

LICENSING SUB COMMITTEE A

A meeting of the Licensing Sub Committee A was held on Tuesday 29 September 2020.

PRESENT: Councillors: R Arundale, A Bell and T Higgins.

ALSO IN ATTENDANCE: A Thurlwell – Applicant.
Councillor C Cooke – making representations.

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

3 **DECLARATIONS OF INTEREST**

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

4 **LICENSING ACT 2003: APPLICATION FOR A PREMISES LICENCE - THE JUNCTION, 2 UNION STREET, MIDDLESBROUGH, TS1 5PQ, REF NO: PL/092**

A report of the Director of Communities, Culture and Communications was circulated outlining an application for a Premises Licence in respect of The Junction, 2 Union Street, Middlesbrough, TS1 5PQ, Ref No: PL/0192.

Summary of Proposed Licensable Activities

Sale of Alcohol (On & Off Sales) - Monday to Thursday 12 noon – 11.00pm, Friday & Saturday 12 noon – 11.30pm, Sunday 12 noon – 10.30pm.

Recorded Music (Indoors & Outdoors) - Monday to Thursday 12 noon – 11.00pm, Friday & Saturday 12 noon – 11.30pm, Sunday 12 noon – 10.00pm.

Performance of Dance - Monday to Saturday 12 noon – 11.30pm, Sunday 12 noon – 10.00pm

Full details of the application and accompanying 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 Principal Licensing Officer presented the report outlining the application for a Premises Licence in respect of The Junction, 2 Union Street, Middlesbrough, TS1 5PQ. A copy of the application was advertised in the Evening Gazette on 8 August 2020, as required by the Licensing Act 2003.

The premises previously operated for many years as a Public House with the benefit of a Premises Licence under the Licensing Act 2003 until it was surrendered by the previous licence holder on 3 March 2020.

The premises was situated on the junction of Borough Road and Union Street and was surrounded by a mix of commercial and residential properties. It was situated just outside the Council's Cumulative Impact Area for 'On Licensed' Premises and was within the Cumulative Impact Area set by the Council for 'Off Licensed' Premises.

On 21 August 2020, following receipt of the application, Cleveland Police and Public Health

agreed a number of additional conditions with the applicant. These additional conditions were attached at Appendix 2.

Representations

On 3 August 2020 representations were received from Councillor Linda Lewis on behalf of herself and Councillors Storey and Uddin (Central Ward) and Councillor Barrie Cooper (Newport Road) objecting to the application on the grounds of all four Licensing Objectives. The Councillors refer to previous issues surrounding the management of the premises and anti-social behaviour associated with the premises. A copy of those representations were attached at Appendices 3 and 4.

On 20 August 2020 a representation was received from Councillor Chris Cooke (Newport Ward) 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).

Applicant in Attendance

The applicant, Mrs Thirlwell, was in attendance at the meeting and presented the case in support of her application and addressed the issues within the representations.

Members of the Committee, the objectors and the Council's legal representative asked questions of the applicant which were responded to accordingly.

Those Making Representations

It was highlighted that Councillor Lewis, Central Ward, was unable to attend the Hearing but had requested that her written submissions be taken into account by the Sub Committee.

Councillor Cooke, Newport Ward, was in attendance at the meeting and presented his representations in respect of the application.

Members of the Committee, the applicant and the Council's legal representative asked questions of Councillor Cooke which were responded to accordingly.

Summing Up

Both parties were afforded the opportunity to sum up.

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 The Junction, 2 Union Street, Middlesbrough, TS1 5PQ, be granted, subject to the conditions agreed by the Police and Public Health and modified by the Committee, as set out in the Appendix to this decision. The Licence would also be subject to further conditions and restrictions, set out in the Appendix, imposed by the Committee.

Authority to Act / Considerations

1. On 29 September 2020, the Licensing Sub Committee considered an application under Section 18 of the Licensing Act 2003 for a Premises Licence to Anne Thurlwell in respect of The Junction, 2 Union Street, Middlesbrough ("the Premises") for the on and off sale of alcohol, recorded music and the performance of dance between 12 noon and 11.00pm Monday to Thursday, 12 noon and 11.30pm Friday and Saturday and 12.00 noon and 10.30 pm Sunday.
2. The Police and Public Health agreed to grant the application subject to a number of

conditions being placed on the Licence. No other Responsible Authority made representations or objected to the application.

3. Representations had been received against the grant of the Licence from Councillors Cooke and Cooper of Newport Ward, Councillor Lewis (also on behalf of Councillors Uddin and Storey) of Central Ward. Councillor Lewis was unable to attend the hearing and submitted further representations to the hearing. Councillor Cooke did not attend the hearing however his written representations were considered. Councillor Cooper attended the hearing and during the hearing withdrew his representations.
4. Under Section 18 of the Act, as representations had been received, it was necessary to hold a hearing for Members of the Licensing Sub Committee to determine whether to grant the licence in accordance with the application, grant the application with conditions and/or further restrictions or refuse the application. Under Section 18, the Licensing Sub Committee must have regard to the representations and take such steps as it considered appropriate. In making its decision the Licensing Sub Committee must consider the Licensing Objectives which were the promotion of the prevention of crime and disorder and public nuisance, the protection of children from harm and public safety, as set out in Section 4 of the Licensing Act.
5. The Licensing Sub Committee carefully considered the report and appendices, the representations made by the objectors and the applicant. It carefully considered the Licensing Act, the Government Guidance issued under the Act, the Council's Statement of Licensing Policy and the licensing objectives.

Decision

6. The Licensing Sub Committee decided to grant the application, but the Licence would be subject to the conditions agreed by the Police and Public Health which had been modified by the Committee, as set out in the Appendix to this decision. The Licence would be subject to further conditions and restrictions, set out in the Appendix, imposed by the Committee.
7. In summary, the Licence would permit on and off sales of alcohol and recorded music from 12.00 noon until 11.00pm Monday to Thursday, 12.00 noon until 11.30pm Friday and Saturday and 12.00 noon until 10.30pm on Sunday.
8. The Premises Licence applied to the building itself and not the outside beer garden area. Customers may consume alcohol in the beer garden only until 10.00pm on Sunday to Monday and 10.30pm on Friday and Saturday. Recorded or live music was not permitted to be played in the outside beer garden area.

Reasons for the Decision

9. The reasons for the Licensing Sub Committee's decision were as follows:-
10. Councillor Cooke's objection to the grant was on the basis that prior to the previous premises licence being surrendered by the licence holder in March 2020, there were varying serious issues occurring at the premises. This included drug use in the outside area through neglect and the first floor being ran as a cannabis farm. That fireworks and bonfire wood aiding fires in the area were being distributed and that it operated outside of the licensed hours by unlicensed operators.
11. However, the Committee considered, the Police, who are the experts in the field of crime and disorder, considered that the new Premises Licence Holder could uphold the prevention of crime and disorder if the proposed conditions on the licence were applied. It considered if the Police were concerned of any links between the new Premises Licence Holder and the previous management it would be likely further representations would have been made.
12. The outside area was enclosed, it would be brought into use and covered by CCTV which should prevent drug use. The applicant had a long history of running Licensed Premises with no issues and had no connection with the previous management. She confirmed she had a lease for 12 months and had the resources to ensure the conditions would be

complied with.

13. The applicant confirmed her operation would be that of a friendly community pub to bring the community together, that she did not want to attract clientele who then go on to cause trouble. That she had invested a lot of time and money in installing CCTV and to get the pub up and running. She explained in her application how she would make sure no drug activity would be permitted in her premises by checks and deterrents. However, the Committee decided to impose a condition requiring checks of the toilets and outside area every two hours which was in line with the proposal in the application. The checks would be recorded and should deter and detect issues quickly.
14. There was a minimum price condition to deter street drinkers etc. who would be put off in that cheap drinks would not be available. The Premises would also be left secure when closed. The applicant reiterated that she would not abuse or risk her licence by breaching conditions or operating outside of the licence. There was also a condition that required the applicant to have a sufficient number of competent trained staff on duty at the premises to ensure compliance with the conditions and to prevent any issues or problems from the clientele.
15. Other concerns raised were general high levels of crime, anti-social behaviour, poor health, education, unemployment, drink and drug abuse and the saturation of premises that sold alcohol in the area. The Premises was on the edge of the cumulative impact policy area, however, in view of the type of operation proposed by the applicant and the tight restrictions on its operation the Committee considered it should not be detrimental to the objectives.
16. The Premises was situated within a cumulative impact area for off sales of alcohol, however, as the premises was to be a community pub with a minimum price condition rather than a typical "off licence", the Committee did not consider the off sales would be detrimental.
17. Councillor Lewis' additional representations concerned the use of the beer garden and general noise that residents have had issues with for many years. The Committee noted that the beer garden backed onto residential houses and an estate, which would be sensitive to noise. Therefore, in view of this and the history of the Premises, The Committee imposed a condition to restrict customers from drinking in the beer garden after 10.00pm Sunday to Thursday and 10.30pm on Friday and Saturday. Customers who required to go to the outside beer garden area to smoke must not be permitted to leave with a drink after 10.00pm on weekdays or 10.30pm on weekends in order to limit noise and disturbance. This also applied during the seasonal times proposed by the applicant. Irrespective of the time the applicant must monitor the noise to prevent unreasonable disturbances to residents.
18. The beer garden will not form part of the Premises Licence and, therefore, live or recorded music was not permitted to be played in that area to prevent nuisance to residents, this was agreed by the applicant. The applicant should still monitor noise levels and take any necessary action in order to prevent noise nuisance to residents.
19. In addition, it was agreed by the applicant that when music was played in the Premises windows and doors will be kept shut, that a noise limiting device will be fitted to sound systems and that the applicant will monitor noise emanating from the premises and take action to prevent any disturbances. These additional precautions should prevent nearby residents suffering from previous failings at the Premises. The applicant was advised to comply with her agreement during the whole period the premises was open and playing music so as to avoid a review of the Premises Licence if disturbances occurred.
20. Representations had been made about children being permitted in the Premises. The Police and Public Health agreed that children should leave the Premises by 9.00pm, however, because of the deprivation in the ward, Councillor Lewis was concerned that this would harm children. The objective that must be upheld was to "protect children from harm", this included not only exposure to alcohol harms but psychological harm such as exposure to strong language etc. There was a discussion as to whether children should be completely prohibited from entering the Premises. The applicant informed Members that she did not generally want children admitted, however, would want to provide

entertainment such as Halloween parties etc. as part of the community pub, but understood she could apply for a temporary event notice for these occasions if children were prohibited. The applicant agreed that children should vacate by 7.00pm which was in accordance with her original application.

21. Members considered on the whole, despite previous problems with the Premises, as the operation was to be a community pub then children may be permitted but must leave by 7.00pm. In addition, all children must be accompanied by an adult who was responsible for them, this was agreed by the applicant. However, the Committee required a system to be in operation to ensure the applicant was aware who was responsible for children present in the premises at any time to ensure safety and to be able to monitor the situation should any risks arise. The Committee note that the applicant could refuse entry to adults with children if she considered it appropriate on any particular occasion.
22. The Premises will operate a strict challenge 25 policy which will require all staff to require proof of age in an approved form before selling alcohol to anyone who appeared under the age of 25. Staff will all be trained on challenge 25, underage sales, proxy sales where adults buy alcohol for children, sales to intoxicated customers and all the conditions on the licence.
23. The possible future use of the Premises by the landowner was discussed, however, as that was a matter between the applicant and the owner and that the applicant confirmed she had the resources to ensure compliance with the Licence conditions, it was not considered further by the Committee.
24. The applicant explained in the application that the "performance of a dance" was when customers dance to the music being played which did not require further regulation other than the restrictions already in place.
25. The conditions in summary will require: a robust CCTV system capturing the main areas, entrances and exits, security checks, an incident book, refusal record, detailed training, that a sufficient number of trained staff are present at all times to ensure compliance and prevent issues arising, no drinks promotions, minimum pricing on drinks, children to be accompanied by an adult, to vacate by 7.00pm and for a system to be in place identifying the responsible adult for a child, noise reduction measures, prohibition on music outside and termination time for people to drink outside.
26. Although the Premises had a poor history with various issues, the Committee considered, with the applicant's track record and the protections in place through the conditions and the agreements made by the applicant, the Premises should attract a different clientele and the operation, as a well-run community pub, should not be detrimental to the objectives.
27. All of the conditions were set out in full in the Appendix to this decision.

Appeal

28. If any Party to the hearing was aggrieved by this decision they can appeal to a Magistrates Court within 21 days of the date of receipt of the decision by way of a "Complaint". The address of the local Magistrates Court was Teesside Justices Centre, Teesside Magistrates Court, Victoria Square, Middlesbrough TS1 2AS. If an appeal was made the Council would defend its decision and if the court dismissed the appeal the Council would claim legal and officers costs in defending its decision.

CONDITIONS**CCTV**

1. A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped.
 - The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.
 - CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.
 - Cameras will encompass all ingress and egress to the premises, outside areas and all areas where the sale/supply of alcohol occurs.
 - The system will record and retain CCTV footage for a minimum of 31 days
 - The system will record for 24 hours a day.
 - 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.
 - The Digital recorder will be password protected to prevent unauthorised access, tampering, or deletion of images.
 - 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.
 - 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.
 - 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

INCIDENT BOOK

2. An incident book must be kept at the Premises and maintained up to date (no later than 24 hours after the incident) at all times and will record the following:
 - Time date and details of all incidents/complaints of crime and disorder or anti-social behaviour
 - All crimes reported to the venue
 - All ejections of patrons
 - All seizures of drugs or offensive weapons
 - Any faults in the CCTV system, searching equipment or scanning equipment
 - Any visit by a relevant authority or emergency service
3. The incident book must be made available to Police, Licensing Officers and all other Responsible Authorities on request or during an inspection.

RESPONSIBLE RETAILING

4. 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.
5. The Premises Licence Holder/Designated Premises Supervisor will participate in any local On/Off Licence forums held by the Local Authority.

STAFFING

6. The Premises Licence holder shall ensure that at all times when the premises are open for any licensable activity there is sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.

CHALLENGE 25

7. A Challenge 25 policy will be implemented at the premise. 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 will be at least two notices/posters in prominent positions inside the premise informing customers that a Challenge 25 policy is in operation.
9. There must be a minimum of two signs in the premises visible at the points of sale stating that it is an offence to sell alcohol to persons under 18 years of age. to purchase alcohol on behalf of any person under 18 years of age to sell alcohol to any persons who appear drunk or under the influence of other illegal substances.

TRAINING

10. Training in relation to Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, refusals registers, incident records and all other conditions on the Premises Licence must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale, supply or delivery of alcohol and at least every six months thereafter.
11. Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training, the Designated Premises Supervisor/ Premises Licence Holder or external training providers.
12. 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.

REFUSALS BOOK

13. The premise will keep and maintain a refusals book/electronic register which will be used to record all incidents/occasions of where the premise refuses to sell alcohol to an individual. The refusals book/electronic register will be used solely as a refusals book. It will be kept at the premise and will be made available for inspection by the Police or any other Responsible Authority.
14. The Premises Licence Holder/Designated Premises Supervisor must monitor the refusals book/electronic register on a monthly basis and must sign and date the register to confirm when this has been completed.

MINIMUM PRICE/DRINKS PROMOTIONS

15. Every sale of alcohol at the Premises shall not be less than the minimum price set out below:-

Bottle / 330ml of beer, lager, cider, perry or similar -	£3.50
Pint glass of beer, lager, cider or perry or similar	£3.00
Half pint glass of beer, lager, cider or perry or similar	£1.75
125ml of wine or similar	£3.50
175ml of wine or similar	£4.00
250ml of wine or similar	£4.50
Bottle (750ml) of wine or similar	£14.00
Measure / 25ml of spirits, liqueurs or similar	£3.50
Measure / 50ml of spirits, liqueurs or similar	£4.50
Measure / 50 ml of Fortified wine or similar	£3.50
16. Where alcohol is sold which is of a type not expressly referred to above, the minimum price applicable to the supply shall be the minimum price for the type of alcohol referred to above that is most similar to that supplied.
17. Unless the Licensing Authority consider it appropriate not to do so, the minimum price

shall be varied every two years following discussion with the Premises License Holder as follows:-

The "retail prices index" shall be as defined in Section 989 of the Income Tax Act 2007 (being currently, the general index of retail prices for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board).

The first variation shall take place on 1 August 2021 and each subsequent variation shall take place in every two years thereafter.

The varied minimum price shall be the sum produced by multiplying the minimum price then applicable by a figure expressed as a decimal and determined by the formula:

$$1 + (RD - RI)/RI$$

Where RD is the retail prices index for the (date) or each subsequent second anniversary of (date) and RI is the retail prices index for the (date) (or each subsequent second anniversary of date).

The figure determined in accordance with this formula is rounded to the nearest third decimal place.

If in relation to any two year period RD is equal to or less than RI, the figure determined in accordance with the formula shall be 1 and there shall be no change in the minimum price for that year.

The varied minimum price shall after application of the formula be rounded up or down to the nearest £0.05.

Before 1 August 2021 and each second anniversary of 1 August 2021, the Licensee shall give notice to the Licensing Authority of the varied minimum prices calculated in accordance with this condition unless otherwise agreed.

There will be no drinks promotions which include all- inclusive drink offers, 2 for 1 offers, happy hours or any drinking games which promote irresponsible consumption such as beer/prosecco pong or similar.

RESTRICTIONS ON THE OUTSIDE AREAS (BEER GARDEN)

18. The outside beer garden area identified on the plan does not form part of the Premises Licence.
19. Live or recorded music is prohibited from being played in or amplified to the outside beer garden area at any time.
20. Customers must vacate the outside beer garden area by 10.00pm Sunday to Thursday and by 10.30pm on Friday and Saturday unless condition 20 applies.
21. Customers may access the outside beer garden area after 10.00pm Sunday to Thursday and 10.30pm Friday and Saturday only for smoking purposes until the time the Premises must cease sales of alcohol. The Premises Licence Holder must monitor noise levels to ensure residents are not disturbed by customers using the smoking area in the outside beer garden area.
22. Customers are prohibited from taking drinks of any kind into the outside beer garden area after 10.00pm Sunday to Thursday and 10.30pm Friday and Saturday.

ADMISSION OF CHILDREN

23. Children under the age of 18 must vacate the Premises by 7.00pm daily.
24. All children under the age of 18 must be accompanied by an adult who is responsible for their welfare.

25. The Premises Licence holder must be able to identify the adult responsible for children present in the Premises at any time.

DRUG CHECKS

26. The Premises Licence Holder must ensure that the toilets in the Premises and outside beer garden area is checked for drug use and drug paraphernalia every two hours. A record of the date times and findings of such checks must be kept up to date and on the premises at all times. The record must be available on request on a visit by the police, licensing officers or responsible authorities.

NOISE DISTURBANCE LIMITATIONS

27. All external doors and windows shall be kept closed when regulated entertainment activities permitted by the Licence are being provided, except in the event of an emergency. Any music played within the premises shall be inaudible at the nearest residential premises.
28. When regulated entertainment activities permitted by the licence are being carried out the Premises Licence Holder will check whether the activities permitted by the Licence can be heard by local residents. The Premises Licence Holder shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A record shall be made of those assessments and shall include, the time and date of the checks, the person making them, whether a disturbance is likely and what action was taken.
29. A noise limiting device shall be fitted to all sound systems and equipment, set at a level which prevents noise being audible at the nearest residential property, maintained in good working order and used at all times when the sound system is in use. All sound systems shall pass through the noise limiting device which at all times shall operate at the decibel level set by the Environmental Health Unit and shall be maintained in good working order.