

LICENSING SUB COMMITTEE A

A meeting of the Licensing Sub Committee A was held on Thursday 27 January 2022.

PRESENT: Councillors R Arundale (Chair), T Higgins and M Smiles

ALSO IN Mr M T Butt – Applicant
ATTENDANCE:

Making Representations:-

PC J Arbuckle; PC A Roberts – Cleveland Police
P Clark – Cleveland Police legal representative
S Upton – Principal Public Protection Officer, Public Health
Councillor Lewis – Central Ward Councillor

OFFICERS: S Bonner, J Dixon, C Cunningham and T Hodgkinson.

PRESENT AS AN M Embleton – Legal Services.
OBSERVER:

21/9 **DECLARATIONS OF INTEREST**

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

21/10 **LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE - TEESSIDE GROCERS, 85 BOROUGH ROAD, MIDDLESBROUGH, TS1 3AA. REF: OL/21/06**

A report of the Director of Public Health and Public Protection was circulated outlining an application for a Premises Licence in respect of Teesside Grocers, 85 Borough Road, Middlesbrough, TS1 3AA, Ref No: OL/21/06.

Summary of Proposed Licensable Activities:-

Sale of Alcohol (Off Sales) - Monday to Sunday: 7.00am – 10.00pm.

Full details of the application and operating schedule were attached at Appendix 1.

The Chair introduced those present and explained the procedure to be followed at the meeting. It was confirmed that all parties had received a copy of the Regulation 6 Notice and copy of the report and accompanying documents, in accordance with the Licensing (Hearings) Regulations 2005.

Details of the Application

The Licensing Manager presented the report outlining the application for a Premises Licence in respect of Teesside Grocers, 85 Borough Road, Middlesbrough, TS1 3AA. A copy of the application was advertised in the Evening Gazette on 12 October 2021, as required by the Licensing Act 2003.

It was highlighted that the timescales for hearing this matter had been exceeded due to the applicant being out of the country. Under Regulation 11 of the Licensing Act (Hearings) Regulations 2005, the time limit for the Hearing to take place was extended as it was considered to be in the public interest. All parties were notified of this decision on 26 November 2021.

The premise was situated in a terrace of other commercial properties in Borough Road, Middlesbrough, and was currently unoccupied. The applicant intended to operate as a retail shop and off-licence.

Members were advised that the premise was situated in a Cumulative Impact Zone for off-licences. Under the provisions of the Council's Licensing Policy, there was a presumption that the grant of new premises licences for the sale of alcohol off the premises was likely to add to

the cumulative impact and would normally be refused, or subject to certain limitations following representations, unless the applicant was able to demonstrate within the operating schedule that there would be no negative cumulative impact on the licensing objectives.

Representations

Three representations were received between 7 October and 1 November 2021, as follows:-

- 7 October 2021 – From Central Ward Councillors (Councillors Lewis, M Storey and Uddin), objecting to the application on the grounds of all four licensing objectives and that the premise was situated in a cumulative impact zone. (Copy attached at Appendix 2).
- 1 November 2021 – From F Helyer, Public Protection, objecting to the application on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. (Copy attached at Appendix 3).
- 1 November 2021 – From Cleveland Police, objecting to the application on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. (Copy attached at Appendix 4).

Applicant in Attendance

The applicant, Mr Butt, was in attendance and presented the case in support of his application and addressed the issues within the representations. Members of the Committee, the objectors, Licensing Manager and the Council's legal representative asked questions of the applicant which were responded to accordingly.

Those Making Representations

Cleveland Police

PC Arbuckle presented the objections to the application on behalf of Cleveland Police. Reference was made to the two cumulative impact policies currently operating in Middlesbrough – one in relation to 'on premises' alcohol sales and one in relation to 'off premises' alcohol sales. The subject premise was located within Central Ward and within the 'off sales' cumulative impact zone. The Committee heard that Middlesbrough already suffered with high levels of alcohol-related crime and disorder and anti-social behaviour and believed that another off-licensed premises would only exacerbate and add to the existing problems in the area, including making alcohol even more readily available to vulnerable drinkers.

It was highlighted that the application was vague and it was the opinion of Cleveland Police that it did not adequately address the licensing objectives or set out how the applicant intended to ensure that the premise did not negatively impact the area.

PC Arbuckle's statement, dated 19 January 2022, included a table of all alcohol-related crime within Central Ward and alcohol-related crime that had been reported to the Police occurring within a 500 metre radius of the subject premise.

Further evidence of all anti-social behaviour and alcohol-related anti-social behaviour, and all violent crime and alcohol-related violent crime within the Central Ward was also provided.

Public Health

S Upton, Principal Public Protection Officer, presented the objections on behalf of Middlesbrough Council's Public Health team.

Public Health objected to the application due to the high levels of alcohol-related crime and disorder and associated hospital admissions and believed that granting the application would have a negative impact and further add to the problems. Background data showed that Central Ward was the sixth most deprived ward in Middlesbrough and was consistently in the top five rates of emergency hospital admissions which impacted on the community as well as the NHS, Police, voluntary sector, education and Council services.

The Principal Public Protection Officer also provided the Committee with data in relation to the cost of dealing with alcohol-related crime and disorder and anti-social behaviour to the Council and NHS; figures for those identifying as binge drinkers; figures relating to the number of

alcohol-related deaths in Middlesbrough and England; numbers of clients being treated by Middlesbrough drug and alcohol treatment services.

The Committee was informed that a meeting had taken place between the applicant, Police and Public Health on 7 December 2021 to discuss the application. The applicant had not demonstrated a willingness to work with responsible authorities and was not fully aware of the licensing objectives or the cumulative impact policies that were in place.

Central Ward Councillor – Councillor Lewis

Councillor Lewis, Ward Councillor for Central Ward, was in attendance at the meeting and presented the objections to the application on behalf of herself and the other two Ward Councillors – Councillors M Storey and Uddin.

Councillor Lewis stated that Central Ward suffered from serious issues attributed to alcohol and drugs, including, crime, anti-social behaviour and violence. As a long-time resident herself, she stated that she witnessed the impact this had on the local community on a daily basis and that granting the application would only exacerbate the problems.

Questions to those making representations

The applicant and the Committee were afforded the opportunity to ask questions of those making representations, however, there were no questions.

Summing Up

All parties were afforded the opportunity to sum up:-

Cleveland Police

Cleveland Police legal representative summed up on behalf of Cleveland Police by stating that there was no criticism of the applicant, but having taken into account the cumulative impact policy, the application offered nothing unique to consider departing from the policy. The problems experienced in the area had been discussed at length and the Police considered that even conditioning the licence would not address the concerns and requested that the application be refused.

Public Health

The Principal Public Protection Officer summed up on behalf of Public Health by stating that the application should be refused due to the existing problems with alcohol-related crime and disorder and anti-social behaviour in the area. The cumulative impact policy was in place for a reason and the application offered nothing unique.

Councillor Lewis confirmed she had nothing further to add.

The applicant confirmed that he had nothing further to add.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal and Democratic Services, withdrew whilst the Committee determined the application. The Council's legal representative advised that, in accordance with the Regulations, the full decision and reasons would be issued to the parties within five working days. The Chair advised all parties of the Right of Appeal to the Magistrates Court within 21 days of the decision.

DECISION

ORDERED that the application for a premises licence in respect of Teesside Grocers, 85 Borough Road, Middlesbrough, TS1 3AA, Ref No. OL/21/06, be refused, for the following reasons:-

Authority to Act/Considerations

1. On 27 January 2022, the Licensing Sub Committee considered an application for the

grant of a Premises Licence to Mr Muhammad Tayyeb Butt for the off sales of alcohol at 85 Borough Road, Middlesbrough to be known as Teesside Grocers ("the Premises"), between 07.00 and 22.00 hours daily.

2. Under Section 18 of the Licensing Act 2003, ("the Act") as representations against the grant of the licence had been received from the Police and Public Health as Responsible Authorities, and Ward Councillors as Interested Parties, the Licensing Sub Committee must hold a hearing, and, having regard to the representations take such steps it considered 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, the prevention of public nuisance, the protection of children from harm and public safety.
4. The steps the Committee may take were to 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. The Licensing Sub Committee carefully considered the report and appendices, the representations made by the Police, the Police Representative, Public Health, the Ward Councillors and the applicant. It carefully considered the Act, the Government Guidance ("the Guidance") issued under the Act and the Council's Statement of Licensing Policy ("the Policy").

Decision

6. The Committee decided it was appropriate to refuse the application in the public interest in order to uphold the promotion of the prevention of crime and disorder, prevention of public nuisance, protection of children from harm and public safety.

The reasons for the decision were as follows:-

Reasons

7. The proposed operation at the premise would be a convenience type store with part of the offer being the sale of alcohol. The premise was located in a terrace of other commercial properties in Borough Road very near to the town centre and the University. Borough Road was situated within Central Ward. Central Ward had been identified in the Policy as being subject to a special cumulative impact area. This meant that the area was saturated with premises providing off sales of alcohol and the cumulative impact of such off sales was having a detrimental impact on crime and disorder, public nuisance, public safety and the protection of children.
8. The effect of this Policy meant that an applicant for a new premises for the off sale of alcohol needed to satisfy the Committee that the new operation would not add to the current problems in the area.
9. The contested issues were that the applicant considered his shop would not add to the problems in the area as, in summary, he would provide training, have proof of age systems, CCTV, that he would provide employment in the area and had experience of running other shops in Teesside which sold alcohol. Alcohol was only a small part of the offer and he also informed the Committee he would be willing to reduce the hours.
10. However, the Police, Public Health and the Ward Councillors, in summary, considered the operation would only add to the saturation of off licences providing the same competing operation in the area and that such sales of alcohol at the proposed premise could only add to the detrimental impact on the objectives.
11. The Committee considered that Central Ward had the highest number of licensed premises, 27 being off licensed premises, and a very high number of crimes and anti-social behavior including high levels within a 500 metre radius of the premise. The Police confirmed that alcohol was intrinsically linked to the crime including violent and domestic crime and anti-social behavior in the Ward and the locality of the premise.

12. Public Health confirmed that Central Ward had the highest rates of emergency admissions to hospital overall in Middlesbrough. Areas within the Ward suffered much higher than others locally and nationally in relation to health deprivation and were in the top 10% of the most deprived areas nationally for crime. The Ward, and Middlesbrough, suffered massively from the detrimental impact of alcohol misuse. Public Health confirmed that there had been a huge rise in people using premises for off sales to drink at home contributing to an array of problems including an increase in domestic abuse and alcohol related deaths.
13. The Committee noted in addition to being within its own cumulative impact area for off sales, the Premises was right on the border of a cumulative impact area for the town centre for on licensed premises. Central Ward had the highest density and was saturated with Licensed premises and bordered Newport, North Ormesby and Longlands and Beechwood Wards which were also subject to a special saturation policy for off sales of alcohol.
14. The Committee, therefore, considered it essential that any new operation which included the sale of alcohol must include a different type of offer that would not lead to further harms caused by consumption in the area and have robust, clear, enforceable measures and procedures in place.
15. The Committee considered that the operation of a convenience store did not provide a different offer to other competing convenience stores permitting off sales in the ward which would drive prices and the type of alcohol sold.
16. The Committee considered that the applicant failed to identify and address the risks in his operating schedule or his presentation to Committee. For any off licence the Policy advised that the applications should address numerous issues including but not limited to, challenge 25, restrictions on super strength, risky types of alcohol, positioning of alcohol, limitation of area, fully enforceable CCTV provision, crime and incident records, participation of in schemes, forums, addressing proxy sales etc. Off Licence applications subject to a cumulative impact policy had to be even more robust. The applicant had failed to meet even the minimum standards. The Committee was seriously concerned that the applicant had failed to meet the Police and Public Health's attempts to meet to discuss the application and when eventually he was available, the Police and Public Health confirmed he appeared to be unaware of the Policy or of the issues and problems in the area where the Premises was situated.
17. Although the applicant informed the Committee he had previous experience, it was concerned that he had not considered or addressed the issues that the premises could face or measures to safeguard against those problems or the impact of such an operation on the area.
18. For these reasons the Committee considered it was not satisfied that the Licensing Objectives would be upheld and considered the application would add to the current serious problems in the area. Conditioning the Premises Licence would not prevent the undermining of the objectives or the core of the problems explained above. Therefore, the Committee had no reason to depart from the special cumulative impact policy. The application would be detrimental to the promotion of the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The Committee considered the decision to reject the application was in accordance with the Act, Guidance and Policy.
19. Any party to the hearing aggrieved by this decision may appeal to the Teesside Magistrates Court within 21 days beginning with the day on which the Party was notified by the licensing authority of the decision appealed against.