

**LICENSING SUB COMMITTEE A**

A meeting of the Licensing Sub Committee A was held on Monday 31 January 2022.

**PRESENT:** Councillors R Arundale (Chair), S Dean and S Hill.

**ALSO IN ATTENDANCE:** Mr M A Salim – Applicant.

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

21/11 **DECLARATIONS OF INTEREST**

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

21/12 **APPLICATION FOR A PREMISES LICENCE, 1 LANSDOWNE ROAD, MIDDLESBROUGH, TS4 2LW**

A report of the Director of Public Health and Public Protection was circulated outlining an application for a Premises Licence in respect of 1 Lansdowne Road, Longlands, Middlesbrough, TS4 2LW, Ref No: OL/22/01.

Summary of Proposed Licensable Activities:-

Sale of Alcohol (Off Sales) - Monday to Sunday: 8.00am – 11.00pm.

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 1 Lansdowne Road, Longlands, Middlesbrough, TS4 2LW. A copy of the application was advertised in the Evening Gazette on 3 December 2021, as required by the Licensing Act 2003.

It was highlighted that the application was made on behalf of Dart Food Group and was currently a food store that closed at 9.00pm and now wished to sell alcohol. In addition, the premises had operated using Temporary Event Notices for the periods 24 - 29 December 2021, 31 December 2021 - 6 January 2022 and 8 - 14 January 2022, permitting them to sell alcohol.

Representations

Two representations were received in relation to the application, as follows:-

- 15 December 2021 – From Mr Singh, local resident, objecting to the application on the grounds of the prevention of crime and disorder and prevention of public nuisance. (Copy attached at Appendix 2).
- 5 January 2022 – From Mr Coates, local resident, objecting to the application on the grounds of the prevention of public nuisance, (Copy attached at Appendix 3).

**Applicant in Attendance**

The applicant, Mr Salim, was in attendance and presented the case in support of his application and addressed the issues within the representations. He explained that the application was made on behalf of Dart Food Group which was a big discount food retailer –

operating 37 stores across Manchester and Birmingham, with plans to open a further 12 stores across Teesside. Each store had an average of 40 freezers selling frozen foods as well as toiletries and hardware items.

The applicant explained that alcohol would be displayed on shelving only behind the checkout so that it could only be given to customers by a member of staff.

The applicant also outlined the measures that would be taken to uphold the licensing objectives and to address the representations made against the application.

Members of the Committee, the Licensing Manager and the Council's legal representative asked questions of the applicant which were responded to accordingly. This included:-

- Details and provision of an amended floorplan of the proposed layout of the store.
- The applicant confirmed that he would be willing to agree to a condition that no products above ABV 6.5% would be sold.
- The applicant confirmed that there had been no issues when operating under the Temporary Event Notices.
- The applicant stated that he did not intend to exceed around 5%-7% of the total floorspace for the display of alcohol for sale.
- The applicant advised that the premises had been open for approximately six months, and previously had operated as a convenience store without a premises licence. The premises currently closed at 9.00pm and that consideration was currently being given to closing at 8.00pm in line with other stores in the vicinity.

#### **Those Making Representations**

It was confirmed that neither of the two local residents who had made representations would be attending the Hearing, however, their written representations would be considered by the Committee.

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 1 Lansdowne Road, Longlands, Middlesbrough, TS4 2LW, Ref No. OL/22/01, be granted, subject to the conditions as set out in the application with an amendment to the sale of alcohol not exceeding an ABV of 6.5% and an additional condition that no more than 10% of the total floorspace be used for the sale of alcohol and also subject to the new floorplan layout as discussed.

#### **Authority to Act / Considerations**

1. On 31 January 2022, the Licensing Sub Committee considered an application for the grant of a Premises Licence to Dart Food Group Ltd for the off sales of alcohol at 1 Lansdowne Road, Middlesbrough ("the Premises") between 08.00 and 23.00 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 two Members of the Public 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 written representations of Interested Parties and the representations of Mr Mohammed Amjead Selim the Director of the Company and proposed Designated Premises Supervisor. 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 grant the application subject to the conditions in the operating schedule, modified as set out below, on the grounds that it considered the grant with modified conditions would uphold the licensing objectives. The grant was also subject to a revised plan of the floor area being approved the Licensing Manager.

The reasons for the decision are as follows.

### **Reasons**

7. The Premises was a food retail store wishing to sell alcohol as part of its operation situated on the corner of Landsdowne Road at the junction with Longlands Road adjacent to commercial premises and near to residential premises. It was situated in Longlands and Beechwood Ward which was subject to a special saturation policy because of the number of off licences in the area and the impact on the Licensing Objectives.
8. The Interested Parties did not attend the hearing and, therefore, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005, the Committee considered the written representations previously provided.
9. The contested issues were that Mr Singh and Mr Coates stated there were many shops selling alcohol and that another shop selling alcohol in the area would have a huge impact on crime and disorder, create anti-social behaviour and increase consumption by the locals in the area. Mr Selim confirmed that he had experience of operating many stores that sold alcohol, his store was a convenience store to serve the community and with the proposed conditions the shop would not add to or undermine the licensing objectives of crime and disorder or public nuisance.
10. The Committee noted that the Responsible Authorities had not made representations and, therefore, had to infer they were satisfied the operation would not detrimentally impact on the licensing objectives.
11. The Committee noted that Mr Selim had sold alcohol at the shop under the Authority of a Temporary Event Notice during the periods 24 and 29 December 2021, 31 December 2021 to 6 January 2022 and between the 8 and 14 January 2021. Mr Selim informed the Committee that there were no issues or detriment to the objectives during those periods and it noted this was not contested.
12. The Committee considered that Mr Selim had considered the Council's Policy and included in the operating schedule conditions which were suggested in the Policy to address potential problems arising from the off sales of alcohol. It included detailed enforceable conditions in relation to Challenge 25, Staff Training, incident and refusals records, CCTV, restrictions on types and strengths of alcohol and that Mr Selim or another would attend responsible retailing schemes and off licence forums.
13. The Committee considered that Mr Selim was a responsible and experienced retailer and would ensure the conditions are complied with.
14. However, there was no restriction on the area of the shop floor that was to be available for the display of alcohol. The Committee considered it would be appropriate in accordance with the Policy to include the condition set out below to restrict the area of sales for

alcohol to up to 10%. This would ensure against the Premises wholly selling alcohol which would be detrimental to the objectives in that area. The proposed operation was that of a convenience store with only a small part being the offer of alcohol which would be appropriate for that area.

15. The Committee considered it was also appropriate to amend the condition relating to types and strengths of alcohol. The condition was slightly vague. The Policy showed that Middlesbrough, in particular the Ward of Longlands and Beechwood, suffered from street drinking and other alcohol harms and stronger large volume cheap drinks of a type are attractive to street drinkers and those who misuse alcohol and go on to cause problems in the area. Therefore, in accordance with the Policy, the Committee considered it was appropriate to remove the condition in the operating schedule and impose the modified condition set out in below.
16. The Committee noted that the plan which showed the location of the alcohol had been altered which Mr Selim indicated on a plan, this enabled the display to be monitored and the Committee agreed that this should form part of the Licence once drawn up and approved by the Licensing Manager.
17. No further evidence was provided by the Interested Parties to support allegations that the operation at the premises would be detrimental to the objectives. The Premises was situated on the corner of a main thoroughfare with commercial premises but it was also acknowledged it was near to residential houses. The Committee considered that although there may be many off licences in the ward as a whole, the operation of the Premises by Mr Selim in its particular location with the additional and modified conditions would uphold the objectives of the promotion of the prevention of crime and disorder, the prevention of public nuisance, the protection of children from harm and public safety.
18. Any party to the Hearing aggrieved by the 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. However, should a Party decide to appeal the decision and the appeal is dismissed the Council would request that party to pay its costs in defending its decision which could be in the sum of £1,000 or higher if represented by Counsel.

#### NEW/MODIFIED CONDITIONS

1. The premises will not stock, display or sell any lager, beer, cider or perry product with an ABV content above 6.5%.
2. The Premises will not sell any single cans of lager, beer or cider.
3. Alcohol will only be displayed within an area of up to 10 per cent of the shop floor. Alcohol will be displayed in the areas set out on a plan to be approved by the Licensing Manager. That area can be changed only with the approval of the Licensing Manager but must not in any event exceed 10 per cent of the shop floor.