

REGULATORY SUB COMMITTEE

At a meeting of the Regulatory Sub Committee on Monday, 3 October 2022 at Willow Room - Municipal Building, Widnes

Present: Councillors Wallace (Chair), Abbott and Wainwright

Apologies for Absence: None

Absence declared on Council business: None

Officers present: K. Hesketh and E. Wilson-Lagan

Also in attendance: None

ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

Action

REGS1 APPLICATION TO VARY A PREMISES LICENCE - ABI MINI MART, HALTON BROOK, RUNCORN

The Committee met to consider an application which had been made under Section 34 of the Licensing Act 2003 to vary the above premises licence. The hearing is held in accordance with the Licensing Act 2003 and Licensing Act 2003 (Hearings) Regulations 2005.

1. Preamble

A meeting of the Regulatory Sub-Committee (acting as Licensing Committee under the Licensing Act 2003) of Halton Borough Council is held at Municipal Building, Widnes on Monday 3 October 2010 commencing at 10:00 am.

The meeting was held to hear an application made under section 34 of the Licensing Act 2003 for a variation of a premises licence for the ABI Mini Mart in Halton Brook, Runcorn. The application had been amended prior to the hearing following discussions with the Police. It is the amended application that is to be determined as there remained one relevant representation from local residents, Mr and Mrs Wend, which had not been withdrawn.

In attendance were:-

1. Members of the Regulatory Sub-Committee comprising Cllr Wallace, Cllr Abbott and Cllr

Wainwright (the sub-committee)

2. Mr Aravendan Kanthanathan (the applicant)
3. Mr Ian Rushton (the applicant's Licensing Agent and representative)
4. Kim Hesketh (Licensing Manager)
5. Elizabeth Wilson-Lagan (Legal Adviser)

Mr and Mrs Wend, who had made relevant representations did not attend. The sub-committee were satisfied that Mr and Mrs Wend had been properly notified of the hearing and noted that they had not confirmed their attendance pursuant to Regulation 8 of the Licensing Act 2003 (Hearings) Regulations 2005. The notification is sent both by email and hand delivered to their address. They were also contacted on 29 September 2022 to check whether they would be attending the hearing. No response had been received. In light of this, the sub-committee determined to hear the matter in their absence.

After the Chair of the sub-committee, Cllr Wallace, had introduced the parties, the Legal Adviser, Elizabeth Wilson-Lagan, outlined the procedure to be followed. Licensing Manager, Kim Hesketh, then outlined the nature of the application and the relevant representations that had been made. The sub-committee was advised that two relevant representations had been made in respect of the original application but one of the representations had been withdrawn following the amended application and after preparation of the agenda but prior to the hearing. The sub-committee is not to have regard to the second representation.

2. Details of existing premises licence

The current licensable activities are as follows:-

| | | | |
|----------------------|------------------|-------|----|
| Supply of Alcohol | Monday to Sunday | 07:00 | to |
| | | 23:00 | |
| Hours open to public | Monday to Sunday | 06:00 | to |
| | | 23:00 | |

3. Details of the application (as amended before the hearing)

The application as amended following agreement with the Police is for a variation of the existing premises licence as follows:-

| | |
|-------------------------------------|------------------|
| Provision of late night refreshment | Monday to Sunday |
|-------------------------------------|------------------|

| | |
|----------------------------------|------------------|
| 23:00 to 01:00 | |
| Supply of Alcohol (off premises) | Monday to Sunday |
| 06:00 to 01:00 | |
| Hours open to the public | Monday to Sunday |
| 06:00 to 01:00 | |
| Delivery service only | Monday to Sunday |
| 01:00 to 02:00 | |

Delivery conditions:-

Alcohol may not be sold from the delivery vehicle.
The delivery driver may only carry alcohol that had been pre-ordered.

Conditions on CCTV

The premises will retain CCTV footage in an unedited format for a minimum of 28 days.

CCTV shall be provided to the Police and Local Authority upon reasonable request.

4. The hearing

Mr Rushton presented the case on behalf of the applicant. He explained that the applicant had purchased the premises in a poor condition and had refurbished it. The premises was a local convenience store which sold a range of goods and it was considered an asset. Alcohol was only part of the business. The applicant was an extremely experienced retailer with over 25 years of experience and he owned various licensed premises. In respect of the ABI Mini Mart, he was the designated premises supervisor and he was responsible for the running of the business on a daily basis. The shop was run well and in accordance with the licensing objectives. This was evidenced by the fact that there had been no reviews of the premises licence, complaints or problems. The applicant was keen to develop the business further and intended on extending its alcohol licence until 2 am, with the last hour being a delivery service. As for the provision of late night refreshment, it was the applicant's intention to install a coffee machine.

Mr Rushton then took the sub-committee through Appendix B of the agenda and the conditions on CCTV, staff training and the additional conditions agreed with the Police in support of the application and how the applicant intended to achieve the licensing objectives.

He went on to state that the fact that there had been no relevant representations from the responsible authorities spoke volumes and reminded the sub-committee that the

Police were their main advisers on the crime and disorder licensing objective. He explained that he had emailed the 2 objectors to explain the application and to offer them reassurance. One of the objections had been removed after this contact, but unfortunately he is unable to speak to Mr and Mrs Wend prior to the hearing. In terms of Mr and Mrs Wend's objections, he advised that there would be cameras on the outside of the premises as well as indoors and it would be given to police if there were any issues. As for the sale of alcohol, he advised that it is an offence and a condition of the licence that alcohol could not be sold to those that were drunk or underage. The representations made by Mr and Mrs Wend were based on speculation and no evidence had been provided in support of their objections which was key and meant that a refusal could not be maintained on this basis. If there were any issues, the review process acts as a safety net and action could be taken. He concluded by saying that the application is strong and the conditions comprehensive.

Questions were posed by the sub-committee on the delivery service and it is confirmed that this would be sub-contracted out to a company like Uber Eats/ Deliveroo. They were provided with a copy of the licence and there would be a contract in place to ensure compliance with the conditions. The delivery drivers would be provided by these professional companies and if there were any concerns regarding the age of the buyer, the sale would be refused and the alcohol brought back to the shop. Payment would be made electronically. Mr Rushton also referred the sub-committee to the additional conditions on delivery and CCTV. The applicant also confirmed that the last order for delivery would be 30 minutes before closing time. Mr Rushton emphasised that the Applicant is a responsible licence holder and did not want any problems.

The Members confirmed that they had read the relevant representations from Mr and Mrs Wend and did not require them to be read out at the hearing.

Mr Rushton summed up the applicant and the case in support. The sub-committee then retired to consider the matter. All parties except the sub-committee Members and the legal adviser left the room.

5. The determination

The sub-committee resolved to grant the application (as amended) subject to the hours set out below, the additional conditions agreed with the Police as detailed in section 3 above and the conditions in the operating schedule.

| | |
|---|------------------|
| Provision of late night refreshment 23:00 to 01:00 | Monday to Sunday |
| Supply of Alcohol (off premises) 06:00 to 01:00 | Monday to Sunday |
| Hours open to the public 06:00 to 01:00 | Monday to Sunday |
| Delivery service only 01:00 to 02:00 | Monday to Sunday |

6. Specific reasons for the determination

In making its determination, the sub-committee had regard to the licensing objectives, the statutory guidance and Halton Council's own Statement of Licensing Policy.

The sub-committee found that:-

1. The ABI Mini Mart was an established convenience store which had held a licence to sell alcohol (off premises) since 9 December 2015. The sale of alcohol was only part of the business. Since that time, there had been no reviews of the licence or complaints received or problems that the sub-committee is aware of.
2. The applicant was an experienced retailer with over 25 years of experience and he can therefore be trusted to continue to run the premises in a responsible manner and in promotion of the licensing objectives.
3. The Council's own statement of policy stated that in respect of shops, stores and supermarkets that "the norm will be for such premises to be free to provide sale of alcohol for consumption off the premises at any times when the retail outlet was open for shopping unless there were very good reasons for restricting those hours.
4. As set out in the statutory guidance, the sub-committee was to look to the Police as the main source of advice on crime and disorder. Significantly, the Police had removed their objections having reached an agreement on the amended hours of opening, the option of a delivery service and the additional conditions on how the delivery service was to operate and on CCTV. Equally, no representations had been received from the Environmental Health Department. As neither the Police nor the Environmental Health Department object to the

amend application, the inference drawn from this is that it is their expert professional position that the proposal was not considered likely to undermine the licensing objectives. Significant weight had to be attached to that position as each were considered the lead in their respective fields.

5. In respect of Mr and Mrs Wend's concerns regarding the late night/early hour distribution with people driving down the street and antisocial behaviour disturbing the peace, the statutory guidance made it clear that in considering public nuisance, the actions of individuals beyond the immediate area surrounding the premises were matter for the personal responsibility of individuals under the law. However, the Applicant had agreed to additional conditions on the delivery service and CCTV and it was already a condition of the licence that deliveries were to be arranged at appropriate times so as not to cause any disturbance to local residents. These conditions seek to monitor and combat issues of nuisance and crime and disorder.
6. Whilst the sub-committee noted the concerns of Mr and Mrs Wend, their concerns were based largely on speculation. The sub-committee was mindful of the decision of *Daniel Thwaites Plc v Wirral Borough Council* and others which made it clear that the sub-committee should look for real evidence and only impose regulation where the circumstances required it. Mr and Mrs Wend had not provided any evidence in support of their representations.
7. On balance, it therefore found that the application did not undermine the licensing objectives.

The sub-committee recommended that the premises and residents engage in dialogue should there be any concerns in future. In the event that the proposed operation of the premises did lead to issues, residents were strongly advised to report matters to the Police and Environmental Health, where appropriate.

There were powers to deal with premises if a licence lead to the licensing objectives being undermined. Not least was the power for residents or responsible authorities to bring review proceedings where steps could be taken to restrict the licence, impose further conditions or, in extreme circumstances, revoke the licence when evidence showed issues result from licensable activity. Action could also be taken separately by Environmental Health in relation to

statutory noise nuisance, if reported. The sub-committee hoped that this would bring some reassurance to the residents.

7. Time that the determination shall take effect

Forthwith.

Meeting ended at 11.10 a.m.