

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Wednesday, 10th September, 2008.

Present: Councillor Rix (Chair); Councillor Mrs Large; Councillor Cains

Officers: S Mills (DNS), J Nertney, A Squires (LD)

Also in attendance: Applicant: McColls, represented by Mr Crank, Solicitor; Mrs Wilson, McColls Store Manager

Persons living within the vicinity of premises: Thirty two representations had been received and eighteen of the persons who made a representation were in attendance at the meeting.

Apologies:

LSC 28/08 Appointment of Chairman

RESOLVED that Councillor Rix be appointed Chairman for this meeting only.

LSC 29/08 Declarations of Interest

There were no declaration of interests.

**LSC 30/08 McColls, 2 - 4 Shannon Crescent, Fairfield, Stockton-on-Tees
Application for a Grant of a Licence under the Licensing Act 2003**

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

Members of the Committee gave consideration to a report regarding an application for a grant of a licence under the Licensing Act 2003. Members also noted and gave consideration to the representations that had been received. A representation had been received from Cleveland Police but this had been withdrawn following the applicant satisfying their conditions. A number of representations, thirty two in total, had been received from persons living within the vicinity of the premises.

Mr Crank presented McColls application by confirming that the premises were already trading during the hours requested and that the application complied with guidance provided by DCMS. He also suggested that the application did not conflict with Stockton Borough Council's licensing policy.

Mr Crank stated that the premises already sold aged related products and that it was company policy to train staff regarding such matters. He explained that Mrs Wilson (Store Manager) had previously worked in other licensed premises, lived locally and therefore knew the local people. It was confirmed that negotiations had already taken place with the Police and an agreement had been reached regarding conditions should a licence be granted. These included a 'Challenge 21' policy, CCTV, and appropriate means of identification. Mr Crank further suggested that the Police were the appropriate persons to take a view on crime / disorder and that guidance states that members should take Police advice, which McColls had already satisfied.

Mr Crank made reference to licensing case law (Thwaites-v-Wirral, High Court), in which he identified that in determining licensing matters it was what was actually in place that should be looked at rather than fears of what might happen.

Mr Crank confirmed that he had read the objections and in his submission the issues raised did not have a bearing, as the issue was to comply with the four objectives of licensing. He further confirmed that McColls application was consistent with the guidance provided, they were a reputable company and that the Store Manager would liaise with relevant people should any issues arise.

Mr Crank finished his submission by suggesting that he could see no reason to refuse a licence, as similar facilities had been granted licenses and that the application was consistent with the guidance available.

Questions were put to Mr Crank and Mrs Wilson which involved the types of alcohol being sold and the position of alcohol in the premises.

Members considered oral submissions from the residents in attendance at the Meeting. These highlighted that the area had traffic and litter problems, there were other outlets providing alcohol and they did not feel there was a great need for it, the fear / stress of anti-social behaviour had increased in the area, and that this was a unique location, as these premises were mainly surrounded by bungalows occupied by pensioners, therefore the hours stated on the application were totally unsuitable. Residents felt that these problems would be increased should a licence be granted to another facility.

Mr Crank and the Sub-Committee asked questions of the attending persons living in the vicinity, these related to the quality of life in the area and the reporting of anti-social behaviour.

Clarification was also given by Mr Crank that around 10 to 15% of the shop would be taken up by alcohol sales and that there would be no additional deliveries specifically for alcohol.

When considering their decision the Committee had regard to the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Councils Licensing Policy. Members had regard to the oral representations made to them and the thirty two individual representations from persons living within the vicinity of the premises.

The Committee noted that many of the Objectors concerns were general in nature and were concerned about what may happen rather than having any evidence that the premise would cause a problem. Many residents made reference to the fact that there are currently other licensed premises in the area but the Committee were of the opinion that sufficiency of premises was not a valid ground for refusing an application such as this. Residents concerns were over the activities taking place at other premises. Problems at other premises could not, in the opinion of the Committee, be a valid ground for refusing an application. Each application had to be considered on its merits and the Committee felt that a responsible operator should not be prejudiced by problems caused by other premises. The Committee wished to remind residents that if they were experiencing problems that can be linked to a specific premise

then they had the option to request a review of that premises licence.

The Committee noted that eighteen of the persons who had made a representation were in attendance at the Committee meeting and they noted their concerns but felt that at the time of the meeting there was no evidence that the running of the premises would undermine the licensing objectives. It was noted that no representations had been received from the statutory consultees. In particular the Police had withdrawn their objection to the application and were therefore satisfied that the crime and disorder objective would not be undermined.

The Committee appreciated the concerns of residents but there was no evidence that they would experience problems if the application was granted. The Committee noted the efforts made by the applicant and were satisfied that it would be a well run premise and would not undermine the licensing objectives.

After giving due consideration to all of the evidence the Committee agreed to grant the application with conditions attached. It was noted that conditions 1 – 3 had been agreed with Cleveland police, however the Committee resolved to amend and attach further conditions.

RESOLVED that

- The application be granted for the supply of alcohol between the following hours:-

Monday to Sunday: 06:00 to 22:00

- To attach the following conditions to the licence.:-

1. A colour digital CCTV system must be installed and maintained in good working order at all times, images must be retained for at least 31 days (and stored in a secure place). The relevant disc be made available to enforcement agencies and/or Responsible Authorities upon request.
2. A CCTV camera be positioned so as to cover the paved area to the front door of the premises.
3. A 'Challenge 21' policy be implemented with all staff insisting on evidence of age (Photographic Driving Licence, Passport, Portman Card or Citizen Card) from any person appearing to be under 21 years of age and who was attempting to buy alcohol or other age restricted products
4. All staff be trained with regard to the law relating to the sale of age restricted products. Staff be re-trained at least every 3 months.
5. Training records, signed by both the staff member and the Designated Premise Supervisor / Store Manager / Business Owner be retained for future reference and be updated at least every 3 months. All staff training records be made available to enforcement agencies and/or Responsible Authorities upon request.
6. The business to maintain a refusals book to record all instances where

the sale of age restricted products had been refused. This would include the date and time of the attempted sale, together with a description of the incident. The Designated Premise Supervisor / Store Manager / Business Owner would check and sign each page and the refusals book be made available to enforcement agencies and/or Responsible Authorities upon request.

7. All alcoholic products covered by this licence which were exposed for sale in the premises be marked or labelled with the shop name and address.

8. There would be adequate notices displayed on the premises indicating that selling of alcohol to under age customers was not permitted and that the sale of alcohol to adults for immediate disposal to those under age was an offence.