

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 9 December 2016.

PRESENT: Councillors Taylor, (Chair), Rathmell and J A Walker

ALSO IN ATTENDANCE: A Abassi, Applicant

Representing the Applicant:
S Cattrell, Legal Representative for the Applicant
D Lester, D & B Licensing and Security Consultants
B Hodgson, D & B Licensing and Security Consultants

Objecting to the Application:
T Lamerton, Chair, University Ward Residents Association
Councillor Lewis, Ward Councillor, Central Ward

OFFICERS: C Cunningham, S Lightwing, T Hodgkinson

APOLOGIES FOR ABSENCE There were no apologies for absence.

DECLARATIONS OF INTERESTS

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

16/7 **LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE - 121 VICTORIA ROAD, MIDDLESBROUGH, TS1 3HX. REF: MBRO/PR0494/088971.**

A report of the Acting Principal Licensing Officer had been circulated outlining an Application for a Premises Licence in relation to 121 Victoria Road, Middlesbrough, TS1 3HX, Ref No: MBRO/PR0494/088971.

Summary of Proposed Licensable Activities:

Sale of Alcohol from 8.00 am to 10.00 pm 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 confirmed that he had received a copy of the report.

The Licensing Manager presented the report in relation to an Application for a Premises Licence in relation to 121 Victoria Road, Middlesbrough, TS1 3HX, Ref No: MBRO/PR0494/088971.

Details of the Application

The premises were currently vacant and the applicant was proposing to operate them as a small convenience store offering a range of ambient and frozen foods and had applied for a licence to be able to sell alcohol for consumption off the premises which would enable him to operate as an off licence as well.

Members were advised that these premises were located in Central Ward which had been identified as a Cumulative Impact Area in relation to Off Licensed Premises within the Council's Statement of Licensing Policy. A location plan was attached at Appendix 2 to the submitted report.

On 21 October 2016 a representation was received from Councillors Lewis and Uddin objecting to the application on the grounds that granting the application would undermine the four licensing objectives as the premises are located in a Cumulative Impact Area. A copy of

the representation was attached at Appendix 3 to the submitted report.

On 8 November 2016, a representation enclosing a petition was received from Mr Tony Lamerton, Chairman of the University Ward Residents' Association indicating that there had been an increase in anti-social behaviour in the area which related to the sale of alcohol. The letter stated that the local community agreed they did not need any more premises selling alcohol as there was already more than enough premises to service the local community. A copy of the representation was attached at Appendix 4 to the submitted report.

On 14 November 2016, a letter was received from Trading Standards indicating that following their concerns that the application failed to adequately address the licensing objectives "prevention of crime and disorder" and "protection of children from harm" the applicant had agreed to amend his operating schedule to include their suggested additional conditions and on this basis they had no objections to the application. A copy of the representation was attached at Appendix 5 to the submitted report.

The Applicant confirmed that the information contained within the report was correct.

Applicant in Attendance

The Applicant's Representative advised that the Applicant lived within approximately ten minutes walking distance of the premises. The Applicant was brought up by foster parents in Leeds and moved to Middlesbrough four years ago to be with his family. Currently the Applicant worked in a Barbers Shop where he dealt with members of the public on a regular basis. The Applicant had obtained a personal licence three years ago and undertaken training with D & B Licensing and Security Consultants. The Applicant's family were also involved in retail.

The Applicant's representative referred to the four licensing objectives as stated in the Licensing Act 2003. It was highlighted that public health was not of relevance when considering objections to the application. The Applicant's representative drew attention to a meeting held on 1 November 2016 with the Applicant, the Applicant's Licensing Consultants D & B Licensing, PC Higgins of Cleveland Police, Fiona Helyer from Public Health and Sinead Upton, Principal Trading Standards Officer. A Schedule of Conditions were agreed at that meeting and attached to the licence.

In relation to the prevention of crime and disorder it was agreed that the Premises Licence Holder/Designated Premises Supervisor would participate in any responsible retailing scheme and any relevant training that the Police or Local Authority provided or recommended. This was reinforced by the involvement of D and B Licensing Consultants who assisted in drafting the application and had given an undertaking to ensure that all necessary training for the Applicant and staff was completed. The original application was for 20% of the shop floor to be used for the storage of alcohol. However, the preference from the Police was 15% and this had been agreed. Alcohol would be kept in a controlled area which would be in sight of the checkout area. CCTV would be installed and staff trained to retrieve footage as and when required. The Fire Service had also been consulted and conditions with regard to fire-fighting equipment and clear doorways would be adhered to.

In relation to the prevention of public nuisance, any litter dropped outside of the premises would be regularly collected. The protection of children was a major concern for anyone selling alcohol and the Applicant's representative acknowledged that young people could be very resourceful. The Applicant would therefore operate the Challenge 25 Policy, ensure all staff were correctly trained and maintain a Refusals Book, in liaison with the Police.

The Ward Councillor, who had objected to the application, asked whether the Applicant had other staff working in the shop. The Applicant's Representative explained that the premises was currently empty. If a licence was granted, the Applicant intended to re-open the shop and a personal licence holder would be present at the premises at all times.

The Applicant's Licensing Consultant added that if the licence was granted, the Applicant intended to take two or three months to completely refurbish the premises. Once the premises

was ready to operate, staff would be recruited and trained to personal licence holder standard.

The Ward Councillor asked whether the Applicant had any experience. The Applicant's Representative confirmed that the Applicant had held a personal licence for three years and had experience of working with members of the public in a barber's shop. The Applicant's representative highlighted that in spite of his young age, the Applicant had gone about this application in a responsible way by recruiting reputable Licensing Consultants to advise him.

A Member asked why the Applicant held a personal licence when he had never worked in the trade. The Applicant's Representative explained that the Applicant had submitted an application for a Premises Licence three years ago. In consultation with the Police and Trading Standards there were concerns about another off licence opening in the area and the Applicant voluntarily decided to withdraw the application and re-apply at a later date.

The Member asked what had changed in the last three years. The Applicant replied that he had worked in the community a lot and learnt a lot. The Applicant worked in a Barber's Shop and dealt with a lot of customers.

A Member stated that Central Ward, and two adjoining Wards, had been deemed saturation areas by Middlesbrough Council, with regard to the high number of premises selling alcohol. It was a fact that 43% of all alcohol admissions to James Cook University Hospital were linked to these three Wards, with 61% of crime and 53% of anti-social behaviour also being attributed to alcohol. The Member asked the Applicant's Representative how it was intended to address these issues.

The Applicant's Representative acknowledged the facts as outlined but reminded the Committee that the Police had assessed the application and had not objected. Any premises was only as good as the person running it. In addition, there was no licensing objective with regard to public health. Although Middlesbrough had a saturation policy, there was no requirement for it to be applied to every application and it was for the Committee to make a decision on the application based on its own merits and on the evidence provided.

Objections were presented on behalf of the University Ward Residents' Association. The residents were apprehensive in relation to this application and had produced a petition to express their concerns. The residents suffered anti-social behaviour on a regular basis and felt that another off licence would exacerbate this problem and it would spiral out of control. Since Middlesbrough Council had a Cumulative Impact Policy, the residents felt this should play a major part in consideration of the application. The residents requested that the application was refused.

The Applicant's Representative referred to Appendix 3 to the submitted report, which was a copy of a letter of objection from the Ward Councillor for Central Ward. The letter made reference to extremely high levels of anti-social behaviour, poor health, high mortality rates, high unemployment and low education attainments. The Applicant's Representative commented, that, with respect, while there might be truth in this statement, none of these issues formed part of the licensing objectives.

An Objector stated that during August 2016, according to the Police website, forty cases of anti-social behaviour which were related to alcohol were reported. There were eight shops in the area within five minutes' walk of each other selling alcohol.

The Applicant's Representative referred to a statement in the Objector's letter of 7 November 2016 that "we have spoken to local residents and majority of them are against the granting of the license". The Applicant's Representative asked how the petition was organised. The Objector explained that copies of the petition were left in local shops for people to sign.

The Applicant's Representative reiterated that public health was not a licensing objective and neither was religious grounds. It could be that the majority of the people who had signed the petition disagreed on religious grounds. The Applicant's Representative stated that it was unfair to attribute the anti-social behaviour occurring in the Ward to this application and that there was a difference between people objecting to this particular premises and objecting

because they were inherently against drinking. The Applicant's Representative also reminded the Committee that following the meeting held on 1 November 2016, and the agreement of the Applicant to additional conditions on the licence, the responsible authorities had offered no further representations to this application.

A Member asked how many of the forty anti-social behaviour cases reported in August were attributed to alcohol. The Objector stated that there was no breakdown on the police website, although burglaries were recorded separately.

A Member noted that the Applicant had been requested to reduce the alcohol storage in the shop from 20% to 15% and asked what difference that would make to the floor plan. The Applicant's Representative confirmed that there was an agreement that the alcohol would always be on view in the store. All spirits would be kept behind the counter and the section shown on the plan on the floor would be reduced so that the total area was 15%.

The Applicant stated that whilst the objections to the application were sound they were not especially relevant to this application. If there was no capacity for an off-licence then the business would fail.

Summing Up - Objectors

The Ward Councillor reiterated that there were too many off licences in the Ward and major concerns about anti-social behaviour directly linked to alcohol. Residents were concerned and had signed a petition. The Ward Councillor asked the Committee to consider the Cumulative Impact Policy and refuse the application.

The Objector asked to the Committee to take into consideration the fact that there were eight premises within five minutes' walk of each other that sold alcohol.

Summing Up - Applicant

The Applicant's Representative referred to the information from the Police website in relation to the forty cases of anti-social behaviour recorded during August 2016. The Applicant's Representative reiterated that there was not enough detail in relation to these incidents and they might have been committed by a small number of people and be unrelated to alcohol. In addition, the Police, the main responsible authority, did not object to this application.

With regard to general anti-social behaviour, poor health, unemployment, low educational attainment, the Applicant's Representative again stated that these issues were not relevant and there was no public health criteria in the Licensing Objectives.

The Applicant's Representative reminded the Committee that the Applicant had applied for a Premises Licence three years previously, but had voluntarily withdrawn his application, having received some concerns from the responsible authorities at that time. However, the Applicant had gained further experience of dealing with members of the public, had engaged the services of reputable Licensing Consultants and had agreed conditions with the responsible authorities. Whilst the Applicant had experienced a challenging upbringing he had never been in trouble with the Police.

The Applicant's Representative submitted that the application was worthy and should be granted on its own merits in accordance with the licensing objectives. The Applicant's Representative asked the Committee to give the Applicant a chance.

It was confirmed that there were no further questions. The Chair informed all present that the Licensing Authority would write to all parties within the next five working days informing them of the decision and providing details of the right to appeal.

All interested parties other than the Officers of Legal and Democratic Services, withdrew whilst the Committee determined the application.

DECISION

The Committee considered the application on its merits and the written and oral representations of the Applicant and the Objectors. It considered the Licensing Act 2015, relevant parts of the Government Guidance issued under Section 182 of the Licensing Act 2003 and the Council's statement of licensing policy.

The Committee decided to grant the application for a licence to sell alcohol from 8.00am until 10.00pm daily at the Premises known as 121 Victoria Road Middlesbrough, subject to the following conditions modified to such an extent as the Committee considered appropriate for the promotion of the licensing objectives:

1. The Premises will not stock, display, sell or supply any lager, beer cider or Perry product with an ABV content above 6.5%.
2. No single cans of larger, beer or cider will be sold or supplied at the Premises
3. The Premises Licence Holder and the Designated Premises Supervisor will participate in any "Responsible Retailing" scheme.
4. The Premises Licence Holder and the Designated Premises Supervisor will participate in any relevant training the Police or the Local Authority provides in relation to the Licensing Objectives.
5. The Premises Licence Holder and the Designated Premises Licence Holder will participate in any local Off Licence forums held by the Local Authority
6. Training must be provided and undertaken by all staff whether paid or unpaid at the time of appointment and at least every six months thereafter. The training must include the operation of a "Challenge 25" policy; the laws relating to under age sales of alcohol, the sale of alcohol to anyone who appears drunk and sale of alcohol to adults who appear to be purchasing alcohol on behalf of a minor or someone who is drunk; completion of a refusals register and incident book and all other conditions on the Premises Licence.
7. Training records must be kept on the Premise, maintained up to date at all times and made available to the police or any other Responsible Authority on request. The training records must be completed in respect of every member of staff. Training records must include the name of the member of staff trained, the date and time training was completed and details of the training completed. The training record must be signed by the member of staff who completed the training, the person delivering the training and the Designated Premises Supervisor or the Premises Licence Holder.
8. A refusals book must be kept on the Premises, maintained up to date at all times and made available to the police or other Responsible Authority on request. The refusals book must record the date, time and reasons for every refusal to sell or supply alcohol.
9. The Premises Licence Holder, Designated Premises Supervisor or a person nominated, where the Premises Licence Holder or the Designated Premises Supervisor has previously informed the Licensing Authority in writing of that person nominated, shall check the refusals book on a monthly basis and sign and date the book when a check has taken place.
10. An incident book must be kept on the Premises, maintained up to date at all times and made available to the police or other Responsible Authority on request. The incident book must record the date, time and details of all incidents of crime and disorder or anti-social behaviour at the Premises or directly outside of the Premises.
11. A personal licence holder will be on the Premises at all times when it is open to the public.
12. The display of alcohol must not exceed 15% of the sales area in the Premises, alcohol must only be displayed in the areas outlined in red on the plan attached to the Licence and must be in sight of the checkout area at all times.

13. A digital Closed Circuit Television System ("CCTV") will be installed, maintained in good working order and correctly time and date stamped. The CCTV system will incorporate sufficient hard-drive capacity to suit the number of cameras installed. The CCTV will be capable of providing pictures of evidential quality, particularly facial recognition, in all lighting conditions. Cameras will cover all entry and exit points, the display of alcohol area, areas where the sale or supply of alcohol takes place and areas directly outside the vicinity of the Premises. All CCTV recordings must be maintained for at least 31 days and must record for 24 hours a day. CCTV footage must be capable of being produced on a format that can be viewed on any desk top computer. The CCTV system will have the facility to be password protected. Viewings of recordings shall be made available to the police or other Responsible Authority on request, immediately during an inspection or otherwise within 24 hours. A member of staff trained in the use of the CCTV system must be on the Premises at all times when it is open to the public.

14. Staff must require Identification in the form of a current ten year passport, photo card driving licence or PASS logo identity card only from any customer who appears to be under the age of 25 and verify the customer is 18 or older before any sale or supply of alcohol is made.

15. A Notice must be placed in a prominent position at every point of sale and at the entry and exit points of the Premises informing customers and staff the Premises operates a Challenge 25 Policy and that all customers who appear to be under the age of 25 will be challenged for ID in the form of a current ten year passport, photo card driving licence or PASS logo identity card proving they are 18 or older before a sale or supply of alcohol is made.

16. The Designated Premises Supervisor and staff will monitor customers whilst shopping and leaving the Premises

17. Notices will be displayed in prominent positions in the Premises asking customers to respect the needs of local residents especially early in the morning and later in the evening.

18. The Premises Licence Holder or the Designated Premise Supervisor will ensure litter is picked up directly in front and to the rear of the Premises.

REASONS FOR THE DECISION

1. The Application was for a licence to sell alcohol from 121 Victoria Road. The Application confirmed that the Premises will be used as a convenient store offering a range of ambient and frozen foods, other goods and a range of beer wine and spirits. The display of alcohol is limited to not more than 15 % of the shop floor to ensure that the Premises remains a convenience store and not solely used for the sale of alcohol which would not be appropriate for the area.

2. The Premises is situated on Victoria Road which is made up of residential properties and different types of shops including food outlets. It is situated in Central Ward which is subject to a Cumulative Impact Policy in respect of off-licences.

3. Two objectors attended the hearing and were opposed to granting the Licence. The main grounds were, in summary, that the area is already saturated by licensed premises, that the area is subject to a cumulative impact policy and suffers from Anti-Social Behaviour and a Licence to sell alcohol will add to the problems in the area.

The Committee also noted that the objector produced a petition with lots of names, however, the Petition itself did not set out under what Licensing Objective the people named in the petition were opposing the application. However, the Committee noted that the people in the petition were against a Licence being granted.

4. The Applicant's case, in summary, was that although it is in a cumulative impact area, following a meeting with the police, trading standards and public health, the main Responsible Authorities for the prevention of crime and disorder including anti-social behaviour and nuisance, who have the data, statistics and expertise in these areas did not consider the

granting of a Licence to the Applicant for the Premises would add to the problems in Central Ward. It was also the Applicant's case that the proposed conditions that the Licence would be subject to and that the Applicant was a responsible person with a Personal Licence, lived near to and knew the area, the Licensing Objectives would be met and his Premises would not add to any of the problems current in Central Ward.

5. The Committee considered its policy on the cumulative impact of Off- Licences, namely that it was applied to Central Ward due to the number, type and density of the Premises selling alcohol for consumption off the premises. The Policy confirmed that there is good evidence that crime and disorder or nuisance occurring in Central Ward is being caused by customers of off licensed premises, and that the cumulative impact of off licensed premises in this location is evident. The Committee noted that it must consider the application on an individual basis and that the policy advises that off licence applications, which will not add to the cumulative impact, should be granted (p10.24).

6. The Committee accepts that there is a problem with alcohol fuelled crime and disorder and anti-social behaviour in the area. It noted the figures produced by the objector, but considered there was nothing specific produced in relation to the Victoria Road area where the premises is situated or the causes of the anti-social behaviour referred to by the Objector.

7. The Committee took into consideration and put weight on the fact that the Police, Trading Standards and Public Health agreed to the Application following a meeting with the Applicant with the addition of conditions and therefore it assumed that those Responsible Authorities for crime and disorder, anti-social behaviour, nuisance and the protection of children from harm did not consider that the grant of the licence would add to the cumulative impact of other licensed premises in the Ward.

8. The Committee wholly understands the concerns of the objectors about an additional premises selling alcohol, however, for this particular application at its particular location, the Committee considered, on balance, that if the Licence was granted there would be safeguards against any breaches of the Licensing Objectives due to the suitability of the Applicant to responsibly run the Premises and the stringent conditions on the Licence.

9. The Committee considered that robust enforceable and clear conditions are required to be imposed on the Licence in order to promote the objectives and has amended the conditions proposed by the Applicant to ensure this.

10. In relation to the sale of alcohol, this will form only a small part of the goods on offer and display is limited to 15%. This should attract a different type of customer to one who just requires alcohol. No super strength lagers, ciders or perrys will be displayed or sold which may cause the most harm nor will single cans be sold which may deter a younger clientele or street drinkers. The alcohol displays will be monitored by staff and CCTV. The store will operate a strict challenge 25 policy, which means anyone who looks under 25 will be required to show valid ID. CCTV recording at the entrance, exits and at the front of the Premises should deter crime and disorder and groups gathering and may assist in spotting an adult trying to purchase alcohol for children of a person who is drunk. Various records must be kept to ensure compliance and to record any problems if they arise and can be dealt with. A trained Personal Licence Holder experienced in licensing laws will be present on the premises at all times, and all staff will be thoroughly trained on all of the above conditions and in preventing under age sales, sales to people who are drunk or sales to adults who attempt to purchase alcohol on behalf of a minor or drunk person. The Applicant will be required to attend Off-Licence Forums, "Responsible Retail" schemes and any training provided by the Licensing Authority, which will improve his understanding of the issues facing Licensed Premises.

11. The period in which alcohol can be sold up to 10.00pm and no later falls within the policy for residential areas.

12. For these reasons the Committee decided to grant the Application subject to the conditions as above in order to promote the Licensing Objectives.

LINTHORPE ROAD, MIDDLESBROUGH, TS1 3QP. REF: MBRO/PR0494/088970.

This application had been withdrawn prior to the meeting.

NOTED