

LICENSING SUB-COMMITTEE
23 OCTOBER 2012

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Tuesday, 23 October 2012

PRESENT: **Councillor Tony Sharps (Chairman)**
Councillors Alan Diskin and Jim Falshaw

Officers of the Council:

Licensing Officer (Lorraine Baxendale), Solicitor (Tim Dillon) and Committee Officer

Interested Persons:

Mr. and Mrs. Cresswell

Responsible Authorities:

Sergeant John Williams, North Wales Police Flintshire North
Ann Williams, Eastern Licensing Officer, North Wales Police

Applicant:

Mr. Diari Kadir
Mr. J. Arnold - Solicitor

ALSO PRESENT:

Councillor D.L. Cox

1. APOLOGIES

None were received.

2. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None were received.

3. HEARING AND DETERMINATION OF THE APPLICATION

The Chairman explained the procedure for hearing and determining the application and detailed the order in which speakers would be able to address the Sub-Committee.

4. APPLICATION FOR A PREMISES LICENCE

The Sub-Committee considered the report of the Director of Environment which was presented by the Licensing Officer for determination of an application for a new Premises Licence for the supply of alcohol for consumption off the premises.

She confirmed that the application had been advertised in the correct manner and drew attention to the steps to be taken by the applicant to promote

the licensing objectives. A number of concerns raised against the application by residents from the area were appended to the report, together with a letter from North Wales Police.

4.1 Representations by Responsible Authorities

Ms. A. Williams advised that representations had been made by North Wales Police under the licensing objective of the Prevention of Crime and Disorder and the Prevention of Public Nuisance. As stated in her letter to the County Council dated 1 October 2012, she alluded to an increase in alcohol related anti-social behaviour in Flint which had resulted in a detrimental effect on those living and working in the area.

Sgt. J. Williams explained that in recognition of the problem, 'Operation Valensole' had been introduced in July 2012 to assist in addressing complaints made about excessive public drinking in Flint. The analysis report from that initiative, which was circulated at the meeting, indicated 81 incidents relating to public drinking in Flint between 1 January and 30 September 2012 and showed an increasing trend. The statistics stated that the majority of incidents had taken place on Saturdays, Sundays and Fridays and that areas such as the grounds of Flint Castle had been identified as a repeat location. It was noted that between 15 July and 9 September 2012, a total of 12 Section 27 Notices had been issued, of which five were alcohol related.

Sgt. Williams said that efforts to address the situation in Flint town centre had resulted in the problem moving to more remote locations such as Flint Castle and he went on to give examples of the types of issues dealt with by the Police during September 2012. He pointed out that although alcohol could be purchased at any of the six off-licences in Flint, a further premises could only add to the problem. In referring to efforts to help offer support to the problem, he referred to a group which met monthly to consider diversity issues, which included representation by the Council's Diversity Officer and commented on the availability of a Police Officer who was able to speak Polish.

4.2 Representations by Interested Parties

Mr. Cresswell, also speaking on behalf of Mrs. Cresswell who was present, stressed that he had no objections to the mini-market but wished to make representations against the sale of alcohol at the premises. He spoke of an alcohol related incident early one morning in a public car park which was used by many people including some elderly residents. He was aware of 13 establishments in Flint where alcohol could be purchased and felt that any more would be unnecessary, adding that anti-social behaviour was a major concern in the area, particularly amongst younger people who were able to acquire alcohol. He commented that whilst other objections had been made against the application, some residents may have felt afraid to speak out.

4.3 Representations by the Applicant

Mr. Arnold explained that he was the Solicitor acting on behalf of the applicant. He sought permission to circulate photographs of the inside of the

mini-market which he said demonstrated that it was a predominantly food-led operation.

Mr. Kadir referred to one photograph showing empty shelves behind the main counter and explained the intention to store the alcohol there so that it could be served from behind the counter, with a further stock of lager in the refrigerator located directly in front of the counter. He went on to describe the details contained in the operating schedule and expressed his willingness to reduce the times for the sale of alcohol to 9am-11pm, if requested by the Panel. He added that the opening hours were intended to take into account those people who needed to shop after working an afternoon shift.

Whilst Mr. Arnold acknowledged the objections made by residents, he believed that these had been made under a misapprehension that the mini-market was to be alcohol led. He stated that the premises would be operated lawfully, adding that the CCTV equipment would reveal any unlawful sales and that the metal shutters would help to protect the premises. He requested that the Panel be mindful of paragraphs 1.16 and 9.38 of the 2012 Amended Guidance issued by the Home Office and paragraph 1.12 of the Council's policy in respect of considering the application on its own merits and on a 'case by case' basis. He said that the objections were on the grounds of cumulative impact to which the Council had no policy in Flint town centre and made reference to paragraph 2.40 of the Home Office guidance which related to the personal responsibility of individuals engaging in anti-social behaviour.

4.4 Summing Up

The Chairman allowed all parties present the opportunity to ask questions and sum up.

In response to questions raised by Mr. T. Dillon, the applicant said that the mini-market had only recently opened but that it was his intention to work behind the counter in the shop until a member of staff could be appointed who could be appropriately trained. Following a further question, Mr. Arnold confirmed that the offer to reduce the hours for selling alcohol to 9am-11pm would be on a formal basis. Mr. Dillon asked what procedures the applicant would employ to ensure that alcohol was not sold to anyone who was intoxicated. Mr. Kadir said that he would be in the shop at all times and that a recent visit conducted on the premises had resulted in a positive response from the Police.

Mr. Cresswell reiterated his earlier comments that another outlet for the sale of alcohol was not necessary and asked the Panel to bear in mind the burden on the Health Service due to the increase in alcohol related problems.

Sgt. Williams referred to the applicant's comment on shift workers and pointed out that the Police had also received reports of people drinking in the early morning and late at night. In response to a question from Ms. Williams, Mr. Kadir said that the type of alcohol to be sold in the mini-market would not include boxes of beer.

Mr. Kadir responded to questions raised by Councillor J.E. Falshaw and when asked about crime prevention initiatives, replied that the CCTV equipment

was in place with two cameras in front of the shop and two on the counter, and that the Challenge 25 scheme would be in operation.

The Chairman commented on the information contained in the letter provided by the Police. Sgt. Williams said that the objection to the application had been made for the reasons stated and explained that the community cohesion group had been established with the Council's Diversity Officer and Anti-Social Behaviour Unit Officer to address problems in a supportive way. The Chairman pointed out that the statistics provided by the Police showed an increased trend in alcohol related incidents in September, however the mini-market was not yet selling alcohol. Sgt. Williams said that the issue was about addressing the growing problem of people drinking excess alcohol in public areas, which was not specific to any nationality. In response to a question from Ms. Williams, Mr. Kadir said that the CCTV equipment on the counter in the mini-market would not record sound.

4.5 Determination of the Application

All those present, with the exception of the Chairman, Committee Members, Solicitor and Committee Officer, left the room.

In discussing the application the Panel considered all the representations made by all parties including the written representations. The Panel noted the concerns of the Interested Parties including their concerns in respect of drunkenness and anti-social behaviour in the town of Flint and their representations that there were too many premises in Flint selling alcohol. The Panel noted, however, that the Interested Parties did not take issue with the applicant himself or the sole purpose of the premises, that being, a mini supermarket store that will sell predominately food that will include a butcher's style meat counter as well.

The Panel also considered the Police Responsible Authority's representations and noted the multiple complaints concerning drunkenness and anti-social behaviour of adults and sometimes children in the Flint area. The Panel took the view that the issues surrounding the Flint area, although a concern for the Flint area as a whole, were more a cumulative impact issue which, due to the Licensing Act 2003, were outside the remit of the Panel's determination. It was noted there was no cumulative impact policy in place for Flint or indeed its surrounding area. The Panel were of the view that the application had to be decided on a case by case basis and on its merits. The Panel considered, from the applicant's representations, that the applicant's due diligence was sufficient and appropriate to promote the licensing objective; namely prevention of crime and disorder and prevention of public nuisance. The Panel noted that the applicant, from his representations, wanted to amend his alcohol sale hours and reduce the sale of alcohol to 9am to 11pm Monday to Sunday instead of 8am to 11.30pm Monday to Sunday.

The Panel were uncomfortable over the references to persons of a particular nationality and as such considered their decision in conjunction with Article 14 of the European Convention on Human Rights; namely that the enjoyment of rights and freedoms (in particular Article 1 ECHR in respect of right to enjoy possession of licence) was secured and maintained without

discrimination on any ground such as sex, race, colour, language, religion, national or social origin and association with a national minority.

The Panel, following the Licensing Act 2003, noted that they should do the minimum that was appropriate to achieve the licensing objectives but let the business operate. This was however considered in conjunction with section 17 of the Crime and Disorder Act 1998.

The Panel thought there was no tangible, relevant and cogent evidence in respect of the premises that may compromise the licensing objectives and found much of the representations concerned cumulative or indeed anticipatory issues and concerns. Should the premises, once in operation, compromise the licensing objectives, persons affected as well as Responsible Authorities would be at liberty of applying for a review of the applicant's licence for further scrutiny and determination.

Consequently the Panel found no tangible and relevant reason to refuse the application, or indeed modify it, save for the amendment to the sale of alcohol hours that was confirmed and endorsed by the applicant himself during the hearing.

4.6 Decision

The Licensing Sub Committee were grateful for all the representations made in respect of this application. The Sub Committee considered all the representations made of all parties and considered all their interests. The Sub Committee noted the representations made, including that of the Police regarding instances of drunkenness and anti-social behaviour in the town of Flint as a whole. However had to determine the application on a case by case basis and on its merits and the Sub Committee were of the view that cumulative impact did not apply to this application.

The Sub Committee were of the view there was no tangible and cogent evidence linking drunkenness and anti-social behaviour to the actual premises and in reiteration were of the opinion that cumulative impact issues did not apply to this application.

The Licensing Sub Committee were of the view the conditions provided in the operating schedule were appropriate for the promotion of the licensing objectives; namely the prevention of crime and disorder and the prevention of public nuisance.

In addition to the conditions contained in the operating schedule the Sub Committee noted the applicant was willing to reduce his hours for the sale of alcohol to 9am – 11pm Monday to Sunday.

The Sub Committee granted the application in respect of the sale of alcohol at the premises from 9am to 11pm Monday to Sunday save for the conditions contained within the operating schedule.

RESOLVED:

That the Premises Licence be granted in respect of the sale of alcohol during the hours of 9am-11pm Monday to Sunday, together with the Operating Schedule conditions.

5. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no additional members of the public and no members of the press in attendance.

(The meeting started at 9.30am and ended at 11.10am)

LICENSING SUB-COMMITTEE
23 OCTOBER 2012

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Tuesday, 23 October 2012

PRESENT: Councillor Tony Sharps (Chairman)

Councillors Alan Diskin and Jim Falshaw

Officers of the Council:

Licensing Officer (Gemma Potter), Solicitor (Tim Dillon) and Committee Officer

Applicant

1. APOLOGIES

None were received.

2. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None were received.

3. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting for the following item as it was considered to contain exempt information by virtue of paragraphs 12 and 13 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

4. HEARING AND DETERMINATION OF THE APPLICATION

The Chairman explained the procedure for hearing and determining the application and detailed the order in which speakers would be able to address the Sub-Committee.

5. APPLICATION FOR A PRIVATE HIRE / HACKNEY CARRIAGE (JOINT) DRIVER LICENCE

The Senior Licensing Officer introduced the report to request that Members consider and determine an application for a Private Hire/Hackney Carriage (Joint Driver) Licence. The report detailed the contents of the application, together with information on the applicant's convictions and the Council's adopted guidance on dealing with such matters. She stated that whilst the applicant had failed to disclose any previous convictions on the application form, receipt of the Criminal Records Bureau (CRB) disclosure had indicated otherwise. The applicant had been requested to provide a written explanation of his convictions which was appended to the report.

5.1 Representations by the Applicant

The Chairman invited the applicant to make representations and provide further explanation on his convictions. The applicant responded to the questions put to him by the Panel and the Solicitor, stating that he was aware of the legal requirement to disclose any previous offences but that he had not been aware of the exact dates and nature of the convictions. He added that he had responded immediately to the Council's request for a written explanation and drew attention to the length of time since his convictions, making reference to his changed circumstances.

5.2 Determination of the Application

The applicant and Senior Licensing Officer were then requested to leave the room to enable the Panel to consider the application. The meeting was reconvened once a decision had been reached.

5.3 Decision

The Chairman explained that having considered the report by the Senior Licensing Officer and representations made by the applicant, the Sub-Committee had agreed to grant the applicant a Private Hire/Hackney Carriage Driver's Licence for a probationary period of six months. He added that the applicant would need to apply for a CRB check at his own expense on completion of the probationary term.

RESOLVED:

That the applicant was a fit and proper person to hold a Private Hire/Hackney Carriage Driver's Licence under the Local Government (Miscellaneous Provisions) Act 1976 and was granted a licence for a probationary period of six months, with a CRB check to be undertaken at the applicant's own expense on completion of the probationary term.

(The meeting started at 11.20am and ended at 11.40am)

.....
Chairman