

MINUTES

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

11 JULY 2023

Present:

MEMBERS:

Pringle (Chair), Link and Bhinder

OFFICERS:

Nargis Sultan	Legal Governance Manager (Litigation)
Phil Wortley	Licensing Manager
Kim Knight	Licensing Compliance and Technical Officer
Layla Fowell	Corporate and Democratic Lead Officer (Minutes)

OTHER PERSONS PRESENT:

Mr P Thiyagarajh – Applicant
Mr Lucan and Mr Semper from ‘The Licensing Guys’ – Applicants Representatives
Cllr Elliot – Councillor for Chaulden and Warners End Ward

The meeting began at 10.30 am

1 **MINUTES**

The Chair opened the meeting and introductions were made.

The minutes of the previous meeting were formally approved as an accurate record.

2 **APOLOGIES FOR ABSENCE**

There were apologies for absence from Sally Mcdonald, Licensing Lead Officer.

3 **DECLARATIONS OF INTEREST**

There were no declarations of interests.

4 **PREMISES LICENCE APPLICATION UNDER THE LICENSING ACT
2003 - PSM EXPRESS**

The Sub-Committee were required to consider an application to review a premises licence for the following premises:

PSM Express Limited
15 Stoneycroft
Warners End

Hemel Hempstead
HP1 2QE

P Wortley presented the licence application for PSM Express Ltd, noting the applicant as Mr Thiyagarajh. The premises is not currently subject to a premises licence and is located in the shopping precinct in Warner's End, Hemel Hempstead. Prior to the application, the premises was a newsagent and the application authorisation is sought for sale by retail of alcohol for consumption off the premises, Monday to Sunday, 06:00 to 23:00, with the application set out in Appendix A. A plan of the premises is also set out in the document alongside a map of the local area. The period for receipt of representations in respect of the application was 18 May to 15 June with one representation from Cllr Elliot, who represents Chaulden and Warner's End, which is included in the document. The applicant is represented by the Licensing Team.

N Sultan asked if the panel have any questions at this point.

The Chair queried if there are any other licensed premises in the row of shops. P Wortley confirmed that there are. K Knight confirmed that there is a Tesco and Co-Op on the same row of shops. The Chair asked if they have similar licensing hours. It was confirmed that they have similar licensing hours.

Mr Lucan advised that the application was for a new convenience store within a pleasant shopping centre containing a range of shops, a number of which are already licensed and operating without issue. Mr Lucan stated that the application is modest and straightforward in its aims.

Mr Lucan acknowledged the singular representation made by Cllr Elliot, who speculates that the premises will cause additional alcohol-related crimes and create problems within the area. Mr Lucan advised that the burden is on the applicant to show that the proposals in and around the operating schedule are capable of promoting the licensing objectives. Mr Lucan suggested that the sub-committee could only refuse the application if they find evidence that the operating schedule is not capable of promoting the licensing objectives. Mr Lucan stated that the councillor's representation does not contain any evidence that challenges or criticises the operating schedule.

Mr Lucan introduced Mr Thiyagarajh, stating that he speaks very good English and has been selling alcohol from his garage for many years, where he never came to the attention of any responsible authorities. Mr Lucan described Mr Thiyagarajh as a conscientious trader who is hardworking and decent, that he has invested in the local area and intends to be in the area in the long-term.

Mr Lucan noted Cllr Elliot's objection due to perceived crime and ASB (anti-social Behaviour) issues that could adversely affect the elderly who use the shops and that secondary school students could meet undesirable persons. Mr Lucan stated that Cllr Elliot has not responded to the request to negotiate, advising that they could have potentially avoided the hearing. Mr Lucan advised that the representation is based on fear and speculation that can't be supported by evidence against the operating schedule as the premises is yet to trade in this way. Mr Lucan asked the councillor to recognise that he is asking a lot of the panel in the representation for the application to be refused and stated that the

panel must show in its decision why the unchallenged applicant, operating schedule and conditions will fail to promote the licensing objectives. The panel must also show the reasons why it considers the grant of the condition of this application would undermine the licensing objectives. The panel must demonstrate that there are no further appropriate conditions that would prove effective in preventing the speculative problems the councillor states will ensue.

Mr Lucan referred to paragraph 9.43 of the Section 182 statutory guidance, noting that it clearly states 'the authority's determination should be evidence based, justifies being appropriate for the promotion of the licensing objectives and proportionate to what is intended to achieve.' Mr Lucan queried where the support is that the licensing objectives will be promoted and where the evidence is that the licensing objectives will be undermined.

Mr Lucan next referred to the ruling in the case of *Thwaites v Wirral Borough Magistrates Court*, 6 May 2008 where the judge stated 'the conditions should only be attached to the license for promoting the licensing objectives and that real evidence must be presented to support the reason for imposing conditions or, indeed, refusing an application.' Mr Lucan asked where the real evidence is that serious problems would ensue if the licence were to be granted.

Mr Lucan noted that members of parliament have provided mechanisms to deal with any future problems emanating from licensed premises activities, per the Licensing Act 2003. Mr Lucan stated that if issues were to ensue then the mechanism to control them is self-evident and if the councillor's fears come to pass then the Licensing Act provides a remedy whereby the premises licence can be reviewed at the request of the councillor or responsible authority.

Mr Lucan advised that none of the responsible authorities have raised an objection and the licensing authority has not raised a representation. Mr Lucan stated that the police assessed the application as capable of promoting each and every licensing objective and therefore raise no objections. Mr Lucan stated that Environmental Health have raised no representation. Mr Lucan confirmed that Trading Standards have raised no representation. Mr Lucan stated that Public Health have raised no representation and the Safeguarding Board have raised no representation. Mr Lucan suggested that it could therefore be concluded that all responsible authorities in Hemel Hempstead are satisfied that the operating schedule they have examined is capable of promoting the licensing objectives and won't undermine them.

Mr Lucan referred to the video on the file, noting that the dilapidated edifices shown belong to the Council and that they should therefore not be used against a legitimate employer opening a business in the area.

Mr Lucan summarised that fear and speculation on what may or may not happen in the future or as a consequence is not evidenced and that a single representation is unsupported by evidence. Mr Lucan stated that, with the conditions offered, the operating schedule and applicant are sufficiently robust to ensure the promotion of the licensing objectives and the sub-committee were therefore asked to grant the application.

The Chair asked if the premises is predominantly for the sale of alcohol but also for the sale of groceries. Mr Lucan confirmed that it is a general store. It was stated that the premises will be a convenience store with a small off licence capacity.

The Chair asked how much revenue would arise from the sale of alcohol. Mr Thiyagarajh stated that it would be less than 50%.

The Chair referred to the layout of the store, noting that there would be 2 main displays with narrow aisles and a fridge or freezer at the back of the store. The Chair asked if this fridge or freezer would be for food or alcohol. Mr Thiyagarajh confirmed that this will be for food items.

The Chair asked how many staff will be on duty. Mr Thiyagarajh advised that it would be up to 3 people.

The Chair noted the good CCTV coverage and asked where the alcohol will be kept. The Chair queried how easy it would be for people to steal alcohol from the store. Mr Thiyagarajh wrote on the plan where the alcohol would be kept in the store. The Chair noted that alcohol would be kept close to the checkout area.

Cllr Elliot thanked Mr Lucan for the submission and clarified that Mr Thiyagarajh would have the leasehold, not freehold.

Cllr Elliot advised that he had spoken to 14 residents and 2 other councillors who are of the same view. Cllr Elliot noted the number of elderly residents in the area with warden-controlled sheltered bungalows with around 80 residents and William Crook House, which is made up of 68 self-contained flats with elderly residents. Cllr Elliot also noted the pre-school within the shopping parade and advised that the police were called around a month ago due to people outside smoking cannabis. Cllr Elliot advised there is also a community centre used by elderly residents and John F Kennedy School nearby. Cllr Elliot noted the boarded up garages that are pencilled in for redevelopment, though this has been paused, and contains temporary accommodation for vulnerable adults. Cllr Elliot stated that a number of people hang around the area at night, particularly the disused toilet block and park, which can be intimidating for elderly people and affects footfall.

The Chair asked how far away the premises is from John F Kennedy School. Cllr Elliot suggested that it is a 5-10 minute walk away and is not directly outside the school.

The Chair noted the ASB concerns raised by the councillor and that these are evidenced. Cllr Elliot stated that PCSOs are regularly in the area and there is an impression of young people hanging around.

The Chair asked how the change of the use of the premises would materially exacerbate these problems that exist. Cllr Elliot stated that it would result in more alcohol being readily available and would therefore be a magnet for people.

The Chair clarified that Cllr Elliot already accepts that alcohol is already on sale in the precinct during similar hours and that he submits that Tesco and Co-op have

more stringent measures to stop young people getting hold of alcohol. The Chair asked the councillor to make a distinction between the independent store and the supermarkets. Cllr Elliot stated that they have more staff with better training and have a reputation to adhere to, particularly being multi-national stores.

The Chair suggested that Cllr Elliot's concern is that an independent shop may not have the same reputational concerns. The Chair noted that the applicant has been previously licensed to sell alcohol on another premises and asked if he had any concerns arising from this. Cllr Elliot stated that he was unaware of this.

The Chair asked the councillor if he had any concerns regarding the protection of children. Cllr Elliot stated that this would fall under the ASB concerns and his concern that there is a pre-school in the precinct.

The Chair commented that all of the councillor's concerns already occur and are handled by the authorities. The Chair suggested that school children do congregate in public places and asked if any school governors or teachers have raised concerns. Cllr Elliot stated that they have not.

The Chair noted that the garages are owned by the borough and asked if the councillor is ensuring safety concerns are being raised with the correct officers. Cllr Elliot advised that they are subject to demolition, though these have been paused due to financial constraints.

Cllr Bhinder noted his empathy with Cllr Elliot's submission, noting that enforcement is retroactive and that they can't take action until something has happened. Cllr Bhinder acknowledged that no issues have been raised by authorities and stated that his concerns are regarding community responsibility. Cllr Bhinder commented on issues with alcohol use in shopping centres, noting that some people drink outside the shop, and stated that he would like reassurance from the applicant that the operation of the store will be vigilant to ensure this kind of behaviour will be monitored.

Mr Lucan spoke on behalf of the applicant, noting that there is visible CCTV with recordings available for download and any responsible authority can have access to. Mr Lucan confirmed that an incident log will be maintained and that training will be provided to an industry standard, which will be repeated annually. Cllr Bhinder asked what training would be provided. Mr Lucan advised that training will be given regarding responsible alcohol sales.

Cllr Bhinder stated that his concern is the outside of the premises and asked for some reassurance that the premises will be managed in a way that people can't consume outside alcohol in the surrounding area. Mr Lucan referred to the conditions of the application and that anyone underage attempting to purchase alcohol should provide a document to prove they are 18 and that signage is inside and outside the shop that set out expectations and will be enforced by the seller.

The application referred to and it was stated that the premises licence holder will display notices that are prominent, clear and legible in no less than font 32 to advise the public not to consume any alcohol purchased from the premises at or near the premises. Cllr Bhinder asked if they expect alcoholics to read these

signs. It was stated that staff are expected to retail alcohol responsibly in accordance with the law and training as per the conditions of the application.

Cllr Bhinder stated that if the licence is granted then Cllr Elliot should be able to go back to residents to explain that there is reassurance that the situation will be monitored and controlled.

The Chair commented that some people can become aggressive and it may be intimidating for staff to challenge them. The Chair asked if there would be members of staff sufficiently trained to act as security staff and would be able to de-escalate situations. It was stated that level 1 of responsible alcohol retailing covers conflict management.

The Chair asked if the applicant would be prepared to ask people to move away and not serve them again in future and would contact the police if they fail to comply with instructions. Mr Thiyagarajh confirmed that he or his staff would interject.

The Chair asked Mr Thiyagarajh if he has had incidents in the past where he has been concerned about aggressive customers and how this has been handled. Mr Thiyagarajh stated that they asked the customer to leave and that they were unable to serve him, he refused and a record of this was made.

The Chair noted that local shops can be flooded with school children and asked Mr Thiyagarajh how he would address this and prevent any theft. Mr Thiyagarajh stated that only 2 children can enter the store at any time and they will be asked for ID if required.

The Chair asked Mr Thiyagarajh if he had kept a record of the attrition rate of alcohol theft in his previous shop. Mr Thiyagarajh stated that this was recorded in his previous business and had a strict policy.

Cllr Elliot referred to Mr Thiyagarajh's previous business and asked for further information. Mr Thiyagarajh advised that this was an Esso service station in Chesham that he worked in from 2014 to 2022.

Cllr Elliot noted the proposed operating times and suggested that he would prefer the times to purchase alcohol should be restricted. It was stated that the licenses for the neighbouring premises are for similar times.

Mr Lucan noted the concerns raised stating that the responsible authorities have not provided any representation and advised that it is a modest application that mirrors others in the area. Mr Lucan stated that he hoped for the application to be granted and he wished Mr Thiyagarajh every success in serving and running a well-run business.

The Chair asked if starting the licence later would be considered. Mr Lucan stated that this does not fit the business model in this instance.

Cllr Elliot stated that he looked forward to working with the proprietor.

The Chair advised that they have 5 days to notify the applicant of the decision. It was agreed that the sub-committee would adjourn for 30 minutes and that the applicant could return for a further update.

The meeting was adjourned.

Decision

At the meeting of 11th of July 2023, the Sub-Committee were informed of concerns regarding Anti-Social Behaviour (ASB) at the shopping precinct in Warners End Hemel Hempstead, should the license be granted. The Sub-Committee were also informed that police were called last month in relation to people smoking cannabis in the area.

Whilst it is noted that there is history of ASB, drug use and general nuisance in the locality, the Sub-Committee is not satisfied that these problems will be exacerbated by the granting of the license. The Sub-Committee notes that, whilst these are genuine concerns, there was no evidence to suggest that the granting of the licensing would seriously undermined one or, all of the licensing objectives as no such evidence had been put before the licensing Sub-Committee and there were no objections raised by the Responsible Authorises.

The Sub-Committee has therefore resolved to grant the application for a premises licence to PSM Express.

The Sub-Committee has given particular consideration to the fact that the applicant is a responsible businessman, he has been trading for a number of years, and he has never had any problems with any of the Responsible Authorities.

Moreover, the Applicant had confirmed that staff will be appropriately trained - in particular in conflict management. The business will hold incident logs and CCTV which will be available for viewing, there will also be adequate signage though out the premises.

The Meeting ended at 11.19 am