

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, L. Wilson-Lagan

Also in attendance: None

ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

Action

EXB1 APPLICATION TO VARY A PREMISES LICENCE - ABI MINI MART, HALTON BROOK, RUNCORN

The Committee met to consider an application which has been made under Section 34 of the Licensing Act 2003 to vary the above premises licence. The hearing was 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 was 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 was the amended application that was 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be determined as there remained one relevant representation from local residents, Mr and Mrs Wend, which had not been withdrawn.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 was 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 were 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 was 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 has 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 is a local convenience store which sells a range of goods and it is considered an asset. Alcohol is only part of the business. The applicant is an extremely experienced retailer with over 25 years of experience and he owns various licensed premises. In respect of the ABI Mini Mart, he is the designated premises supervisor and he is responsible for the running of the business on a daily basis. The shop is run well and in accordance with the licensing objectives. This is evidenced by the fact that there have been no reviews of the premises licence, complaints or problems. The applicant is keen to develop the business further and intends 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 is 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 intends 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 was 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 was an offence and a condition of the licence that alcohol could not be sold to those that are drunk or underage. The representations made by Mr and Mrs Wend are based on a fair bit of 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 was strong and the conditions comprehensive.

Questions were posed by the sub-committee on the delivery service and it was confirmed that this would be sub-contracted out to a company like Uber Eats/ Deliveroo. They are 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 emphasized that the Applicant was 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	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

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 is an established convenience store which has held a licence to sell alcohol (off premises) since 9 December 2015. The sale of alcohol is only part of the business. Since that time, there have been no reviews of the licence or complaints received or problems that the sub-committee is aware of.
2. The applicant is 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 states 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 is open for shopping unless there are very good reasons for restricting those hours.
4. As set out in the statutory guidance, the sub-committee is to look to the Police as the main source of advice on crime and disorder. Significantly, the Police have 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 is to operate and on CCTV. Equally, no representations have been received from the environmental health department. As neither the Police nor the environmental health department object to the amended application, the inference drawn from this is that it is their expert professional position that the proposal is not considered likely to undermine the licensing objectives. Significant weight has to be attached to that position as each are 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 makes it clear that in considering public nuisance, the actions of individuals beyond the immediate area surrounding the premises are matter for the personal responsibility of individuals under the law. However, the Applicant has agreed to additional conditions on the delivery service and CCTV and it is already a condition of the licence that deliveries are 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 notes the concerns of Mr and Mrs Wend, these concerns are based largely on speculation. The sub-committee is 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 require it. Mr and Mrs Wend have not provided any evidence in support of their representations.
7. On balance, it therefore finds that application does not undermine the licensing objectives.

The sub-committee recommends 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 does lead to issues, residents are strongly advised to report matters to the police and environmental health where appropriate.

There are powers to deal with premises if a licence leads to the licensing objectives being undermined. Not least is the power for residents or responsible authorities to bring review proceedings where steps can be taken to restrict the licence, impose further conditions or, in extreme circumstances, revoke the licence when evidence shows issues result from licensable activity. Action can also be taken separately by environmental health in relation to statutory noise nuisance, if reported. The sub-committee hopes that this brings some reassurance to the residents.

7. Time that the determination shall take effect

Forthwith

Meeting ended at 11.10 a.m.