

**LICENSING SUB COMMITTEE A**

A meeting of the Licensing Sub Committee A was held on Thursday 8 September 2022.

**PRESENT:** Councillors R Arundale (Chair), A Bell and T Higgins

**OFFICERS:** S Bonner, C Cunningham and T Hodgkinson

22/3 **DECLARATIONS OF INTEREST**

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

22/4 **APPLICATION FOR A PREMISES LICENCE - ONE STOP STORES LTD, 15 SHELTON COURT, MIDDLESBROUGH, TS3 9PD: REF OL/22/04**

A report of the Director of Public Health and Public Protection was circulated outlining an application for a Premises Licence in respect of One Stop Stores Ltd, 15 Shelton Court, Middlesbrough, TS3 9PD, Ref No: OL/22/04.

Summary of Proposed Licensable Activities:-

Sale of Alcohol (Off Sales) - 8.00am – 10.00pm daily.

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.

Application to Adjourn

An application to adjourn the Hearing to a future date was made by Councillor Thompson, Ward Councillor for Brambles and Thorntree, making representations against the application. This was supported by a local business owner in attendance at the meeting, also making representations against the application. This was due to the amount of paperwork issued prior to the meeting and further time to consider such paperwork.

Following consideration and discussion, the Committee agreed that the meeting should proceed.

Details of the Application

The Licensing Manager presented the report outlining the application for a Premises Licence in respect of 15 Shelton Court, Middlesbrough, TS3 9PD. A copy of the application was advertised in the Evening Gazette on 23 June 2022, as required by the Licensing Act 2003.

It was noted that, under Regulation 11 of the Licensing Act (Hearings) Regulations 2005, the time limit for this hearing to take place had been extended as the Council considered it to be in the public interest to do so in order to enable the parties to the hearing to be present and to convene a Panel of Members following the Council's Annual General Meeting, training and summer recess.

It was proposed that the premises would operate as a convenience store, located in a parade of shops at Shelton Court. A location plan of the proposed site was attached at Appendix 2.

The application initially sought the sale of alcohol off the premises daily between 6.00am and 11.00pm. Following discussions with Cleveland Police and Public Health, the applicant agreed to amend the house for the sale of alcohol to 8.00am to 10.00pm daily and to amend the Operating Schedule to include a number of conditions. A copy of the agreement was

attached at Appendix 3. No representations were received from the Responsible Authorities as a result of this agreement.

### Representations

A number of representations and several petitions were received in relation to the application, as follows:-

- 17 June 2022 – Councillor G Wilson, Brambles and Thorntree Ward Councillor, objecting to the application on the grounds of the prevention of public nuisance. Copy attached at Appendix 4.
- 20 June 2022 – Councillor J Thompson, Brambles and Thorntree Ward Councillor, objecting to the application on the grounds of the prevention of crime and disorder and the prevention of public nuisance. Copy attached at Appendix 5.
- 4 July 2022 – Representation in support of the application from local business owner, S Ayre. Copy attached at Appendix 6.
- Appendix 7 – A and E Longworth, local residents – prevention of crime and disorder and public nuisance.
- Appendix 8 – S Steel, local resident – prevention of crime and disorder, public nuisance and protection of children from harm.
- Appendix 9 – L Teasdale, local business owner - prevention of crime and disorder and public nuisance.
- Appendix 10 – M and C Brewster, local residents – prevention of public nuisance.
- Appendix 11 - Mr Abbas, local business owner – prevention of crime and disorder and public nuisance.
- Appendix 12 - local resident – prevention of public nuisance.
- Appendix 13 - Mr J Timperley, local resident – prevention of public nuisance.
- Appendix 14 – K Cuthbert, local resident – prevention of public nuisance
- Appendix 15 – N Bailey, J William, J Naylor, local residents – prevention of public nuisance.
- Appendix 16 - 41 signatory petition – public safety, prevention of public nuisance, protection of children from harm.
- Appendix 17 - 27 signatory petition – prevention of public nuisance.
- Appendix 18 - 172 signatory petition – public safety, prevention of public nuisance, protection of children from harm.
- Appendix 19 - N, local resident – prevention of public nuisance, protection of children from harm.
- Appendix 20 – O Boddy, local resident – prevention of public nuisance.
- Appendix 21 - Mr S Owen, local business owner – prevention of crime and disorder, public safety, prevention of public nuisance, protection of children from harm.
- Appendix 22 - 51 signatory petition – public safety, prevention of public nuisance, protection of children from harm.
- Appendix 23 - 174 signatory petition – prevention of crime and disorder, public safety, prevention of public nuisance, protection of children from harm.
- Appendix 24 – G Foster, local resident – public safety, prevention of public nuisance, protection of children from harm.

### Applicant in Attendance

The Legal Representative, on behalf of the applicant, One Stop Stores Ltd, presented the case in support of the application and addressed the issues within the representations. The following points were highlighted:-

- A number of conditions had been agreed with the Responsible Authorities, resulting in the applicant reducing the hours for the sale of alcohol applied for. Subsequently, there were no representations for any Responsible Authority.
- The applicant was a responsible retailer in the area and operated without issue.
- It was clarified that any potential effects on other businesses was a matter for Planning consideration and not Licensing.
- Additional information circulated to the Committee included statements outlining how the applicant had contributed to local community projects; location details and plans of the store and other stores in the vicinity; and a store plan showing where alcohol would be displayed and the position of CCTV cameras.

- The applicant expressed concerns regarding the petitions in terms of how signatures had been collected and the validity of some signatories.

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**

A number of objectors were in attendance to present their objections individually to the Committee - as outlined in the Appendices attached to the submitted report. Members of the Committee and the applicant asked questions of those making representations which were responded to accordingly.

### **Summing Up**

All parties were afforded the opportunity to sum up and made closing statements.

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 One Stop Convenience Store, 15 Shelton Court Middlesbrough, be granted as follows:-

#### **Authority to Act and Considerations**

1. The Licensing Sub Committee considered an application for a Premises Licence in respect of One Stop Stores Ltd for the off sale of alcohol at 15 Shelton Court, Middlesbrough, described as a One Stop Convenience Store with Off Licence ("the Premises") between 8.00 and 22.00 hours daily which had been amended from the original proposal of 6.00 and 23.00 hours.
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 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 objective.
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 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 all of the information including the report, appendices and the additional information provided prior to and at the hearing with the consent of the Parties. It carefully considered the relevant representations made by the Interested Parties and the Premises Licence Holder and its representatives. The Committee considered the Act and the Government Guidance issued under Section 182 of the Act ("the Guidance") and considered any relevant parts of the Statement of Licensing Policy 2017 to 2022 ("the Policy") but accepted this was currently under review.

#### **Decision**

6. The Committee decided it was appropriate to grant the application for the off sale of

alcohol between the hours of 08.00 and 22.00 hours, daily, subject to the conditions set out and appended to this decision. The Committee was satisfied that the operation, subject to the said 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

7. The reasons for the decision were as follows:-
8. The Premises was situated in Brambles and Thorntree Ward. The Premises would operate as a convenience store and was located in a parade of shops at Shelton Court. The Premises occupied the ground floor of a detached building with the entrance located on Shelton Court, accessed by The Greenway. Deliveries would be made to the rear of the premises via an access road. There were other shops and businesses in the vicinity of the Premises.

#### Representations that could not be taken into Consideration

9. Many of the representations stated that a large national operation such as One Stop would result in smaller businesses - currently with a similar offer of a convenience store - being put out of business as they would be unable to compete.
10. The Committee had to be clear to those residents and objectors that it was not permitted under the Act to take those matters into consideration when reaching its decision, and if it was to do so a decision would be unlawful.
11. Many of the representations stated that another store was not wanted by residents and was not needed in that locality.
12. The Committee again had to be clear that the Act prohibited the Committee from considering whether or not a premise was wanted by residents.
13. In order to reach a lawful decision the Committee may only consider relevant representations under the Act. Those were representations which related to the potential impact of the sale of alcohol at the new Premises on the licensing objectives. Those being, the promotion of the prevention of crime and disorder and public nuisance, the protection of children from harm and public safety.
14. Although the Committee understood the concerns of other similar businesses in the area, it could not put any weight on those representations that related to whether or not smaller or similar operators would be put out of business through competition. It also could not consider market forces as to whether a new premises was wanted or needed in the locality by residents. It was restricted under the Act and simply did not have the power to consider those matters.

#### Relevant Representations, Considerations and Reasons

15. The residents and business owners who were a party to the Hearing, including Ward Councillors, were concerned that the area was rife with anti-social behaviour and that a One Stop Shop or similar shop coming to the area selling alcohol would make that crime and disorder and nuisance much worse. There was already lots of litter including empty bottles of alcohol and empty alcohol cans strewn over the area and youths congregating causing serious nuisance and anti-social behaviour to residents in the area. There were concerns that such people would be further drawn to another shop and hang around the new shop causing and adding to the problems. It would also lead to youths congregating to the rear of the Premises and that serious crimes, such as robbery at shops and arson currently occur and another shop selling alcohol would only make the frequency of such crimes in the area worse. There was also

concern that the Premises was near to a school.

16. The current shops did not display alcohol and any shop displaying alcohol would entice problem drinkers and those who cause anti-social behaviour, nuisance and crime and disorder further to the area.
17. That current shop owners knew the community, knew who the trouble causers were and who to serve. They stated that One Stop operators would not have that knowledge to prevent serving problematic members of the community.
18. Although no statistical data was produced about the levels of anti-social behaviour, nuisance and crime, the Committee accepted that there were such problems in that area as the residents, business owners and Councillors who were Parties to the hearing explained that they themselves have witnessed such behaviour. The Committee Members also had local knowledge of the problems in the area.
19. The Committee considered it was relevant to note that the Responsible Authorities, including the Police and Public Health, withdrew their objections once a raft of protective conditions were agreed to be placed on the Licence. The Committee, therefore, concluded that the Responsible Authorities were of the view that the operation with conditions would not be detrimental to the objectives.
20. The Committee acknowledged that currently the building remained closed and was not in use and had not been in use for a long period of time. The Applicant stated that it would bring a closed building to life for the community and it was likely that empty buildings would attract youths and others congregating and carrying out criminal behaviour such as vandalism and damage. It proposed that opening the premises as a convenience store with CCTV and bringing the building back into use may have a positive effect on that behaviour in that locality and uplift the area.
21. The Committee considered that One Stop Stores Ltd was a responsible operator, it had other stores in deprived areas that were managed well with no issues that warranted a review of those licences. One Stop Stores Ltd would attend off licence forums and responsible retailing schemes. It also noted that One Stop Stores Ltd was a member of the Retail of Alcohol Standards Group that promoted responsible sales of alcohol. The stores were also involved in Community Alcohol Partnerships working with the Police, Trading Standards and schools. It also provided schemes and investment in the community.
22. The Committee considered that the comprehensive CCTV system that was to be operated at the premises, which would be a legal requirement as condition on the licence, would deter potential congregation to the front and the rear of the Premises. It would also be a tool to detect criminal or abusive behaviour in store and at the same time deter that behaviour.
23. The Committee considered that the measures put in place by the management would equip the staff and management to deal with any issues that arose. In order to deter youths congregating or causing anti-social behaviour or other incidents of criminal or disorderly behaviour various systems would be put in place. The Applicant confirmed that all staff were trained in dealing with conflict and conflict management in dealing with refusals to sell alcohol to customers and to deal with low level matters that should result in dispersal without putting the staff at risk. Staff were protected and supported by a Stay Safe system which alerted a monitoring centre which provided a loud audible deterrent to customers to de-escalate situations. There were also safety lock provisions to prevent entry. There would be links with the Police and local PCSOs and a system of electronically recording incidents to build an evidence bank for the Police.
24. The Committee considered that the systems would prevent underage sales, proxy sales and sales to vulnerable people. Staff were fully trained in making refusals to those who appeared vulnerable or under the influence, they were trained to recognise proxy sales together with the assistance of CCTV and staff monitoring, therefore, proxy sales should be prevented. They operated a strict challenge 25 policy with till points and posters to ensure anyone who looked under 25 had valid ID checked before a sale was made. The Operators carried out their own 'mystery shopper' and

test purchases.

25. Concerns about anti-social behaviour to the rear of the premises should be alleviated as the rear would be illuminated and covered by CCTV. There should be no risk of setting fire to bins or throwing the shop's waste about as the bins were stored within the premises. The rear delivery entrance was fully secured.
26. The Committee was satisfied that concerns about disturbance from deliveries would be alleviated because it was confirmed deliveries would not be early morning or late at night. They should be between 8am and 7pm, but generally happened between 10am and 4pm. Deliveries would be made via the service road to the rear and would not cause nuisance by congestion to the front.
27. Traffic and parking nuisance concerns should be removed as the Applicant confirmed parking spaces for customers would be provided.
28. The concerns relating to litter should be dealt with by the fact that the store's waste was stored within the building and not outside so was not accessible and would be removed regularly. There would be rubbish bins for customers directly outside of the shop and the staff would carry out litter picking in the area to the front of the store. The Committee acknowledged that it cannot be the responsibility of the Operators if individuals decided to litter well away from the premises.
29. The Committee was satisfied that the display of alcohol should not add to the problems, as it was to be displayed in a responsible manner only in a position as identified on the plan. Only a small percentage of the offer being no more overall than 20% which would be a legal requirement as it was conditioned, but in reality it would be less. Spirits were to be displayed securely behind the till. CCTV covered the alcohol display and till area. Alcohol would be stored well away from the front door to prevent opportunist thieves. The store would not stock or display those types of drinks that were attractive to problem drinkers as there would be a limit on the strength of beer, cider, lager and Perry and single cans etc. would not be sold.
30. The Committee noted that the Operators intended to recruit from the local area and therefore would recruit people with local knowledge of the problems in the area and possibly the groups causing the problems.
31. The Committee considered the reduction in hours would reduce the possibility of disturbance by customers late at night or early morning as the premises were to close at 10.00pm.
32. The Committee, however, required that although staff were fully trained, that a Personal Licence Holder should be present when the shop was open. This was because of the current problems in the area and the risk to the licensing objectives. A personal licence holder, in addition to the in-house training, would be fully aware of the licensing rules and legal requirements as part of their qualification and would have expertise to ensure the objectives would not be undermined.
33. The decision was made in accordance with Guidance and Policy and the Committee considered there were no good reasons to depart from them.
34. 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.
35. 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.
36. If a Party makes an appeal and the Council successfully defends the Committee's decision it will request the court make an order for the Party to pay the Council's costs in defending this decision.

Conditions

1. A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped.
  - a) The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.
  - b) CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.
  - c) Cameras will encompass all ingress and egress to the premises, outside areas and all areas where the sale/supply of alcohol occurs.
  - d) The system will record and retain CCTV footage for a minimum of 28 days.
  - e) The system will record at all times when the premises are open for the purposes of licensable activities.
  - f) The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer.
  - g) The Digital recorder will be password protected to prevent unauthorised access, tampering, or deletion of images.
  - h) There will be at all times, when the premises is open, a member of staff on duty with access to the CCTV system who is trained in the use of the equipment.
  - i) Upon receipt of a request for a copy of CCTV footage from Police, Licensing Officers or any other Responsible Authority, the member of staff will produce the footage within 24 hours or less if urgently required for investigations of serious crime.
  - j) CCTV footage must be made available to be viewed by the Police, Licensing Officers or other Responsible Authorities on request during an inspection of or visit to the Premises.
2. Incidents will be logged in accordance with company policy (no later than 24 hours after the incident) and will record the following:
  - a) Time, date and details of incidents/ complaints of crime and disorder or anti-social behaviour; and
  - b) Crimes reported to the store.
3. The incident log will be made available to police, licensing officers and other responsible authorities on reasonable request.
4. Training in relation to Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, and all other conditions on the Premises Licence must be provided and undertaken by all members of staff before he / she makes a sale, supply or delivery of alcohol and at least twice annually thereafter.
5. Electronic training records must be completed in respect of every member of staff and must include the name of the member of staff trained and date.
6. Documented training records must be kept at the Premises and made available to the Police, licensing Officers and all other Responsible Authorities on request or during an inspection
7. Staff must require ID in the form of a current ten year passport, photo card driving licence or PASS Hologram identity card from any customer who appears to be under the age of 25 and verify the customer is over the age of 18 before any sale of alcohol is made.
8. There shall be notices at all points of sale and at all entrances and exits informing customers and reminding staff that the premises is operating a proof of age scheme which includes a "Challenge 25 policy.
9. A refusals log will be kept and maintained at all times up to date in accordance with company policy recording the date, time, type of product refused, reasons for every refusal to sell alcohol to a customer and the name of the member of staff refusing the sale.
10. The refusals log will be made available to police, licensing officers and other responsible authorities if requested during an inspection or on reasonable request.

11. The Premises licence Holder/Designated Premises Supervisor must monitor the refusals log on a monthly basis.
12. There shall be no sales of lager, beer, cider or Perry product with an ABV of 6.5% or above.
13. The Premises Licence Holder/ Designated Premises Supervisor will participate in any 'Responsible Retailing' scheme and any relevant training/ campaigns which the Police or Local Authority provide or recommend.
14. The Premises licence Holder/Designated Premises Supervisor will participate in any local Off licence forums held by the Local Authority.
15. Alcohol must only be displayed in the areas identified for display of alcohol shown hatched red on the plan attached to the Premises licence and must not exceed 20% of the display area for all goods.
16. The Premises will not sell or supply any single cans of beer, lager or cider.
17. No alcohol will be displayed for sale within 4 metres of any public entrance/ exit of the premises, with the exception of alcohol behind the till area.
18. A Personal Licence Holder must be present at the Premises at all times when alcohol is being offered for sale.