

LICENSING SUB COMMITTEE

6 MAY 2016

Present: County Councillor Parry(Chairperson)
County Councillors Kelloway and Murphy

44 : DECLARATIONS OF INTEREST

No declarations of interest were received.

45 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - TESCO, PENYLAN

Applicant: represented by Mr Jeremy Bark

Responsible Authority: Tony Bowley

The Application

An application for the grant of a Premises Licence was been received from Tesco Stores Ltd. in respect of Tesco Stores Ltd., 37-39 Lakeside Shopping Centre, Clearwater Way, Cardiff.

The applicant applied for the following:

(1) In respect of the following licensable activities:

1. The sale by retail of alcohol for consumption off the premises.

(2) Description of Premises (as stated by applicant):

Retail premises (supermarket) selling a range of goods and services.

(3) Unless otherwise indicated the premises may be open to the public during the following hours and for any hours consequential to the non standard timings:

Monday to Sunday: 06:00 to 23:00

(4) To provide licensable activities during the following hours:

1. The sale by retail of alcohol for consumption off the premises :-

Monday to Sunday: 06:00 to 23:00

Members were advised that the applicant had agreed to a condition suggested in the representations received from South Wales Police. The application would therefore be amended to include the following condition:

1. A CCTV system shall be installed to a standard agreed with South Wales Police. It will be maintained and operated at all times the premises are open to the public. The system shall cover all areas to which the public have access

(excluding toilets) including all public entrances and exits. Images shall be kept for a minimum of 31 days.

Images shall be produced to a Police employee or authorised officer of Cardiff Council Licensing in a readily playable format immediately upon request when the premises are open and at all other times as soon as reasonably practicable. There will be sufficient staff training to facilitate the above.

Responsible Authority Representations

Mr Tony Bowley of South Wales Police addressed the Sub Committee. Members were advised that whilst agreement had been reached between South Wales Police and the applicant regarding to the CCTV condition set out above, the permitted hours for the sale of alcohol were not agreed. South Wales Police considered that a 0800 start time for the sale of alcohol would be more appropriate at this location. Therefore, South Wales Police objected to the application on the grounds of the prevention of public nuisance and the prevention of crime and disorder.

Mr Bowley stated that there were over 1500 licenced premises in Cardiff. The applicant operated 24 premises licences, 6 of which offered the sale of alcohol at 0600 hours. There were very few other operators who operated a 0600 start time and the 'norm' was from 0700 or 0800 hours. Mr Bowley considered that a cut of point for the sale of alcohol existed and this helped to delineate between the night time and the day time economy. The off licence adjacent to the premises operated a premises licence between 0800 and 2300 Monday to Saturday and 1030 and 2230 on Sunday.

Members were advised that as the store is a new operation there were no crime statistics relating to the premises available. However, the adjacent off licence had reported 16 crimes over a period of 3 years and 5 months. Members were asked to note that 53% of all violent crime was alcohol related. Mr Bowley asked that the Sub Committee consider curtailing the hours for the sale of alcohol.

Responding to a question from Mr Bark, Mr Bowley stated that none of the crimes reported at the nearby off licence had occurred between 0600 and 0800 hours. However, the premises licence did not permit sale of alcohol before 0800 hours. Mr Bowley confirmed that South Wales Police offered no evidence of problems of public nuisance or crime and disorder at this location or at other stores operated by the applicant in the City.

Applicants Representations

Mr Jeremy Bark presented that application on behalf of the applicant. Mr Bark asked the Sub Committee to note that South Wales Police had offered no evidence of crime and disorder or public nuisance problems in the locality. If there was any evidence of a problem then the applicant would seek to address that issue willingly and immediately.

The store was due to open in June 2016. There would be over 5,000 products sold, 120 of which would be alcohol. The sale of alcohol between 0600 and 0800 was estimated to be 0.02% of overall sales. However, the premise was a convenience store and Mr Bark questioned why, if there was no evidence of any problems, customers should not be able to purchase alcohol with their shopping. Mr Bark considered that there was nothing specific in the representations received to refuse the application and Members were asked to consider the application on its merits only.

Mr Bark provided an overview of the policies, procedures, safeguards and best practice followed by the applicant governing the sale of alcohol.

Mr Bark referred to the Licensing Act, the Authority's Statement of Licensing Policy and decision in the High Court. Mr Bark stated that the Act was permissive and the High Court had confirmed this. Decisions need to be evidence based and there was no evidence offered to restrict the sale of alcohol in this instance.

Mr Bark considered that Section 7.3 of the Statement of Licensing Policy was pertinent, in that premises should be permitted to sell alcohol at all times that they are open, unless there are reasons affecting the licensing objectives not to do so. Mr Bark repeated that there was no evidence offered to indicate that the licensing objectives would be affected.

Mr Bark stated that the CCTV system in the store was comprehensive. Members were also apprised of the store design and layout. The majority of the alcohol to be offered would be wines; with a limited range of beers. No products above 4.5 abv would be sold and all beers would be sold as a minimum of 4 in a pack. No miniatures or half bottle of spirits would be sold.

The Sub Committee heard that the applicant had risk assessed the premises. The risk assessment concluded that no security staff would be required at this location. However, this would be internally reviewed 12-weekly.

Mr Bark stated that a 0600 hours start time for the sale of alcohol was entirely appropriate and consistent with policies. The Sub Committee was invited to grant the premises licence.

Responding to a question from the Committee, Mr Bark did not accept the representations made by the Health Authority. Mr Bark considered that the Health Authority had reached a 'broad brush' conclusion using statistic and trends from different countries. These were not issues for a Licensing Sub Committee to consider. There was no public health licensing objective.

RESOLVED – That the Sub-Committee having considered all the information and in accordance with the requirements of the Licensing Act 2003, the Section 182 Guidance and the Licensing Authority's own Statement of Licensing Policy the Sub-Committee resolved to grant the application subject to the agreed conditions.

Applicants: represented by Martin Jones, Hugh James Solicitors
David Davies, owner; Elizabeth Davies, DSP; Alex Jenkins

Interested Parties: Councillor Iona Gordon
Liza Kellett, resident

The Application

An application for the grant of a Premises Licence was received from Kin & Ilk Pontcanna Limited in respect of Kin & Ilk Pontcanna, Riverside House, Cathedral Road, Cardiff.

The applicant applied for the following:

(1) In respect of the following licensable activities:

1. The sale by retail of alcohol for consumption on and off the premises.
2. The provision of regulated entertainment in the form of films and recorded music.
3. The provision of late night refreshment.

(2) Description of Premises (as stated by applicant):

“The premises will be a contemporary, invigorating, comfortable artisan coffee shop and eatery.”

(3) Unless otherwise indicated the premises may be open to the public during the following hours and for any hours consequential to the non standard timings:

Monday to Sunday: 08:00 to 00:00

(4) To provide licensable activities during the following hours:

1. The sale by retail of alcohol for consumption on and off the premises:

Monday to Sunday: 08:00 to 00:00

2. The provision of regulated entertainment in the form of films and recorded music (indoors):

Monday to Sunday: 08:00 to 00:00

3. The provision of late night refreshment (indoors):

Monday to Sunday: 23:00 to 00:00

Members were advised that the applicant had accepted the conditions suggested in the representations received from South Wales Police. South Wales Police had therefore withdrawn their representations. Furthermore, the representation received

from Pollution Control was also withdrawn in light of the agreement reached between South Wales Police and the applicant.

The application would be amended to include the following conditions:

1. A CCTV system shall be installed to a standard agreed with South Wales Police. It will be maintained and operated at all times the premises are open to the public. The system shall cover all areas to which the public have access (excluding toilets) including all public entrances and exits. Images shall be kept for a minimum of 31 days.

Images shall be produced to a Police employee or authorised officer of Cardiff Council Licensing in a readily playable format immediately upon request when the premises are open and at all other times as soon as reasonably practicable. There will be sufficient staff training to facilitate the above.

2. Challenge 25

The premises shall operate a Challenge 25 policy. This policy will be brought to the attention of customers by the use of appropriate signage. Challenge 25 notices will be displayed in prominent positions in the premises. The only form of identification recognised will be photographic identification cards such as a driving licence, passport or proof of age scheme.

All permanent staff will receive the appropriate Challenge 25 training, having completed a minimum of six continuous weeks of employment.

3. Incident Book

An incident book will be kept and maintained at the premises at all times. It shall be made available on request to an authorised officer of the local authority or a Police Officer. This book will record the following:

All crimes reported at the venue
All refusals of sales of alcohol
Any ejections of patrons
Any disorder on the premises
Any visit by representatives of a relevant authority or emergency service

4. Regulated Entertainment will cease as 2300 hours.

5. External Areas

- (i) the use of the outside area will cease at 2100 hours daily
- (ii) there will be no external speakers
- (iii) all windows and doors will be closed by 2100 hours. Windows to be secured.

6. On days designated by the Police as major event days in Cardiff, all alcoholic drinks will be served in plastic vessels.

7. The premises licence shall only remain in force as long as the primary use of the premises is that of a coffee shop.
8. At least 70% of the public space within the licensable area shall be occupied by tables and chairs.
9. Closed containers of alcohol shall not be sold for consumption off the premises unless in connection with a wine club operated from the premises where registered members will be permitted to purchase alcohol in closed containers in quantities of no less than 3 bottles.
10. A register of members of the wine club will be maintained at the premises and will be available on request to an authorised officer of the local authority or a police officer.

Interested Party Representations

Councillor Iona Gordon addressed the Sub Committee. Councillor Gordon welcomed the agreement reached between the applicant and South Wales Police. However, she did not wish to withdraw her objection.

Members were advised that the residents in Cathedral House had purchased their properties on the understanding that the ground floor unit would be a coffee shop. Concerns were expressed regarding the conservation area and property values. The authority's legal representative reminded Councillor Gordon that the Sub Committee was only able to consider matters which were related to the licensing objectives when deciding on an application.

Councillor Gordon raised concerns regarding public nuisance and considered that difficulties arise when the external area is closed at 2100 hours, as customers may not wish to come inside.

Liza Kellett stated that she has been in residence at Cathedral House for six weeks. She was unable to attend the meeting between the applicant and residents of Cathedral House as she had another commitment. Ms Kellett raised concerns regarding public nuisance from the external area and problems which may arise from parking. Concerns were also expressed regarding smokers congregating outside the premises.

Applicants Representations

Mr Martin Jones presented the application on behalf of the applicants. Members were advised that the applicants were experienced business people who were already operating similar premises in the Capital Quarter. It was accepted that there were no residents living in the Capital Quarter.

The applicants were planning to operate a 'high-end' business. The application sought to permit the sale of a limited number of wines and craft beers. No spirits would be sold. Members were advised that the applicant did not intend to open the business in line with the hours applied for. The business would operate shorter hours during the winter months, but the licence as applied for would allow the freedom to

open for occasions and events in the City. It was not a large venue and it was not anticipated that the clientele would be raucous.

Members were reminded that both South Wales Police and Pollution Control had withdrawn their representations. Furthermore, following the meeting with residents a resident had also withdrawn their objection. The applicants stated that it was their intention to be a good neighbour. If residents had any problems with the operation of the premises then they were invited to report the matter and the applicants would act upon it.

Members were asked to note that parking issues were not a relevant consideration for the Sub Committee. However, the applicants were sympathetic to the views of residents with regarding to smokers and therefore staff at the premises would be instructed to ensure that smokers use the defined smoking area only.

The premises would have a capacity for between 52 and 56 customers. Off sales were to be permitted but were only in the form of sale bottles of wines to registered members of the wine club.

RESOLVED – That the Sub-Committee having considered all the information and in accordance with the requirements of the Licensing Act 2003, the Section 182 Guidance and the Licensing Authority's own Statement of Licensing Policy the Sub-Committee resolved to grant the application subject to the agreed conditions.

47 : GAMING MACHINE PERMIT VARIATION

RESOLVED – That the following be approved:

1. Gaming Machine Permit Variation

Three Rivers (formerly Varsity), Greyfriars Road

48 : GAMING MACHINE PERMIT REVOCATION

RESOLVED – That the following be approved:

1. Gaming Machine Permit revoked:

Grangetown Catholic Club, Corporation Road
Llandaff and Ely RAFA, Riverside Terrace

49 : SMALL SOCIETY LOTTERY REGISTRATIONS

Application withdrawn.

The meeting terminated at 4.30 pm