

LICENSING SUB-COMMITTEE

MEETING : Tuesday, 30th August 2011

PRESENT : Cllrs. Noakes, Porter and Toleman

Officers

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

Philippa Finnegan, Licensing Officer

1. ELECTION OF CHAIR

Councillor Jim Porter was elected as Chair.

2. INTRODUCTIONS AND PROCEDURES

The Chair introduced the Members of the Sub-Committee and Officers in attendance and asked the Applicant and Interested parties to introduce themselves at the appropriate time.

He then explained that following the presentation of the officer's report, the Applicant would have an opportunity to present their case followed by the interested parties. There would be an opportunity for questions following each of the above stages before each party had an opportunity to sum up with the Applicant being last to speak. Members of the Sub-Committee would then withdraw to consider their decision.

In addition to the Members of the Sub-Committee and Council officers in attendance the following were present:

Applicant's Agent and Representative

Mr Anil Bhawsar

Interested Parties:-

Councillor David Brown and Mrs Brown

Councillor Jim Beeley

Councillor Declan Wilson

County Councillor Bill Crowther

Mr Mark Carter

Mr Peter Quinnell

Ms Pat Bailey

Mr Stuart Bonser

Mr Thomas Llewellyn

LICENSING SUB-COMMITTEE
30.08.11

Miss M Shute
Mr and Mrs Bolton
Ms Sharon Coldrick
Ms Mel Wild
Ms Sharon Roberts
Ms Shirley Davies

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. APPLICATION FOR A NEW PREMISES LICENCE FOR 102 INSLEY GARDENS, HUCCLECOTE, GLOUCESTER

The Licensing and Enforcement Officer presented the report on an application for a new premises licence made under section 17 of the Licensing Act 2003 for 102 Insley Gardens, Hucclecote, Gloucester GL4 4BS, received from Mrs Rajeenadevi Raventherakumar. The application was for the retail sale of alcohol from a new 'convenience' type store at the above address and was made in accordance with Section 17 of the Licensing Act 2003.

The convenience store was in a small parade of retail units comprising two salons and a gym. The premises were formerly a shop and later used as offices. Members were advised there are no planning issues with the site.

The Applicant requested the following licensable activity:

- The supply of alcohol (Section M of the Operating Schedule) for consumption **off** the premises from 06:00 to 22:00 hours seven days a week.

The Applicant had set out in Section P of the Operating Schedule the measures proposed to be taken to promote the four licensing objectives if the application was accepted.

It was noted that should the application be accepted, the measures in the Operating Schedule would become properly constructed conditions to be applied to the licence.

Members were advised that the Gloucestershire Constabulary Licensing Unit had, proposed that the following conditions should be added to the licence and this had been agreed by the Applicant.

1. All spirits to be kept behind the counter.
2. The CCTV system shall be maintained in good working order, shall record at all times the premises are open and recordings shall be kept for a minimum of 14 days and be provided on DVD to officers of the Council, Trading Standards and the police on request.

LICENSING SUB-COMMITTEE
30.08.11

3. The Challenge 21 (or equivalent scheme) shall be adopted so that any customer attempting to purchase alcoholic liquor who appears to be under the age of 21 shall be asked for an accredited photographic proof of their age (e.g. passport, photo driving licence or a PASS approved card) and that a sale shall not be made unless this evidence is produced. This will only be treated as a breach where the customer subsequently turns out to be under 18 years of age.

There were no representations from the other Responsible Authorities.

Objections had been received from residents in neighbouring streets to the convenience store and these were attached to the report. Some of those residents were present as Interested Parties with the intention of speaking at the appropriate time.

The Licensing and Enforcement Officer reminded the Sub-Committee that representations needed to be relevant and not vexatious or frivolous. In other words, they had to relate to the proposed licensable activity and its likely effect on at least one of the licensing objectives. They should not be borne out of malice or dispute and had to be serious.

It was noted that residents' concerns with regard to the licensing objectives related amongst other things, to a perceived propensity for anti social behaviour and under-age drinking, should the licence be issued.

Other issues raised involved parking and delivery times and it was noted that these matters would still be a concern whether or not the alcohol licence was granted.

The Licensing and Enforcement Officer then summarised the application:-

Having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance, Members had the following options as considered necessary to promote the Licensing Objectives:

- (a) To accept the application and attach conditions as consistent with the operating schedule.
- (b) To accept the application and modify the conditions of the licence which includes altering, omitting or adding new conditions.
- (c) To reject the whole, or part of the application.

Members were reminded that the Licensing Objectives were:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;
- (d) the protection of children from harm.

LICENSING SUB-COMMITTEE
30.08.11

The Applicant's Agent indicated he had no questions to ask of the Licensing and Enforcement Officer.

APPLICANT'S AGENT'S ADDRESS

Mr Anil Bhawsar, Agent for Mrs Raventherakumar addressed the Committee.

The Agent explained that the Applicant was keen to be seen as a responsible retailer and that she was a responsible, community-minded retailer who wanted to create a livelihood which would benefit the local community. The objections from the Interested Parties were a concern to her. She was fully aware of the licensing objectives and that conditions might need to be attached to the licence, if granted. She already held a personal licence at another establishment and would be the Designated Person Supervisor (DPS) at these premises if the licence was granted.

QUESTIONS FROM INTERESTED PARTIES AND MEMBERS TO THE AGENT

The following questions/comments were given by the Interested Parties. The Agent's response is shown underneath each question/comment with any further comments made by the Licensing and Enforcement Officer shown in brackets:-

In view of the concerns of residents, would the Applicant be prepared to reduce the opening hours of the business?

It was confirmed that after receiving the objections the Applicant had agreed to reduce the opening hours by one hour to 9 pm at night. The opening hours of the Store would be 6.00 am to 9 pm with licensing hours between 9.00 am and 9 pm, Monday to Sunday.

How many deliveries and what type?

As a small concern, most deliveries would be of groceries between 9 am and 5 pm, apart from newspapers which would need to be delivered early.

Parking? How would deliveries happen, bearing in mind double yellow lines outside establishment?

There was a nearby layby and parking behind the premises.

It was pointed out to the Agent by the enquirer that this layby was used by another business.

Liaison with local police and Police Licensing Officer

The Applicant had contacted Andy Cook the police Licensing Officer at Waterwells who had drawn up the conditions to be added to the licence, if granted. The Applicant had not contacted the local Police Station at Hucclecote, but intended to do so if the licence was granted.

During the discussion, the Agent asked one of the Councillors who was attending as an Interested Party whether he had contacted the local Police Station when the application was received. The Interested Party had not, although he did state that he was in regular contact with the local Police about anti-social behaviour in the area.

Who would be on duty in the store?

LICENSING SUB-COMMITTEE
30.08.11

There would be up to two people manning the store at any one time, depending on how busy it was.

(The Licensing and Enforcement Officer confirmed that the Applicant could empower another licence holder to sell alcohol in her absence).

What was the Applicant's understanding of public nuisance and anti-social behaviour?

Anyone who was abusive to staff or customers would not be tolerated. That would be considered as anti-social behaviour. The Applicant was an experienced retailer with knowledge and awareness and would be able to identify such behaviour.

Litter

The Agent confirmed that the Applicant would supply any extra bins considered necessary and that staff would litter-pick outside the store.

Would the property be alarmed and would this link to the Police Station?

It would be alarmed, but the exact type of alarm and its linkages was not known.

Height of counters/displays in the store

Displays would be kept to a low level so that staff had good visibility within the Store. CCTV would be used.

Would contact details of Responsible Authorities be displayed?

These would not be displayed directly, but near to the counter.

Who would be responsible for public safety, health and safety checks, assessing fire risks?

The Premises Supervisor.

Awareness of responsible retailing. Log/register – could this be inspected by anyone?

Log would be maintained as required by Police and Trading Standards.

(The Licensing and Enforcement Officer confirmed that for data protection reasons this log could not be viewed directly by members of the public, but could be shared with the Licensing Authority. It was further confirmed that the programme for licensing inspections was set following an overview of the premises when a 'score' was given. Should problems emerge following the granting of the licence this could lead to a subsequent hearing to decide whether the licence should be taken away).

What measures would be taken to avoid anti-social behaviour?

The Agent said this was difficult to predict because there had not been any instances of this so far. However, the Applicant was a mature person who would exercise due care and attention and assume responsibility for behaviour both within and outside the premises.

Why had this particular property been chosen for this business?

The Applicant had not looked into the history of the premises, but considered it to be an appropriate place for a business of this type.

Would the Applicant be willing to reinstate the rear entrance to the premises to facilitate deliveries and use the side entrance?

LICENSING SUB-COMMITTEE
30.08.11

The Applicant was not aware there had been a rear entrance previously but was willing to look in to the possibility of reinstating it. The Agent confirmed that the side entrance could be used for deliveries instead of the front.

Residents had concerns about under-age drinking and there were fears that older people would buy alcohol to pass on to those who were under-age. What steps would the Applicant take to allay these fears?

The Applicant was trained to observe such behaviour. Customers would be warned they would be fined and that Police would investigate and they would not be served in the Store again.

RESIDENTS' STATEMENTS AND REASONS FOR OBJECTING TO THE LICENSING APPLICATION

- Concerns that neighbouring streets would become a 'rat-run' with vehicles using them as short-cuts to access the store.
- Lessons should be learned from a similar premises at Dinglewell in Hucclecote where alcohol was sold and anti-social behaviour had resulted.
- Area was full of alleyways, green areas and car parks where individuals could hide, drink, and then potentially mis-behave. Resultant problems could be litter and vandalism.
- Gloucester already had a high incidence of alcohol related illnesses.
- Experience of problems caused by 'Bargain Booze' which had now ceased trading.
- Opening hours were a concern.
- Whilst residents were encouraged to ring '999', Police did not attend anti-social behaviour incidents promptly.
- Groups of drunken youths/children were intimidating.
- There appeared to be an emphasis on the sale of alcohol at the store rather than it being a convenience store.
- There were a lot of elderly and vulnerable residents in the neighbourhood.
- The neighbourhood was highly residential and the store would have a detrimental effect on the residents' enjoyment of the amenities.
- A female only business opposed the application. The owner of this business already experienced vandalism of her CCTV camera and lighting in the vicinity where her female clients parked.
- Reference was made to an academic commentary on the Daniel Thwaites v Wirral Borough Magistrates Court case and its relevance to this application.
- There was a strong feeling that there should be no licence granted, but that if one was issued it should be only up to 6 pm in the evenings and that there should be no sale of alcohol at all on Sundays.
- There had been two applications for a take-away at these premises which had both failed and this application was not dissimilar. The granting of the licence would disturb a quiet area.
- Local police, who could not be named or identified, had concerns which had not been addressed in the decision by Andy Cook, Police Licensing Officer.
- The Licensing Act was intended to give individuals control of what went on in their area.
- Concerns were expressed about parking and possible wearing of the road surface by lorries.

LICENSING SUB-COMMITTEE
30.08.11

FINAL STATEMENTS

- The Licensing and Enforcement Officer summed up the application and confirmed the recommendations before Members.
- One of the Interested Parties spoke on behalf of those present and handed a petition against the granting of the licence to the Chair. He said there was a lot of opposition from residents. Anti-social behaviour was the main concern. It was felt that the business was in the wrong place. The fact that the Applicant was willing to reduce the opening hours by one hour to 9 pm was of small comfort. Local businesses as well as residents objected to the proposal. It was not felt that the answers given by the Agent were authoritative. On behalf of the Interested Parties he asked the Committee to reject the application.
- The Agent concluded by saying that he knew residents felt strongly and that the Applicant sought to be a responsible trader. He reminded them that if they felt that the business was not being run properly that the licence was subject to review. The Applicant was seeking to run a convenience store and the sale of alcohol was part of this. He did not feel that the implications outlined by the residents could happen in that way, but if they did, he was confident that the Police, City Council, and Trading Standards would take steps to make sure the 'right thing was done'.

RESOLVED

The Committee considered the application made under Section 17 of the Licensing Act 2003 for a premises licence by Insley Gardens Convenience Store (102 Insley Gardens, Gloucester) and having had regard to the representations made by the Interested Parties, evidence from the Applicant, the Home Secretary's Guidance, the Council's own Statement of Licensing Policy and the Legal Implications as set out in the report, have decided to grant the application.

REASONS AND CONDITIONS

The licence was granted on condition that licensing hours were restricted to 9.00 in the morning to 7 pm in the evenings, Monday to Sunday. The reason for restricting the opening hours was that the Sub-Committee had heard sufficient concerns from the numerous interested local parties that longer hours would not uphold the licensing objectives in respect of:-

- The prevention of crime and disorder.
- Public Safety
- and the prevention of public nuisance

in the highly residential area that the facility would serve.

LICENSING SUB-COMMITTEE
30.08.11

The Applicant was also highly recommended to investigate the re-opening of a rear access from the store directly to the car park to facilitate deliveries to the premises.

The Applicant and residents were reminded that under Section 53 of the Licensing Act, that Interested Parties and Responsible Authorities could apply to the Council at any time for a review of the licence granted because of a matter arising at the premises in connection with any of the four licensing objectives listed in section 2.2 of the report.

Time of commencement: 18:30 hours

Time of conclusion: 22:00 hours

Chair