

REGULATORY SUB COMMITTEE

At a meeting of the Regulatory Sub Committee on Wednesday, 22 November 2023 at the Civic Suite - Town Hall, Runcorn

Present: Councillors Wallace (Chair), Abbott and K. Loftus

Apologies for Absence: None

Absence declared on Council business: None

Officers present: K. Hesketh, W. Pringle (Observer) and E. Wilson-Lagen

ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

Action

EXB4 MINUTES FROM THE LAST MEETING

The minutes of the meeting held on the 24 August 2023 having been circulated were signed as a correct record.

EXB5 APPLICATION FOR A PREMISES LICENCE - MARTINS, 36 BECHERS, WIDNES, WA8 4TE

The Sub-Committee met to determine an application made under Section 17 of the Licensing Act 2003 by Alliance Property Holding Limited for a premises licence for Martins, 36 Bechers, Widnes, WA8 4TE ("the Premises"). The hearing was held in accordance with the Licensing Act 2003 and Licensing Act 2003 (Hearings) Regulations 2005.

PREAMBLE

The hearing was held as relevant representations had been received from two local residents, Ms Charline Wolsstencroft and Mr Majdi Ibrahim Rhuma ("the objectors"), who had objected to the application predominantly on the grounds of the prevention of crime and disorder, although public nuisance and the protection of children from harm also appeared in issue.

The Applicant's Area Manager, Matthew Griffiths, was in attendance and was represented by their Solicitor, Mr Alex Green of Gosschalks LLP.

The objectors did not attend and no notice had been received from either of them indicating their attendance. The Sub-Committee therefore took legal advice on whether the hearing could proceed in their absence and the Sub-Committee's attention was drawn to Regulation 20(2) of the Licensing Act 2003 (Hearings) Regulations 2005 ("the Regulations"). After hearing from Ms Hesketh and Mr Green, the Sub-Committee were satisfied that notice of the hearing had been properly served on the objectors on 31 October 2023, in accordance with Regulations 6 and 7 and it did not consider it was in the public interest to adjourn the hearing. On that basis, the Sub-Committee resolved to hear the application in the objectors' absence.

It was agreed that Ms Hesketh would read out the objectors' relevant representations during the hearing.

DETERMINATION

The Sub-Committee has considered the application, the relevant representations and the applicant's oral submissions given at the hearing.

In reaching its decision, the sub-committee also took into consideration the Licensing Objectives as well as the revised statutory guidance issued under section 182 of the Act ("the statutory guidance"), the relevant case law and Council's own statement of Licensing Policy.

The Sub-Committee resolved to grant the application subject to the hours and the conditions below:-

HOURS

Supply of Alcohol (off premises)	Monday – Sunday	06:00 – 23:00 hrs
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CONDITIONS

a) Operating Schedule

1. CCTV shall be provided on the premises and shall be kept in good working order.
2. All staff engaged in the sale of alcohol will be trained in accordance with the premises licence holder's training procedures.
3. All staff engaged in the sale of alcohol will receive suitable training (including refresher training) in

relation to the proof of age “Challenge 25” scheme to be applied on the premises. The following forms of identification are acceptable: photo driving licence, passport, proof of age standards scheme (PASS) card and Military ID and any other locally or nationally approved form of identification.

4. All checkout operators will operate a refusal log.
5. The premises licence holder undertakes ongoing risk assessments in order to comply with Health and Safety Legislation.
6. Till prompts are in use at the store.

Police Conditions

The operating schedule makes reference to the use of a CCTV system, to further enhance this the following to apply:

1. Recorded CCTV images will be maintained and stored for a period of twenty-six days.
2. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. Copies of footage will be provided to officers on request following a request to the premises licence holder's centralised IT department.
3. Recordings are fit for their intended purpose.
4. Good quality images are presented to the officer in a format that can be replayed on a standard computer.
5. The operating schedule also makes reference to a challenge 25 policy being in operation at the premises, to further enhance this the following to apply:
 - i. Publicity materials notifying customers of the operation of the “Challenge 25” scheme shall be displayed at the premises.
 - ii. A documented training programme shall be introduced for all staff in a position to sell, serve or deliver alcohol. A written record for each member of staff shall be kept of the content of such training and shall be made available for inspection at the request of Local Authority Officers and Police.
 - iii. The Premises Licence Holder shall conduct six monthly training reviews with all members of staff

authorised to sell, serve or deliver alcohol in order to reinforce the training and to promote best practice. An electronic record for each member of staff shall be kept of the content of such reviews and shall be made available for inspection at the request of Local Authority Officers and Police.

- iv. A list of persons authorised to sell alcohol shall be kept on site and made available for inspection at the request of Local Authority Officers and Police.
- v. Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.

b) Mandatory Conditions

As required under section 19 of the Licensing Act 2003.

REASONS FOR DETERMINATION

The reasons for the sub-committee's decision are as follows:-

- a) The Applicant is an experienced and responsible retailer, being part of Morrisons who are responsible for over 1200 convenience stores.
- b) In respect of the prevention of crime and disorder, the Sub-Committee heard no evidence that crime was an issue in the area or connected to the Premises. The Sub-Committee is mindful of the statutory guidance which provides that its determination should be evidence based as well as the decision of Daniel Thwaites Plc v Wirral Borough Council and others. This serves as a reminder that the Sub-Committee should look for real evidence and only impose regulation where the circumstances require it. The circumstances in this case simply do not justify the refusal of the application on this ground.
- c) This is supported by the fact that the Police, or any other responsible authority for that matter, have not objected to the application and consider the conditions (as amended by them) promote the licensing objectives. As set out in the statutory guidance, the Sub-Committee are to look to the Police as the main source of advice on crime and disorder and, therefore, the sub-committee have given significant weight to their position.

- d) Furthermore, the conditions on the use of CCTV adequately deal with the risk of crime and disorder. The Sub-Committee was also comforted by the fact that the applicant takes crime and disorder seriously.
- e) As for public nuisance, again no evidence was heard that this was an issue connected with the premises. The premises are already in operation, selling a variety of products, and it is not clear why the provision of alcohol would increase any such nuisance, particularly as there is already a licensed premises situation next door.
- f) Whilst there may be some anti-social behaviour from children in the area, the Sub-Committee is again mindful of the statutory guidance which provides that “beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right”. These are not therefore matters within the control of the applicant.
- g) As for the protection of children from harm and the suggestion that alcohol will be sold to children, the Sub-Committee considers that this ground is of a speculative nature and, in any event, considers ‘the Challenge 25’ and training conditions adequately deals with this risk. As set out above, the sub-committee accepts that the applicant is a responsible retailer and has a strict policy and procedure in place to ensure that alcohol is not sold to children. This is also supported by the fact that they employ a third party to carry out secret test purchasing.
- h) Finally, as for the licensable hours, the statutory guidance and the Council’s own statement of licensing policy provide that “shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours”. In light of the above, there is no good reason to restrict these hours.
- i) On balance, the sub-committee finds that the application (as amended by the Police conditions) promotes 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 responsible authorities, such as the Police or Environmental Health, where relevant.

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. The Sub-Committee hopes that this brings some reassurance to the residents.

TIME THAT THE DETERMINATION SHALL TAKE EFFECT

Forthwith.

Meeting ended at 2.30 p.m.