

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-Committee held on Tuesday, 20 September 2022 at 10.00 am in the Guildhall Chamber

Present

Councillors George Madgwick (in the Chair)
Leo Madden
Tom Coles

49. Appointment of Chair

Councillor Madgwick was elected as Chair of the Licensing Sub-Committee. He welcomed everyone and outlined the procedure that would be followed. Introductions were made by those present.

50. Declarations of Member's Interest

No interests were declared.

For transparency, Councillor Madgwick noted that the representation to be made was by another member of the Independent Party of which he was the Leader but stated that no discussion had taken place about this case.

51. Apologies

Ben Attrill, Legal Advisor had tendered his apologies

52. Licensing Act 2003 - Application for grant of a premises licence - Kwikimart, 373 London Road, Portsmouth, PO2 9HJ

The Chair advised that although there was no Portsmouth City Council legal representation at the meeting, all parties had agreed to continue with the hearing with the option to adjourn should the need arise.

The Principal Licensing Officer introduced the report and set out the application. He explained that the application had been brought to the sub-committee for determination, following two representations, one from Councillor Simpson and the other from a nearby resident Ms Smith, who was unable to attend.

The application was for off sales of alcohol for the duration of the shop opening hours of 6am to midnight. The details of this and the steps intended to support and promote the licensing objectives could be found in appendix A and a plan of the premises at appendix B.

Public notice had been given by way of press notices, a premises notice and the local ward councillors were notified of the application so there were no grounds to reject the application for non-compliance with the prescribed advertising requirements.

The Principal Licensing Officer advised there had been no representations from any of the responsible authorities. The two representations from Councillor Simpson and Ms Smith objected to the hours applied for on the basis that they could breach the promotion of the licensing objectives for public nuisance and anti-social behaviour.

For clarity, the Principal Licensing Officer noted the licensing objectives are:

- The prevention of law and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm.

Questions for Principal Licensing Officer

In response to questions from members, the officer clarified:

- The licensing times for nearby premises are:
 - Green Post Public House on and off sales are Monday to Thursday 11:00 - 23:00 (closing 23:40), Friday and Saturday 11:00 - 24:00 (closing 00:40).
 - Viva Convenience Store - Monday to Saturday 08:00 - 23:00, Sunday 10:00 - 22:30. (off sales)
 - Spar - 06:00 - 24:00 (off sales but close at 22:00)
 - Tesco Express 06:00 - 23:00 (off sales)

Applicant Case

Mr Jon Wallsgrove presented the Applicant's case and began by noting that the representations were not in relation to whether the license should be granted but rather what hours are appropriate. Nothing in the representations called into question the operation of the shop or the fitness of Mr Aranan as a license holder.

He stressed the opening hours of the shop would remain at 06:00 - 24:00 even in the eventuality that the committee granted the license for shorter hours of alcohol off sales.

Mr Wallsgrove noted the concerns of possible anti-social behaviour or noise caused by people congregating outside the shop. He stressed that it would be in Mr Aranan's commercial interest to make sure this does not happen.

Mr Wallsgrove described Mr Aranan's 19 years experience owning and managing his 10 licensed premises in the city. Proper due diligence is in place within the stores to make sure the licensing objectives are promoted. This included a comprehensive, digital, colour, CCTV system with recording facilities. Training of staff is key along with a Challenge 25 policy in all the stores. Within this application, Mr Aranan has offered to have notices placed within the store advising people to leave the area quietly and to have a refusals log.

Mr Aranan's store in 193 Kingston Road, which is relatively close, was licensed for 06:00 - midnight as were 6 others of his premises. Mr Wallsgrove

noted that other off licensed premises in the city have licensed hours of 08:00 - 11:00 due to the legacy of the 1964 Licensing Act, which preceded the 2003 Act, when off license hours were set by statute. They had simply not sought to vary their hours. However, a number of other premises had applied for later licenses due to the rise of convenience shopping.

Mr Wallsgrove noted the Government issued guidance under section 182 which specifically referenced shops and supermarkets being able to sell alcohol for all the hours they are open unless there is good reason not to, based on one or more of the four licensing objectives.

In addition, Section 182, specifically directs the committee to look to the Police as the first and primary source of advice, in relation to crime and disorder, and Mr Wallsgrove noted they had not objected to this application. Similarly, in relation to public nuisance, the Environmental Health Team had not objected either. Mr Wallsgrove asked the committee to give greater weight to this fact and agree the hours requested.

Mr Wallsgrove went on to note that there was no credible evidence put forward within the representations from Councillor Simpson and Ms Smith as to why their concerns would come to fruition. The Licensing Act has within it, the protection of review should the need arise.

Mr Wallsgrove assured the committee that Mr Aranan does not foresee any issues of anti-social behaviour or noise nuisance and asked that they grant the application as applied for, with the conditions taken from the operating schedule within.

Members questions to the Applicant

In response to questions the Applicant clarified:

- On the premises licence application, the name is either Kwikimart or New Kwikimart. All Kwikimarts in Portsmouth are Mr Aranan's premises.
- Mr Aranan is the owner of all the premises, and he has a management team in each store. He is very hands on and visits each of the stores at least once a week, if not more. He spends more time in one particular store as it requires more of his input as owner/manager.
- Only one store has had a review of the premises licence - the Albert Road store which was licensed for 24 hours. The review was brought by a local resident regarding anti-social behaviour and nuisance outside of the premises. The review reduced the hours to 3:30am following agreement with the local authority. This was approximately 6 months ago. Mr Wallsgrove noted this shop is in an area of a high number of licensed premises, many of which open into the early hours of the morning and is on an incredibly busy street.
- All of Mr Aranan's staff are trained to ensure that any people outside the store are asked to move on. In the event they are causing anti-social behaviour or nuisance and refuse to move on, the staff call the Police. He noted that 9 out of the 10 stores have no issues and this supports the contention that there will be no issues at this new store.

- The meet between Councillor Simpson, Ms Smith and the applicant did not take place as it appeared the parties making representations required the committee to make a determination on the appropriate hours.
- Premises above the shop are owned by other individuals.
- Alcohol purchases are not common between 6:00 - 10:00am. Similarly, between the hours of 23:00 - 24:00, Mr Aranan would not envisage there being high sales. Alcohol tends to be purchased with other convenience products such as bread, milk and ready meals.

Representations

Councillor Simpson made a representation.

Representations are not minuted but can be viewed on the council's website at:

[Licensing Sub-Committee meeting, 20 September 2022 on Livestream](#)

Members questions to the Representee

In response to questions, Councillor Simpson clarified:

- Begging and drinking is not uncommon outside shops in Portsmouth selling alcohol. The new premises is a nice spot with railings which may encourage drinking outside. It is very close to a primary school which is a concern if people linger after buying alcohol early in the morning. The Spar closes at 10pm so this new premises may encourage people to congregate later in the Tesco car park.
- There is a disconnection of trust with the Police and crimes not being reported.
- There are residences above the property, approximately 6 behind and approximately 8 on the other side of the road including Woodford House.

The Chair read out the representation from Ms Smith.

In response to a question from members, the Principal Licensing Officer clarified Mr Aranan has 10 premises in Portsmouth, but he was not aware of any problems with them apart from the premise in Albert Road.

Summing Up by Principal Licensing Officer

The Principal Licensing Officer reinforced that the review process is available to responsible authorities or members of the public should incidents occur at the premises once the license has been issued.

Summing up by the Representee

Councillor Simpson asked the committee to consider what had been discussed in relation to where the shop will be situated. He re-iterated that the hours are not ideal for the area and would recommend alternative hours.

Summing up by the Applicant

Mr Wallsgrove stated that Mr Aranan is an experienced local businessman of 19 years and 10 shops. He carried out his due diligence when purchasing this shop and considered the demographics of the local area. He reassured

that the issues and fears expressed would not materialise. Any issues would be dealt with swiftly by Mr Aranan and his staff. He went on to say there is no evidence before the committee that the lack of trust in the Police is directly linked to the sale of alcohol in the local area. He again stressed the over-riding protection under the Act of the review of the licence and asked the committee to attach weight to the fact that the Police and Environmental Health and no other responsible authority have raised any concerns with the committee.

The Chair asked the applicant, in lieu of not having a council legal advisor present, if he could confirm they were happy with the proceedings that had taken place. Mr Wallsgrove confirmed he was happy.

The Chair then advised that the committee would move into private session to consider the application. As there was no legal advisor present an official decision notice would not be given, rather an indication of their planned decision. This was acceptable to the applicant.

The meeting adjourned at 10:55am and reconvened at 11:30am.

The Chair welcomed everyone back and for clarity he reiterated that this would not be a formal decision notice at this time. During the recess, guidance was taken from the City Solicitor, who was consulted on a number of points. The following statement was an indication of the planned decision and the Legal team in Portsmouth City Council would work on the formal decision notice and supply this within 72 hours.

Decision Indication

The license will be granted with a few restrictions to promote the licensing objectives. This would be the addition of the Operating Schedule as detailed in the application of CCTV, training log, refusal register and Challenge 25. In relation to the timings of the permitted licensing activities, the committee proposed to keep this consistent with the local area. There are other licensed premises in the area which start at 6am so the license will be granted the same starting time, 7 days a week. In relation to the closing time, in keeping with the local area and the nearby public house the committee proposed to approve the sale of alcohol until midnight Friday and Saturday and until 11pm Sunday to Thursday.

The Chair advised that the applicant would receive the proper notice once this has been discussed as a committee with the legal advisors, in full, and within 72 hours.

The meeting ended at 11:34am

Formal Decision

Confirmation of the formal decision was given on Thursday 22 September 2022.

In the matter of: Licensing Act 2003 - Application for a premises licence - Kwikimart, 373 London Road, Portsmouth, PO2 9HJ

The Sub Committee had considered very carefully the application for a premises licence at premises known as Kwikimart. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy.

The Sub Committee considered the relevant representations, both written and given at the hearing, by all parties. Human rights legislation and the public sector equality duty had been borne in mind whilst making the decision.

The application relates to shop premises and is for the provision of retail sale of alcohol (off sales).

The Sub Committee noted that there had been a representation from a resident and a local councillor objecting to the grant of the licence due to concerns about the prevention of public nuisance licensing objective and the prevention of crime and disorder objective.

It was noted that no representations had been received from any of the responsible authorities.

The applicant had contacted the objectors via his solicitor in an attempt to resolve the objection prior to the hearing.

After having heard all of the above evidence the Sub Committee determined to grant the proposed application, subject to imposing the standard wording of conditions proposed by the applicant during the hearing (by way of update to and in addition to the operating schedule). In addition, the hours for the sale of alcohol were reduced as follows:

- The sale of alcohol shall be authorised on Sunday to Thursday between the hours of 06.00 - 23.00
- The sale of alcohol shall be authorised on Friday and Saturday between the hours of 06.00 and 00.00 (midnight).

CONDITIONS:

CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas. CCTV warning signs to be fitted in public places. The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation. The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 31 days. Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly, and that data is being securely retained. The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e.,

password protected. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a format that can be viewed on readily available equipment without the need for specialist software.

In the event of technical failure of the CCTV equipment, the premises licence holder/DPS MUST report the failure to the Hampshire Eastern Police Licensing Unit licensing@hampshire.pnn.police.uk within 24 hours, and arrangements made to repair the fault without delay. A competent trained person in the use of and operation of the CCTV must be in attendance at the premises at all times that licensable activities take place and there must be a person present, nominated by the data controller, who is able to fully operate the CCTV system to be able to download at the times of the visit onto a CD/DVD/USB stick any information lawfully requested by Police or Portsmouth City Council authorised officers.

CCTV shall cover the full licensable area.

STAFF TRAINING

All staff involved in the sale of alcohol must receive comprehensive training in relation to the sale of alcohol. No member of staff shall be permitted to sell alcohol until such times as they have successfully completed this training. Training shall cover:

- Sale of alcohol to persons under 18
- Challenge 25 and acceptable forms of identification
- Signs of Drunkenness
- Refusal register and when/how to use
- The Licensing Objectives

This training shall be documented and records kept on the premises.

Police and the Portsmouth Licensing Authority shall have access to an individual's training records upon request.

CHALLENGE 25

The premises shall operate a challenge 25 policy. Any persons appearing to those engaged in selling or supplying alcohol to be under the age of 25 and who is attempting to buy alcohol will be required to produce satisfactory photographic identification as proof of age. Acceptable ID shall be as per the latest Home Office guidance. Signage of this policy will be visible to customers.

REFUSALS LOG

A refusals register in paper or digital format shall be kept and maintained at the premises. The register shall be made available for inspection upon request by an authorised officer of the Police or Local Authority.

NOTICES

Notices shall be placed in prominent locations at the exit and point of sale requesting customers to respect local residents by leaving the shop and the area quietly.

SINGLE CANS / BOTTLES

No beers, ciders or lager of 6.5% ABV or over shall be sold by retail unless they in a pack of 4 or more as supplied by the manufacturer.

Reasons

Objection from residents focussed upon existing licensed premises, paving outside the premises potentially creating an area for groups to gather and a potential increase in nuisance and disorder given the proximity of residential properties. In light of these issues it was proposed that earlier terminal hours for the sale of alcohol would be more appropriate. The Sub Committee noted that commercial need for additional premises could not be considered.

The Sub Committee heard that the applicant is an experienced operator and offered conditions relating to a comprehensive CCTV system, training of staff, challenge 25 policy, refusals log and notices to be placed within the store requesting customers leave the premises quietly.

The Sub Committee acknowledged the statutory guidance indicates that shops ought to generally be permitted to sell alcohol during hours the premises are open unless there is good reason and that the responsible authorities are experts in their respective fields and accordingly attach weight to the fact that the application is in effect endorsed by way of a lack of representation.

The Sub-Committee balanced the interests of the business, noting the steps outlined to address concerns against concerns of local residents relating to potential issues and determined that it would be appropriate to grant the licence but to limit the hours sought. The hours granted also ensure consistency with the hours of local premises - meaning the premises is less likely to attract or create the anti-social issues that residents fear.

There is a right of appeal for all parties to the Magistrates' Court.

.....
Chair