



LICENSING SUB-COMMITTEE

MEETING : Wednesday, 15th May 2013

PRESENT : Cllrs. Noakes, Porter and C. Witts

Officers

Steve Isaac, Solicitor

Lisa Jones, Food Safety and Licensing Service Manager

Rebecca Tuck, Licensing Enforcement Officer

Also in Attendance

APOLOGIES : Cllrs.

33. ELECTION OF CHAIR

Councillor Porter was elected as Chair.

34. INTRODUCTIONS AND PROCEDURES

The Chair introduced the Members of the Sub-Committee and officers in attendance and invited the Applicant and Other Parties to introduce themselves at the appropriate time. The Chair explained the procedures that would be followed during the meeting.

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

Mr Mohammed Alif, Applicant

Mr Brian Kent, Applicant's Advocate

Mr Sivakaran Somanathan, proposed Designated Premises Supervisor

Mr and Mrs Tanzillo, local residents

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Mr Terry Witson, local businessman
Mr David Dorman, local resident
Mr Adrian Jones, local resident

35. DECLARATIONS OF INTEREST

There were no declarations of interest.

36. APPLICATION UNDER SECTION 17 OF THE LICENSING ACT 2003 BY MOHAMMED ALIF IN RESPECT OF KINGSHOLM STORE, 55 WORCESTER STREET, GLOUCESTER, GL1 3AW

The Licensing and Enforcement Officer presented a report outlining an application by Mr Mohammed Alif in respect of Kingsholm Store, 55 Worcester Street, Gloucester, GL1 3AW. The application was for the retail sale of alcohol (off sales only) Monday to Sunday (inclusive) from 06.00 to 23.00 hours.

Details of the application were referred to as Appendix 1 to the report.

The Sub-Committee noted that the Applicant had set out in Section P of the Operating Schedule the measures proposed to be taken to promote the four licensing objectives, should the licence be granted.

The Licensing & Enforcement Officer referred to Paragraph 4.3 of the report in relation to planning restrictions and explained that since publication of the report the licensing team had been advised by Planning that the current consent for the premises was for category B1 use which allows use as a light industrial workshop and in order to open the premises as a retail shop the applicant would need to apply for planning permission for a change of use to A1. (A1 use allows amongst other things for the retail sale of goods other than hot food which would satisfy the licence application received) Members were reminded should they accept this application it was important to remember that having a licence did not override other regulatory controls, and premises operating in breach of their planning permission would be liable to prosecution under planning law.

Members' attention was drawn to a representation made by the Council's Environmental Protection Team pertaining to concerns relating to the 'Prevention of Public Nuisance' licensing objective. Since the report had been published an undertaking had been reached between the Applicant and the Environmental Protection Team which had resulted in the Team withdrawing its representation. Members were advised that this was merely an undertaking and not intended to be attached as a condition should the licence be granted.

No other representations had been received from responsible authorities. However, the Police had, in agreement with the applicant, proposed that should a licence be granted the conditions detailed at paragraph 5.4 of the report be added. The proposed conditions agreed between the applicant and the Police would replace any similar steps intended to promote the licensing objectives as set out in the operating schedule.

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The Licensing and Enforcement Officer drew Members' attention to representations which had been received from four local residents as 'Other Persons' under the Licensing Act 2003. These were shown at Appendix 6 to the report. The Sub-Committee was advised that three of the four representations mentioned the number of licensed outlets already operating in the area and that this matter was not a relevant consideration under the Licensing Act 2003. Members' attention was drawn to paragraph 13.18 of the Home Office Guidance.

Some of these representations also referred to planning considerations. Members were advised to disregard these issues as the Sub-Committee's purpose was to consider an application for a premises licence to be granted and that planning matters would be considered by the Development Control Manager and/or Planning Committee at the appropriate time.

Members were advised that having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance, they had the following options as considered appropriate 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.

The Sub-Committee was reminded of the City Council's licensing objectives:-

- (a) The prevention of crime and disorder
- (b) Public safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

Questions to the Licensing and Enforcement Officer

There were no questions from the Applicant to the Officer.

There were no questions from residents to the Officer.

Councillor Witts sought clarification on the validity of the proposed Designated Premises Supervisor's licence which had been issued by South Gloucestershire Council. The Licensing and Enforcement Officer responded that this was perfectly acceptable.

Presentation by the Applicant's Advocate

Mr Kent confirmed that the Applicant had been mindful of the Licensing Act and Secretary of State guidelines when addressing the licensing objectives in his

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application. His client had a proven track record as a retailer with a premises licence and intended that the store would benefit the community. There would be a small amount of alcohol sold along with all the other foods, but this would not be a 'budget booze' cut-price store. His client had co-operated with Police and agreed conditions to be attached to the licence. Mr Kent referred to the recent agreement reached with the Council's Environmental Protection team. There would be no external deliveries as his client would purchase all goods from the Cash and Carry and would bring goods through the rear of the premises. He reiterated his client's wish to foster a good relationship with local residents.

Questions to the Applicant's Advocate

There were no questions from the Licensing and Enforcement Officer.

The following questions were asked by residents:-

- *Did the Applicant have permission to use the rear of the premises?* Mr Kent responded that this was a planning matter.
- *It had been noted that the Applicant was parking wherever he wished. Would he undertake to park his vehicle more considerately in future?* Mr Kent responded that his client was sensitive to parking issues.
- *Who was the target audience for the alcohol sales?* Mr Kent responded that this was not an issue for the Licensing Sub-Committee.
- *Did the Applicant think that having a licence to sell alcohol at 6 am was going to be beneficial to the community?* Mr Kent responded that their commercial needs could not be taken into account. (The Chair clarified this point further for the benefit of those present. He recognised the concerns of residents but pointed out that the Sub-Committee had to base its decision on the Licensing Act and Home Office guidance)
- *If the Applicant is keen to work with residents, what has he done in the run up to this application? When has he approached residents?* Mr Kent responded that the Applicant was under no obligation to approach residents. The letter he had sent in response to representations set out his position and the Operating Schedule clearly laid down the steps he intended to take with the support of the Police.

Councillor Witts asked the Applicant's Advocate if there would be a policy to sell a minimum quantity of alcohol. Mr Kent referred Councillor Witts to the Operating Schedule.

Presentation by Resident

Mr David Dorman addressed the Sub-Committee and pointed out that the site was in a conservation area. The Applicant had not made a planning application for a shop and the only permitted use was for a workshop. He believed that the Applicant had demonstrated by his approach that he was prepared to sweep aside considerations. Granting a licence would encourage others to buy a premises not intended for retail purposes. Mr Dorman suggested that the Applicant should re-submit the application once all the planning issues had been dealt with.

There were no questions from the Applicant or the Sub-Committee to Mr Dorman.

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Summing Up

The Licensing and Enforcement Officer made a closing statement and reminded Members of the options open to them.

Mr Dorman concluded by stating that although a metal door had been installed at the rear of the premises to allow deliveries that there was no approved access via that point and that the Applicant would need to obtain planning permission to use it.

The Applicant's Advocate concluded by reminding Members that the Sub-Committee had only been convened because of residents' complaints. He re-affirmed that stock would be moved into the premises via a rear entrance. Whilst the Applicant acknowledged anti-social behaviour in the area, he would only have responsibility for his own premises. Members should not consider commercial need when making their decision. The Applicant was an experienced retailer and was sensitive to residents needs.

The Decision

Members of the Sub-Committee withdrew to reach their decision.

RESOLVED

That the application be accepted subject to the following conditions:-

1. A CCTV system with minimum 4 colour-cameras recording at a frame-rate of not less than 15 frames-per-second shall be maintained in good working order at the premises. One of these cameras shall provide a "head & shoulders" picture (I.D shot) of all customers entering the premises. One camera shall be situated behind the Serving Counter so as to capture the faces and activities of customers at the point of sale. One camera shall overlook the alcohol-display area. The other camera shall be mounted externally so as to cover the area immediately outside the store. The system shall record at all times the premises are open. Recordings shall be kept for a minimum of 14 days and shall be produced promptly on DVD (preferred) or CD and, in any event within 3 days, at the request of Police, Trading Standards or Council Officers. The system shall be checked daily and, should the system fail to operate on any occasion, the DPS (or representative) shall promptly notify the Licensing Authority Licensing department and Police Licensing department and shall take prompt steps to repair or replace the system.
2. With the exception of alcohol displayed behind the Counter, alcohol shall not be displayed within 5 metres of the customer entrance/exit door.
3. Spirits shall only be displayed behind the Counter. (as volunteered in the schedule)
4. Challenge 25 shall be in operation. (as volunteered in the schedule)

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37. DECISION NOTICE

**Time of commencement: 16:45 hours
Time of conclusion: 18:00 hours**

Chair

Gloucester City Council

Licensing Act 2003

Notice of Determination

Date of Hearing: Wednesday 15 May 2013

Sub-Committee Members: Councillors Porter (Chair), Noakes, C. Witts

Subject: Application for a Premises Licence made by Mr Mohammed Alif in respect of Kingsholm Store, 55 Worcester Street, Gloucester, GL1 3AW under Section 17 of the Licensing Act 2003

This is an application by Mr Mohammed Alif for a new Premises Licence relating to Kingsholm Store, 55 Worcester Street, Gloucester, GL1 3AW. The application is for the provision of the retail sale of alcohol (off sales only), Monday to Sunday (inclusive) from 06.00 to 23.00 hours.

We have carefully considered the application, and the representations made by residents, the statutory provisions, the Council's Statement of Licensing Policy, the Home Secretary's Guidance, taken into account the licensing objectives, and listened to the presentation of the report of the Licensing and Enforcement Officer. We have also listened carefully to the other presentations made at this application hearing and the replies to questions raised.

Decision

We accept the application and attach conditions that are consistent with the operating schedule. This will include those matters that have been agreed between the Applicant and the Police.

We also include after our reasons a comment on our intended action with regard to the concerns of residents and what the Applicant has agreed with the Environmental Protection Service, particularly in respect of deliveries

Conditions

1. A CCTV system with minimum 4 colour-cameras recording at a frame-rate of not less than 15 frames-per-second shall be maintained in good working order at the premises. One of these cameras shall provide a "head & shoulders" picture (I.D shot) of all customers entering the premises. One camera shall be situated behind the Serving Counter so as to capture the faces and activities of customers at the point of sale. One camera shall

overlook the alcohol-display area. The other camera shall be mounted externally so as to cover the area immediately outside the store. The system shall record at all times the premises are open. Recordings shall be kept for a minimum of 14 days and shall be produced promptly on DVD (preferred) or CD and, in any event within 3 days, at the request of Police, Trading Standards or Council Officers. The system shall be checked daily and, should the system fail to operate on any occasion, the DPS (or representative) shall promptly notify the Licensing Authority Licensing department and Police Licensing department and shall take prompt steps to repair or replace the system.

2. With the exception of alcohol displayed behind the Counter, alcohol shall not be displayed within 5 metres of the customer entrance/exit door.
3. Spirits shall only be displayed behind the Counter. (as volunteered in the schedule)
4. Challenge 25 shall be in operation. (as volunteered in the schedule)

Our reasons for reaching this decision are:

1. As the Licensing-sub committee we are here to consider this application under the Licensing Act 2003 and as such we are only concerned with those matters that are appropriate to promote the 4 licensing objectives (1) the prevention of crime and disorder (2) public safety (3) prevention of public nuisance and (4) protection of children from harm.
2. The Applicant has volunteered and agreed with the Police a number of measures to be included as Conditions to deal with the licensing objectives and we accept that these will promote the licensing objectives.
3. We are not here to consider matters that come under the jurisdiction of the Council's Development Control Service and Planning Committee which includes matters such as use of the premises as a store, Listed Building issues and Conservation Area issues. Many of the concerns expressed by residents are of a planning nature and where relevant will be considered by the Council as Planning Authority. The Premises Licence granted does not give the applicant any Planning Permission that may be required.
4. In granting the application we cannot be concerned with competition and the fact that there are other convenience stores in the area is not a consideration.
5. This is a new application for a licence to sell alcohol and therefore until the premises are actually operating, evidence to the affect of the licence on the four licensing objectives can only be speculative. Once operating, if any of the matters arise that are concerns of residents and relate to the licensing

objectives, then provided there is the necessary evidence, it is open to residents to seek a review of this Licence we are granting.

6. The opening and closing hours applied are fairly typical of other small stores and shops in the City who sell a variety of goods. The Home Office Guidance allows for alcohol sales to be consistent with the sale times of other goods, unless there are good reasons to have different hours. As the premises are not yet operating, there are no such reasons. This is not to say that this could become a consideration for a review of this Licence if there was evidence produced that would support different hours for the sale of alcohol.

Finally, and not part of this Decision Notice, the Sub-Committee Members would like to make the following comments.

We note the agreement reached between the Applicant and the Environmental Protection Service and will be writing to the Planning Department with the terms of this agreement and will encourage them to incorporate these into their planning decision as far as they are able.

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