

LICENSING SUB COMMITTEE A

A meeting of the Licensing Sub Committee A was held on Tuesday 22 April 2025.

PRESENT: Councillors L Lewis (Chair), T Livingstone and A Romaine

ALSO IN ATTENDANCE: M Saunders (Ward Councillor), L Baker (Heron Foods), C Graham (Heron Foods)
C. Reece (Legal Representative – Heron Foods)

OFFICERS: S Bonner, T Durance and S Wearing

APOLOGIES FOR ABSENCE: None.

24/1 **WELCOME AND FIRE EVACUATION PROCEDURE**

The Chair welcomed all attendees to the meeting and described the fire evacuation procedure.

24/2 **DECLARATIONS OF INTEREST**

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

24/3 **LICENSING ACT 2003 - APPLICATION FOR PREMISES LICENCE: HERON FOODS, UNIT 3, 9 HIGH STREET, ORMESBY, MIDDLESBROUGH, TS7 9DP. REF NO: 106098**

The Chair outlined the procedure to be followed and asked the Licensing Officer to speak to the report.

Members were advised the initial application was detailed at Appendix one of the report. Members were also advised that, ideally, Sub-Committee hearings were made within 20 working days after the closure of the 28-day consultation period. However, the Licensing Act 2003 regulations allowed this to be extended, provided all parties agreed. This was the case for this application.

Following receipt of the application some reservations were raised by the Police and the Public Health Service about the operational times for the sale of alcohol, particularly at weekends. Following those concerns the Applicant amended their application and changed alcohol sale times to start at 8am rather than 7am Monday to Friday. The Police and Public Health Service were satisfied with those amendments as well as a list of modified conditions which were detailed at Appendix two of the report.

Members were also advised that within the 28-day consultation period four objections had been received. All four objectors were advised of the revised conditions. Following this, two objections were withdrawn and two were maintained.

All parties involved in the application, including the objectors, were advised of date of hearing. Following this one further objection was withdrawn but the final objection was maintained. Members were advised the remaining objector was not in attendance at the meeting.

Comments made in the remaining objection referred to Bargain Booze located in the same area which, in their view, had attracted anti-social behaviour. While Bargain Booze had closed, the closure was not due to Council intervention and would not have been a consideration for the application.

The remaining objection also referred to a OneStop opening on Ormesby Bank. However not only was this located in a neighbouring Local Authority area, it was also clarified that commercial need was not a consideration for this application under the Licensing Act 2003.

The Chair thanked the Licensing Officer for their summary of the report.

As Members had no questions on the report, the Chair invited the Applicant's legal

representative to introduce those present with them and present their case.

The Applicant's legal representative introduced the Head of Property for Heron Foods and the Area Manager for Heron Foods. The Applicant's legal representative stated the Staff Operations Procedure, listed with the agenda pack, contained commercially sensitive information. For this reason, it had not been made available to the public. However, Members of the committee had been sent a copy. It was also clarified that a witness statement by the proposed Designated Premises Supervisor (DPS) had also been submitted as part of the application. As this had been redacted it was made available to the public.

The Applicant's legal representative stated Heron Foods offered grocery products and had 270 stores across the company that had premises licences. The store in question was flagged as benefitting from having a premises licence.

Members were advised that all staff selling alcohol were provided with relevant training which was constantly updated to include changes to legislation and regulations. Training was supported by e-help and was detailed in the Staff Operations Procedure. At this point the Chair advised that a Ward Councillor, whose ward the store was in, was in attendance as an observer. It was queried if the Councillor could have sight of the training materials detailed in the Staff Operations Procedure. The Applicant's legal representative did not have an objection to this.

It was pointed out the store in question was seen as a community store which employed several local people. The DPS's statement highlighted there were no issues that Members needed to be aware of and that they knew the store and area well.

Considering concerns raised by Responsible Authorities about alcohol sales starting at 7.00am, this had been changed to 8.00am and that no further objections from the Responsible Authorities had been raised. Despite the remaining objection there was no evidence to support the claims contained therein and the Applicant saw no good reason for rejecting the application.

The Chair thanked the Applicant for their presentation and invited questions from the committee. A discussion took place around the issue of commercial need, and it was clarified that commercial need was not a consideration under the Licensing Act 2003. Members also sought clarification on the location of alcohol in the store. This was clarified by the Applicant using the floor plan in the report.

The Chair invited the Applicant to provide a summary of their case. The Applicant's legal representative reiterated the points made earlier in the meeting and added that no licences issued to Heron Foods had been reviewed or revoked. The DPS was very experienced, and the store was well conditioned.

ORDERED that the Application for a Premises Licence for the off-sale of alcohol be GRANTED subject to conditions.

Authority to Act / Considerations:

1. On 22 April 2025, the Licensing Sub Committee considered an application for the grant of a Premises Licence to Heron Foods Limited ("the Applicant") for the off sale of alcohol at an existing store at Unit 3, 9 High Street, Ormesby, Middlesbrough ("the Premises"). The application was for the permitting of alcohol sales between 07:00 and 21:00 daily, except Sunday's where the proposed hours were between 08:00 and 20:00.
2. Under Section 18 of the Licensing Act 2003 ("the Act"), as representations against the grant of the licence had been received from members of the public as interested parties, the Licensing Sub Committee must hold a hearing, have regard to the representations and take such steps it considered were appropriate for the promotion of the licensing objectives.
3. The Licensing Objectives under Section 4 of the Act were the promotion of the prevention of crime and disorder, prevention of public nuisance, protection of children from harm and public safety.

4. The steps the Committee may take were, to grant the application, grant with conditions and /or modify conditions in the operating schedule, exclude a licensable activity, refuse the Designated Premises Supervisor or refuse the application.
5. Under Regulation 11 of the Licensing Act (Hearings) Regulations 2005 ("the Regulations"), the time limit for the hearing to take place was extended due to the availability of the Applicant's legal representative, who requested the hearing be held beyond the normal specified period. The request was considered by the Council's Licensing Service and agreed to the request as it deemed it to be in the public interest to do so. All parties were notified of the same.
6. During the initial consultation, discussions were held between the Applicant, Cleveland Police ("the Police") and the Public Health Service ("Public Health") of the Council, regarding the proposed times for the sale of alcohol. Following discussions, the Applicant agreed to amend the proposed times for sale, those being Monday to Saturday 08:00 – 21:00 which was an hour later opening trading time than first proposed, as well as agreeing to the implementation of a schedule of revised conditions, as attached to the decision. As a result, the Police and Public Health confirmed they had no objections to the grant of the licence based on the agreed revised terms and conditions.
7. Originally, four residents had made representations opposing the application. Two of those withdrew their representations early during the process following notification of the agreement to the proposed revised terms and conditions between the Applicant and the Police and Public Health. Following the issue of the 'Notice of Hearing' being issued to the relevant parties, a further resident withdrew their objection. One objector remained, however it was noted in the decision that the resident did not attend the hearing.
8. The Licensing Sub Committee carefully considered all the information including the report, appendices and the relevant written representations made by the objecting resident. It further carefully considered the oral submissions of the Applicant and its representatives. The Committee considered the Act, the Government Guidance issued under Section 182 of the Act ("the Guidance") and considered any relevant parts of Statement of Licensing Policy 2025 to 2030 ("the Policy") but accepted that whilst this had been approved by full Council, it was not yet implemented but would be by 01 May 2025.

Decision:

9. The Committee decided it was appropriate to grant the Application for the off sale of alcohol subject to the conditions set out and appended to the report and decision. The Committee was satisfied that the operation, subject to the conditions, would uphold the licensing objectives of the promotion of the prevention of crime and disorder, prevention of public nuisance, protection of children from harm and public safety.

Reasons:

10. As detailed above, written representations were received by four residents objecting to the Application. After discussions with the Licensing Team, only one objection remained, it was noted that this resident did not attend the hearing. However, in accordance with Regulation 20 of the Licensing Act 2003 (Hearings) Regulations 2005, the Committee could consider the written representations made by a party who does not attend the hearing.
11. Under the Act, the Committee was only permitted to consider relevant representations. Relevant representations were those which were about the likely effect the sale of alcohol at the Premises would have on the licensing objectives or, in other words, the likely impact the proposals would have on the licensing objectives. Those objectives being, the promotion of the prevention of crime and disorder and public nuisance, the protection of children from harm and public safety.
12. Therefore, the Committee was unable, under the Act, to take into consideration objections or representations about issues outside of those lawful parameters, for example, need, the cost of housing, use of a green land, increased management fees for residents, consumption away from the premises etc. It also could not take into

consideration planning issues, this would be for the planning authority, this was reiterated by the Applicant's representative in their submissions.

13. In summary, but not limited to, the representation that remained related to the need for another shop in the area and the custom that it would attract. The representation referenced altercations at a shop next door and beggars causing ASB and criminal acts. The representation further advised that the garage and post office both sold alcohol and a new 'One Stop' opening on the bank which will sell alcohol.
14. The Applicant argued that the representation made by the resident did not contain any evidence or information to support the assertions made regarding ASB. Further the Applicant highlighted the issues regarding other shops in the vicinity could not be apportioned to them, the Applicant was not responsible for how other traders/businesses operate.
15. The Committee did consider that it was relevant to note that, following consultation between the Applicant, Public Health and the Police, the latter two bodies made no representations as to the Application and therefore considered the operation with conditions would uphold the licensing objectives.
16. The Applicant confirmed that they were a national operator and were very experienced in operating stores in a variety of environments. This included premises operating in areas with problem street drinkers, thefts and ASB. The Applicant confirmed that they had never had a licence reviewed or revoked. Further the Designated Premises Supervisor that had been proposed was an experienced and trusted member of staff.
17. The Committee considered the submissions by the Applicant regarding how it was a responsible retailer. The Applicant had provided a very extensive and informative 'Store Operations Policy and Till Step-by-Step Guide' ("the Guide") and referenced this at the hearing. Committee Members had read the Guide and found it to be very practical, and further commented that it identified the potential risks and issues at the stores, and the necessity to prevent them, rather than a reactive approach following incident.
18. The Applicant further detailed the training its staff received, specifying how they are trained as per the Guide, on an individual 1 to 1 basis, as well as receiving refresher training frequently, training when changes to legislation were implemented and how staff received e-learning modules. The training included prevention of underage sales by implementing a strict challenge 25 policy, recognising attempts of proxy sales, conflict resolution, dealing with ASB and people under the influence attempting to purchase alcohol.
19. The Committee was informed that the Applicant was a convenience store selling frozen and convenience store goods, it did not consider itself to be a discounted store selling alcohol that was attractive to street or underage drinkers. The Committee heard that alcohol products were stored in view of the tills and away from the entrance to the shop. The Applicant confirmed that the storage of alcohol could be seen at all times, this was imperative for identifying individuals under the influence, and for detecting thefts and crime as customers must go through the shop to reach the section and are visible at all times when at the aisle.
20. For all of the reasons above, the Committee was satisfied that the Operation of the premises including the sale of alcohol with the conditions placed on the Licence would not be detrimental to the promotion of the objectives.
21. Any party to the hearing aggrieved by this decision may appeal to a Magistrates Court. The Local Magistrates Court is the Teesside Justices Centre, Teesside Magistrates Court, Victoria Square, Middlesbrough. An appeal must be made within 21 days beginning with the day on which the Party was notified by the licensing authority of the decision.
22. If a Party made an appeal and the Council successfully defended the Committee's decision it would request the court make an order for the Party to pay the Council's costs in defending this decision.

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ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.

None.