youths might be tempted to purchase alcohol and cause problems for neighbours such as vandalism or fighting. The Chair of the Settlement Group also queried with regard to what would happen when Personal Licence Holder was not on premises and whether other people would be trained.

The representative from the Council's Neighbourhood Management Team and Gresham JAG advised that the area currently suffered from problems with littering and broken glass. There was a bench located outside the premises and it would attract people who were hanging around outside the premises. The sale of alcohol would likely increase the amount of litter, broken glass and anti-social behaviour and she queried how the applicants would deal with the increased littering. The Council's Neighbourhood Management Team Leader advised that there was not an issue with the local convenience store and the idea of installing a pay-point was welcomed by residents however she stated that she struggled to see how an alcohol licence would benefit the community.

The applicants advised that they currently collected any litter from the area surrounding the premises and they had requested the Council to provide a litter bin.

The representative from the Council's Neighbourhood Management Team and Gresham JAG advised that ten and a half thousand people attended the settlement including toddlers to elders. Four youth sessions were held a week and many of the youths attended the sessions on their own and were vulnerable on their journey to and from the premises. There were also lots of elderly and disabled people attending the settlement.

The Committee was advised that there were already lots of outlets selling alcohol and alcohol was more of a problem than drugs in the area at the moment. The area had been identified by the Police and Fire Authority as a hot spot area for crime and disorder and there were also problems with litter and discarded cans and broken glass. There were already tensions in the area because of the mix of people with different cultures and additional police and youth resources had been committed in the area because of increased anti-social behaviour particularly on the school playing field.

The representative from the Council's Neighbourhood Management Team and Gresham JAG advised that it was difficult to see why alcohol needed to be on sale from 8am when children were attending the centre. It was highlighted that there had been an increase in underage drinking in the area resulting in police visits to the young people's houses.

The Committee was advised that the premises were too close to the school and if the licence were to be granted, it could tempt young people to buy alcohol. The Committee was advised that 24 hour "Dial a Booze" vans also operated in the area and in the view of the representative from the Council's Neighbourhood Management Team and Gresham JAG; if Members were to grant the application it would be letting the children in the area down.

The Committee was advised that Gresham JAG was one of three JAGs based across Middlesbrough. The JAG's were Multi agency groups and the membership included Safe in Middlesbrough Partnership, Public Health, Police, Neighbourhood Safety, Integrated Youth Support Service, Erimus Housing, Environmental Enforcement and Neighbourhood Management. The Gresham JAG objected to the application on grounds of increased anti-social behaviour, safe guarding and increased littering and the impact on the environment.

A Member expressed concern with in relation to the fact that evidence had been given with regard to issues with alcohol fuelled anti-social behaviour in the area and the fact that the Licensing Police had not raised any objections to the application when the JAG considered that the area was a crime and disorder hotspot. The Principal Licensing Officer clarified that the Licensing Police automatically email the neighbourhood police when an application is received. The Licensing Police emailed the Neighbourhood Police Team on 5th March 2014 to request comments with regard to the application. The Neighbourhood Team had emailed back on 6 March 2014 to advise that there was no evidence of alcohol related crime.

The applicant's legal representative stated that it appeared that the Licensing Police had

decided that the Gresham area did not have an issue with alcohol related crime and had therefore offered no objections to the application.

The representative from the JAG stated that the consensus of the JAG was to oppose the application because the premises were situated in a residential area that already had problems with crime and disorder. There were currently issues with adults walking about drinking alcohol in the Gresham area near to the hub causing nuisance, problems with brothels and working girls and cultural tensions. It was highlighted that a food bus used to visit the hub to feed the homeless but it was stopped for safeguarding issues because of people turning entering the hub after consuming excess alcohol. The Committee was advised that the crime and disorder figures for the Gresham area out-weighed all other areas.

The other representative from Gresham JAG stated that historically she had been employed as a Neighbourhood Safety Officer and she had direct experience of dealing with anti-social behaviour that was fuelled by adults drinking alcohol. The use of Challenge 25 as indicated in the applicant's application would not have any effect on this issue. The representative stated that she had also been involved in investigating under-age sales as part of her previous role. The Committee was advised that many of these sales happened by proxy and that was why the use of CCTV outside the premises was important. The fact that CCTV would only cover the doorway would not prevent proxy sales. There were lots of other premises in the area where alcohol was on sale including Lidl and Off Licences located on Gresham Road and Parliament Road and there were also a number of pay-points available locally.

Members were advised that Ayresome School was erecting a fence around the curtilage of the school because of problems in the area. The representative from the Gresham JAG stated that she would not be confident that the premises incident book would be completed properly. There was insufficient information included within the application with regard to the type of training that would be provided to staff and whether staff would be able to deal with intimidation. The Committee was advised that the Gresham JAG had statistical information available from the fortnightly meeting held with the Police with regard to the amount of existing crime and disorder in the area.

A representative from Friends of Newport Settlement stated that the legal adviser had advised that Archibald School was situated very near the premises and this was not correct. The Council's Principal Licensing Officer advised that the applicant's legal adviser was trying to make a point that a number of schools had Off Licences located nearby.

A representative from Gresham JAG advised that Ayresome School were in the process of erecting a wooden fence because of issues with the sale of alcohol in close proximity to the school.

The representative from the 0-19 service advised that there were already lots of premises in the area selling alcohol and there were a number of issues caused by the sale of the alcohol. The applicant was asked to state what the benefits of the sale of alcohol would be. The legal representative for the applicant stated that the store itself and the sale of alcohol would be a convenience for local residents.

A Member queried whether the applicant had carried out any surveys to ascertain if there was a demand for the sale of alcohol. The applicants advised that they had not carried out any surveys however they had received requests from a number of customers for the sale of alcohol. The applicant stated that customers wanted to be able to purchase all their groceries including alcohol from the same premises.

The Chair queried how many off-licences were located in the Gresham area. The Principal Licensing Officer left the meeting and returned with information which stated that there were 16 Off Licences located in the Gresham Ward.

In response to a query from a Member with regard to training, the applicant's legal representative stated that the applicant had undertaken a Licensing Course required for a personal Licence. The applicant had also received literature in relation to Challenge 25 and a training manual as part of the course documentation.

The Applicant's Legal representative and the interested parties were invited to sum up.

It was confirmed that there were no further questions and all interested parties other than the officers of Legal Services and Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

In reaching the decision Members 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 made by parties.

DECISION

The Committee did not consider it appropriate to grant the application for a Premises Licence for the sale of alcohol in respect of 16 Garrett Walk for the following reasons:

1. If the licence was to be granted it would undermine the following licensing objectives:-
 - The Prevention of Crime and Disorder;
 - The Prevention of Public Nuisance;
 - The Protection of Children from Harm.

The information provided to the committee showed:-

1. The premises are situated next to a primary school and playing area and near to other community premises where vulnerable people attend. It is not on a main road and situated on the corner of a row of mainly residential premises.
2. The area in which the premises are located has been identified as a hot spot for crime and disorder.
3. There is a problem with underage drinking and proxy sales in the area.
4. There is a problem with adult anti-social behaviour fuelled by alcohol in the area.
5. There are problems with adults drinking alcohol in the street and causing nuisance and disorder.
6. There is currently a litter problem and the Application Is likely to result in increased litter in the form of bottles and cans in the surrounding area including the school and play area.

The Committee noted the applicants proposed conditions and its submissions. It noted that the applicants claimed there was a demand for the sale of alcohol by the community but did not produce any evidence confirming this.

Although the police agreed to the application subject to conditions, the information provided by residents, community groups, representatives from the school and the Joint Action Group for Gresham Ward shows, from the representatives own experience and information received, the location suffers from the above problems of anti social behaviour and safeguarding issues.

The Committee considered that the representations showed an outlet selling alcohol in that location is likely to result in further harm caused by alcohol fuelled anti social behaviour affecting residents and people attending the adjacent school and nearby community groups and that the conditions were not appropriate to prevent further crime and disorder, public

nuisance or to protect children from harm in that location.

The applicants were advised that would be notified in writing, of the Committee's decision and advised of their right of appeal to the Magistrates Court within 21 days.