

LICENSING SUB COMMITTEE18 June 2012
10.00 am - 1.25 pm**Present:****Sub-Committee Members**

Councillors Benstead, Pippas and Rosenstiel (Chair)

Officers

Licensing Manager: Robin Grey

Assistant Licensing Officer: Luke Catchpole

Assistant Licensing Officer: Deborah Stoker

Legal Advisor: Carol Patton

Committee Manager: James Goddard

Present for the Applicant

Mr Alan Aylot (Counsel)

Mr Ilker Avci (Applicant)

Mr Cadizer (Translator)

Mr Mehmet Ali (Applicant's Associate)

Other Persons

Police Constable Pete Sinclair

Police Constable Marc Thomas

Mr Mike Dixon (resident)

Mr Crossley (resident)

Mr Crowther (resident)

Mr Frank Gawthrop (Glisson Road/Tenison Road Area Residents Association)

FOR THE INFORMATION OF THE COUNCIL**12/1/LicsubAppointment of a Chair**

Councillor Rosenstiel was appointed as Chair for the meeting.

12/2/LicsubDeclarations of Interest

Name	Item	Interest
Councillor	12/4/licsub	Personal: Member of Campaign

Rosenstiel		for Real Ale
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12/3/LicsubMeeting Procedure

All parties noted the procedure.

12/4/LicsubConsideration of an application for a premises licence to be granted : Cambridge Supermarket, 28 Mill Road, Cambridge, CB1 2AD

The Assistant Licensing Officer presented the report and outlined the application.

Applicant's Agent

Mr Aylot made the following points on behalf of the applicant:

- (i) The toilets referred to in condition 1 were for staff, not members of the public. Details were not clear on the plan, but a door prevented public access.
- (ii) The Applicants were new to the trade; the shop had been running for seven months without encountering problems. Issues raised in the representations referred to anti-social behaviour (ASB) and street drinking. Conditions proposed in the application to mitigate any concerns would be more strenuous than for neighbouring premises.
- (iii) A condition for the application would prohibit high strength alcohol. The Applicant would be happy to accept 5.7% for beer, lager and cider.
- (iv) Reference was made to licence conditions for 96 Mill Road. The Applicant would accept a similar condition not to sell high strength alcohol of over 5.7% to discourage street drinkers (who prefer cheap high strength alcohol). It was suggested that street drinkers might leave the area if they could not access cheap high strength alcohol.
- (v) The application set a benchmark for licensing conditions to hold other Mill Road premises against. This was done as a response to the 'Grandfather Rights' to address ASB concerns.
- (vi) The proposed conditions may encourage other premises to adopt good practices through a voluntary code/variance of conditions to address any perceived issues in Mill Road.
- (vii) Licensing guidance policies 239 and 240 state that individuals are responsible for their own actions when they leave a licensed premises.

- (viii) The Applicant has a Turkish language training manual to ensure that staff whose first language is not English would understand their responsibilities.
- (ix) There are thirteen outlets selling alcohol in Mill Road, so this application should not impact on the cumulative impact zone by attracting additional street drinkers. It was anticipated that licensing conditions would assist the Applicant to deter street drinking.
- (x) The Applicant operated a convenience store, and wished to add alcohol to the services offered.
- (xi) Referred to residents' representations, which all had the same text. It was suggested these were a petition in effect and raised the question who had started the 'petition'. It was suggested an existing trader had done so to prevent competition.
- (xii) Responded to Police Constables Sinclair and Thomas' statements setting out police objections:
 - The sale of cheap strong alcohol drew street drinkers to the area, as referred to in Sergeant Norden's witness statement. The Applicant would discourage street drinkers through disinterest, as the premises would not sell high strength alcohol.
 - The application would not add to crime levels as these were dropping in the area.
 - Conditions should address Police concerns.
- (xiii) Conditions that could be added to the application to assist the Police:
 - Marking alcohol bottles with an ultra violet pen to show where it was sold.
 - Selling beer, lager and cider in packs of two or more (street drinkers prefer to purchase single cans to minimise the amount of alcohol that could be confiscated by the Police).

Member Questions

In response to Members' questions, Mr Aylot made the following statements:

- (i) The Turkish language training manual would address condition 17 requirements not to sell to inebriated or underage persons. This could be supplemented with on-line training. The Applicant holds a Personal License that sets out training detail requirements.
- (ii) Staff would refuse to sell alcohol to anyone who could not produce ID on request. A condition to explicitly require this would be acceptable to the Applicant.
- (iii) Condition 6, which referred to 'a behave or be banned' policy was included in error by the Agent. This policy was not required for off-licences (just on-licences), but the Applicant would be happy to honour it. If the policy was adopted, people refused sale would be

banned from the premises and their details put in a logbook. If people made amends by demonstrating good conduct after a set period of time, they could return to the shop. This was a graduated on-licence approach that the Applicant could adopt.

- (iv) Street drinkers habitually buy half bottles of wine. A condition could be imposed prohibiting the sale of half bottles of wine of 5.7% or more alcohol.
- (v) The nearest existing premises selling alcohol in Mill Road was next door to the application site.
- (vi) The area at the rear of the shop was for staff only.

Other Persons - Police

Police Constable Sinclair made the following comments:

- (i) Disagreed that conditions would help to address problems in the area such as street drinking. The application would exacerbate issues by selling more alcohol. Another outlet selling alcohol was not required in Mill Road.
- (ii) Application conditions were inappropriate as they were lifted from on-licence premises, so they did not cover all off-licence and cumulative impact zone requirements.
- (iii) Mill Road has been adopted as a repeated Area Committee priority due to ASB issues arising from it being a busy thoroughfare. Reference was made to issues raised in representations.
- (iv) Premises selling alcohol in Mill Road have broken conditions of their licences.
- (v) A voluntary alcohol sale code was established some years ago, but fell into disuse through lack of interest from traders. Police Constables Sinclair and Thomas have been unable to re-establish the code due to continuing disinterest.
- (vi) Tesco appealed against a committee decision regarding a licence. Reference was made to Magistrate's comments that conditions would not aid the cumulative impact zone alcohol control.
- (vii) Referred to section 30 details in supplementary witness statement document. The police can remove troublemakers from an area using section 30 disposal order if they cause ASB. Section 30 was imposed in the area up to July 2010 when crime levels had dropped sufficiently.
- (viii) The Mill Road area has a number of crime issues, including drug and alcohol related ASB. Police were patrolling the area to address these.

- (ix) Street drinkers preferred cheap high strength alcohol, but would drink any alcohol available. Alcohol would be sourced legally and illegally to satisfy addictions.

Mr Aylot asked the Police representatives the following questions

Q) Are objections made to licence applications in a cumulative impact zone as a matter of course?

A) No, a judgement is made on an individual basis. The Police generally do not object to applications by restaurants in cumulative impact zones as they are low risk. The Police object to this application.

Q) Have the Police visited the Application premises in the last seven months (whilst under the responsibility of the Applicant)?

A) No as alcohol was not sold. The Police did not have any crime statistics concerning the Applicant's shop.

Q) If a licence was granted, would the area require additional police resources?

A) Yes, regular police intervention is to be expected, as alcohol would be an attraction to street drinkers; who are the most arrested group in Cambridge. Licence conditions were welcomed, but not expected to help in practice.

Q) If the neighbouring premises sell alcohol, how will this application cause more demand for police resources?

A) If alcohol were sold, ASB would be expected, thus police resources would be required.

Q) If the Applicant sold alcohol without causing ASB, would police resources be required?

A) The store may not require police resources, but the area does in general. Reiterated that if alcohol were sold, ASB would be expected, thus police resources would be required.

Q) If street drinkers prefer high strength alcohol, and were unable to get it from the Applicant's shop, would they steal it or go elsewhere?

A) This was a difficult question to answer. Historically street drinkers preferred high strength alcohol, but the current trend favoured multipacks of lower strength alcohol.

Q) Has a licence review been undertaken of premises selling alcohol in Mill Road if the Police have concerns?

A) No.

Q) If other premises are willing to sell alcohol to inebriated street drinkers, will they lose interest in the Applicant's shop?

A) There will always be demand for alcohol from street drinkers, and the presence of alcohol would attract them.

Q) If the licence was granted, staff trained and conditions enforced, would current ASB expectations still arise?

A) Reiterated there will always be demand for alcohol from street drinkers, and the presence of alcohol would attract them. Other premises in Mill Road have conditions similar to those suggested by the Applicant, but still have issues and Licensees have been prosecuted for selling alcohol to inebriated street drinkers.

Q) Why have crime rates dropped in the Mill Road area?

A) The impact of the cumulative impact zone, a noticeable Police presence and the recession.

Q) Would marking products with an ultraviolet pen assist the Police?

A) Details on who would do this and consistency of marking were requested. A similar approach had been tested in Royston, but fallen into disuse through inconsistency of approach.

The Applicant offered to undertake ultraviolet pen marking if it were a licence condition.

Members' Questions

Members asked for clarity on the risk of alcohol theft and security to mitigate this. It was confirmed that alcohol would be kept in a locked rear display counter. Two to three staff would be present in the shop. SIA training had not been given to staff to act as door supervisors; the Applicant would take instruction how to address this. The Applicant could amend the sale of alcohol to 08:00 – 23:00 instead of over a 24 hour period.

Other Persons - Residents

Mr Gawthrop made the following comments:

- (i) Urged the Committee to stand firm on the Mill Road cumulative impact zone.

- (ii) Residents have complained to the Licensing Officer about the 96 Mill Road premises selling high strength alcohol against their licensing conditions.
- (iii) Traders who do not sell alcohol do not have problems.
- (iv) (In reference to Mr Aylot's petition reference) the letters of objections were resident's and Friends of Mill Road Cemetery representations, not "mud slinging".
- (v) East Area Committee raised the issues of alcohol and street life related ASB in 2011 as Councillors were concerned.
- (vi) Mill Road area residents were intimidated by street drinkers' ASB. The Police were doing their best to address issues in difficult circumstances. The application would exacerbate the situation.
- (vii) The application would not sell high strength strong beer, lager and cider, but would sell other types of strong alcohol.
- (viii) Welcomed the Applicant's premises selling hardware but not alcohol.

Mr Dixon made the following comments:

- (i) His home overlooks Petersfield Green, which suffered from a number of ASB incidents. Another outlet selling alcohol would exacerbate this.
- (ii) The cumulative impact zone requires the Applicant to rebut inappropriate alcohol sales, this case had not been made.
- (iii) There were some responsible outlets selling alcohol in the cumulative impact zone, but ASB issues still persisted.

Mr Crossley made the following comments:

- (i) Welcomed the Applicant's premises selling hardware.
- (ii) Residents were surprised that a hardware/convenience store was applying for an alcohol licence.
- (iii) The area is a thoroughfare affect by general ASB issues that the sale of alcohol exacerbated.

Mr Crowther supported and reiterated the comments made by other residents.

Members' Questions

Councillor Rosenstiel questioned the source of the 'petition' letter and suggested some responses could be discounted as they were duplicates or addressees lived too far away. It was suggested that the source of the letter was the Nip-In.

The meeting was adjourned 11:55 am to 12:00 pm.

Summing Up - Applicant

Mr Aylot made the following points:

- (i) Suggested the application would not infringe licensing objectives or #13.33 of the old licensing guidance. Conditions offered by the Applicant would mitigate any issues. For example discouraging street drinkers by not selling high strength alcohol.
- (ii) General alcohol related ASB issues in Mill Road were caused by other outlets and not the Applicant's responsibility.
- (iii) Referred to police comments made in statements (listed in the Officer's report) and in person at the Committee. The Police were the main source of crime and disorder statistics for the Committee, but it was also incumbent on them to provide information that could be scrutinised.
 - Police had raised no issues about the Applicant's premises to date.
 - If the Applicant stocked low strength beer, lager and cider then street drinkers would go to other outlets.
 - Referred to Thwaite principles (legal caselaw), which required evidence not speculation. Crime levels in the area were falling. Representations say that people do not want another outlet selling alcohol, but licensing conditions imposed on the Applicant would address cumulative impact zone concerns.
 - The Applicant's shop aimed to be a general store that also stocked alcohol.

Members' Questions

Members questioned how alcohol theft could be prevented. It was suggested that two to three staff would be present in the shop to deter thefts. The Police would be called if a disturbance occurred.

Members said the cumulative impact zone assumes that alcohol will cause ASB issues and asked how does the Applicant rebutted this. It was suggested that conditions offered by the Applicant would mitigate any issues, although premises selling alcohol were likely to attract ASB issues.

Members said the Applicant's shop did not sell alcohol at present, and queried how they could evidence ASB issues would not arise. Particularly as the Mill Road area has general ASB issues, as set out in Police reports. It was suggested that shop staff would deter street drinkers, so they should go elsewhere. The Applicant is an existing trader in Mill road and knows the area. The cumulative impact zone should also help mitigate issues.

The operating schedule would prevent irresponsible promotions and require signage to deter ASB.

One to two staff could be trained to SIA standards to act as door supervisors.

Members queried if the Applicant operated a hardware or convenience store, and the types of products sold. It was confirmed the Applicant operated a convenience store that sold a variety of goods including hardware.

Summing Up - Police

Police Constable Sinclair made the following points:

- (i) Referred to Thwaite Principles and said the Police representation provided relevant evidence for objections.
- (ii) The application was located in a cumulative impact zone. The sale of alcohol from another outlet would exacerbate ASB issues for residents, and requested the application be turned down.

Members withdrew at 12:20 pm. After making the decision they received legal advice on the wording of the decision. Members returned at 1:15 pm.

Decision

Resolved unanimously not to grant the licence.

Reasons for reaching the decision are as follows:

1. The Applicant has not, on the balance of probabilities, demonstrated why a new premises licence would not add to the cumulative impact being experienced in the Mill Road area.
2. The evidence heard by the Sub-Committee, from the Police and from the interested parties, raised concerns in relation to the licensing objectives relating to the prevention of crime and disorder, and the prevention of public nuisance.
3. The extra conditions offered by the Applicant during the course of the meeting, in addition to those already offered in the Applicant's operating schedule, were on the balance of probabilities, unlikely to prevent an increase in the cumulative impact experienced in the area.

4. The Sub-Committee were not satisfied that the Applicant had given sufficient consideration to the steps necessary to overcome the concerns raised by the Police and interested parties.
5. Therefore there was no rebuttal of the presumption that the application should be refused.

The meeting ended at 1.25 pm

CHAIR