

REPORT OF THE DIRECTOR OF CITY DEVELOPMENT

LICENSING SUB-COMMITTEE – 27 MARCH 2024

LICENSING ACT 2003 – CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PREMISES LICENCE – 138 NEWCASTLE ROAD, SUNDERLAND

1.0 PURPOSE OF REPORT

- 1.1 To consider an application to grant a premises licence in respect of the above-mentioned premises brought in accordance with Section 17 of the Licensing Act 2003.

2.0 DESCRIPTION OF DECISION

- 2.1 In considering the application the sub-committee will be mindful of the provisions of section 18 of the Licensing Act as stated in paragraphs 5.2 below.
- 2.2 When determining the application, the Sub-Committee is requested to have regard to the representations referred to in paragraph 4.0 below and to take such steps as they consider appropriate for the promotion of the licensing objectives. The steps may be: -
- a) to grant the application subject to the operating schedule modified to such extent as the Sub-Committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
 - b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) to reject the application.

3.0 INTRODUCTION/BACKGROUND

- 3.1 Members will recall that this matter was scheduled to be considered by the Committee at its meeting scheduled for 24th November 2023. Due to an external matter, the hearing was required to be cancelled due to us not being able to meet quorum. The matter was then re-scheduled for 18th January 2024, however the meeting was cancelled due to the unavailability of the applicant and his agent.
- 3.2 According to the information provided by the applicant, The premises will be a new convenience store where all types of convenience products will be sold including fresh & frozen food, toiletries, household, newspapers etc. Other services will also be offered to customers such as the ability to pay bills & buy lottery tickets. Alcohol is not the intended focus of the business, there is an expectation that alcohol sales will have a limited impact on the area as local people are expected to, on the whole, purchase alcohol along with other products.

- 3.3 A copy of the application form dated 2nd October, 2023 premises plan and a set of proposed conditions, which will be included in the operating schedule are attached at **Appendix 1**.
- 3.4 For Members' information, the premises is situated on Newcastle Road and was formally Booze Busters. The premises is attached to a parade of hot food takeaway outlets. Plans showing the street view of Newcastle Road and an arial plan of the area are shown at **Appendix 2**.
- 3.5 The application is for sale of alcohol Monday – Sunday 07:00 to 03:00 and late night refreshment (hot food and drink) Monday – Sunday 23:00 – 03:00. In summary the confirmed proposed licensable activities and opening hours are detailed as follows:

Licensable Activity	Proposed Hours
Sale of Alcohol Off the Premises	Monday to Sunday 07:00 to 03:00
Late night Refreshment	Monday to Sunday 07:00 to 03:00
Opening Times of Premises	Monday to Sunday 07:00 to 03:00

- 3.7 In line with the statutory procedure set out in the Licensing Act 2003, a 28-day consultation period was allowed for any representations to be made.

The application was emailed to the Responsible Authorities and Ward Councillors

Members are advised that Responsible Authorities can make representations about applications where they feel there will be a negative impact on the promotion of the licensing objectives if the application were to be approved. Responsible Authorities are listed in the Act and are as follows:-

Police Authority
 Fire Authority
 Home Office
 and from the Licensing Authority (Sunderland City Council)
 Licensing
 Trading Standards
 Health and Safety
 Environmental Protection
 Public Health
 Development Control
 Children's Safeguarding

Members are reminded that the licensing objectives are as follows:-

- Prevention of Crime and Disorder

- Public safety
- Prevention of public nuisance
- Protection of Children from Harm

A statutory notice was published in the Sunderland Echo on 12th October, 2023. In addition, blue site notices were displayed at the premises for a period of 28 days, allowing for any persons to submit any representations.

- 3.8 Relevant representations were received from local residents, Ward Councillors and Responsible Authorities.

CURRENT POSITION

- 4.1 During the statutory 28 day consultation, a number of representations were received objecting to the application from some Responsible Authorities, Ward Councillors and local residents. In addition to the objections received, the Licensing Section also received a petition from 71 local residents.

Copies of the representations and petition from local residents are attached at **Appendix 3.**

- 4.2 On 23rd October, 2023 a representation was received in objection to the application from Sarah Norman, representing Public Health in her role as a Responsible Authority. A copy of the representation is attached at **Appendix 4.**
- 4.3 On 26th October, 2023 a representation was received in objection to the application from Scott Lawrence, representing the Licensing Section in his role as a Responsible Authority. A copy of the representation is attached at **Appendix 5.**
- 4.4 On 26th October, 2023 a representation was received in objection to the application from Councillor Kelly Chequer, cabinet member for Healthy City and Ward member for Southwick. A copy of the representation is attached at **Appendix 6.**
- 4.5 On 27th October, 2023 a representation was received in objection to the application from Northumbria Police, acting in their role as a Responsible Authority. A copy of the representation is attached at **Appendix 7.**
- 4.6 On 29th October, 2023 a representation was received in objection to the application from Councillor Michael Hartnack, Ward member for Fulwell. A copy of the representation is attached at **Appendix 8.**
- 4.7 On 30th October, 2023 a representation was received in objection to the application from Amelia Barker, representing the Environmental Health Section in her role as a Responsible Authority. A copy of the representation is attached at **Appendix 9.**

- 4.8 On 14th November, 2023 Northumbria Police submitted further information in support of their representation. A copy of the information is attached at **Appendix 10**.
- 4.9 Between 17th and 20th November, 2023 emails were exchanged between Mr Lawrence and Ms Sherratt regarding the application and proposed amendments to the application. Mr Lawrence submitted further details regarding this exchange which can be found at **Appendix 11**.
- 4.10 On 15th January, 2024 Mrs Dawn Howley, (Principal Licensing Officer), received an email from Ms Klare Casey from Licensing Matters Ltd, confirming that Licensing Matters would not be representing the applicant in relation to this matter and would therefore not be attending the Sub Committee hearing scheduled for 18th January, 2024. A copy of this email is attached at **Appendix 12**.
- 4.11 On 16th January, 2024 an email from the applicant was received, wishing to adjourn the Sub Committee hearing scheduled on 18th January, 2024 due to the fact that his representative was not attending the hearing. The applicant also agreed in his email to review and amend the conditions proposed by the Licensing Section. A copy of the email is attached at **Appendix 13**.
- 4.12 On 4th February, 2024 the Licensing Section received an email from the applicant confirming that he had reviewed the Licensing objections and confirmed that he was happy to amend the proposed hours and conditions.
- 4.13 On 6th February, 2024 Mr Lawrence replied to the applicants email for clarity on the reduction of hours and the conditions that he agreed to include in the operating schedule. Mr Lawrence attached the proposed conditions and hours previously sent to the applicant's agent. Mr Lawrence also asked the applicant to confirm the extent of the alcohol sales due to the concerns raised by the residents in their representations.
- 4.14 On 19th February, 2024 the Licensing Section received an email from the applicant confirming that the hours for the sale alcohol being proposed will be reduced from 07:00 – 03:00 Monday – Sunday to 07:00 - 23:00, Monday to Saturday and 08:00 - 22:00 on Sunday. The applicant also confirmed that the premises will be a convenience store where all types of convenience products will be sold including fresh & frozen food, toiletries, household, newspapers etc. Other services will also be offered to customers such as the ability to pay bills & buy lottery tickets. Alcohol is not the intended focus of the business.
- 4.15 On 19th February, 2024 Mr Lawrence replied to the applicants email to ask if he agreed to the conditions sent in his previous email dated 6th February, 2024.
- 4.16 On the afternoon of 19th February, 2024 the applicant sent a further email confirming that he agreed to the conditions that were sent to him on 6th February, 2024.

- 4.17 On 19th February, 2024 Mr Lawrence sent a further email, attaching a document, which contained the proposed hours, operating style of the business and the agreed conditions for the applicant to review and sign. Later that day, the applicant sent an email attaching a signed copy of the document. A copy of the email exchange between 4th February, 2024 and 19th February, 2024 between the applicant and Mr Lawrence, together with the signed document is attached at **Appendix 14**.
- 4.18 On 21st February, 2024 Mr Lawrence sent an email to those who had made objections, providing them with details of the amended proposed conditions, reduced hours and details of the operating style of the business. Mr Lawrence asked the objectors to review their position and confirm and provide any comments by 27th February, 2024. A copy of the email is attached at **Appendix 15**.
- 4.19 On 26th February, 2024 Mr Lawrence, in his role as the Responsible Authority for the Licensing Section sent an email to Miss Sara Hughes (Regulatory Compliance Officer). The email confirmed that due to the applicant agreeing to reduce the hours for the sale of alcohol, the removal of late night refreshment and the additional conditions to the operating schedule, Mr Lawrence was satisfied with the proposed application and withdrew his representation. A copy of the email is attached at **Appendix 16**.
- 4.20 On 27th February, 2024 the Licensing Section received an email from Amelia Barker, Environmental Health Officer for Sunderland City Council. Miss Barker confirmed that Environmental Health were satisfied with the reduction in hours for licensable activity and the additional conditions to be included in the operating schedule. As a result, Miss Barker acting in her role as the Responsible Authority for Environmental Health withdrew her representations. A copy of the email is attached at **Appendix 17**.
- 4.21 On 27th February, 2024 the Licensing Section received an email from Sarah Norman, Senior Public Health Practitioner for Sunderland City Council. Ms Norman confirmed in her email that both Ms Norman and Councillor Kelly Chequer were satisfied with the reduction in hours for licensable activity and the additional conditions to be added to the operating schedule. As a result, Ms Norman and Councillor Chequer withdraw their representations. A copy of the email is attached at **Appendix 18**.
- 4.22 Between 21st February and 22nd February, 2024 a number of emails were received from local residents wishing to withdraw their representations to the application. A copy of the emails are attached at **Appendix 19**.
- 4.23 Between 21st February and 28th February, 2024, a number of emails were received from local residents wishing to uphold their representations to the application. A copy of the emails are attached at **Appendix 20**.
- 4.24 On 8th March, 2024 an email was received from Mrs Jill Lennox, (Licensing Coordinator for Northumbria Police) confirming that Northumbria Police will be withdrawing their objection to the application. Mrs Lennox confirmed that she

would send the correct paperwork later that morning. A copy of the email is attached at **Appendix 21**.

4.25 On 11th March, 2024 a further email was received from Mrs Jill Lennox, (Licensing Coordinator for Northumbria Police) confirming that as a result of the reduction in hours for the sale of alcohol and the additional conditions to be added to the operating schedule, Northumbria Police are satisfied with the application and withdrew their objection. A copy of this email is attached at **Appendix 22**.

4.26 Members are advised that any person who makes a representation which they later withdraw will not be in attendance at the hearing.

4.0 REASONS FOR THE DECISION

5.1 To determine the application as requested by section 18(3) of the Licensing Act 2003.

18(3) *“Where relevant representations are made, the authority must—*

(a)hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b)having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers for the promotion of the licensing objectives”

5.2 Section 4(2) of The Licensing Act 2003 lists the licensing objectives as:-

(a)the prevention of crime and disorder;

(b)public safety;

(c)the prevention of public nuisance; and

(d)the protection of children from harm.

6.0 ALTERNATIVE OPTIONS

6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

7.1 There are no other considerations that require the attention of the Sub-Committee.

8.0 GLOSSARY

8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICES

- Appendix 1** - Application form and plan of premises
- Appendix 2** - Plans of surrounding area
- Appendix 3** - Representations and petition from local residents
- Appendix 4** - Representation from Public Health
- Appendix 5** - Representation from the Licensing Section
- Appendix 6** - Representation from Councillor Kelly Chequer
- Appendix 7** - Representation from Northumbria Police
- Appendix 8** - Representation from Councillor Michael Hartnack
- Appendix 9** - Representation from Environmental Health
- Appendix 10** – Further information from Northumbria Police
- Appendix 11** – Email statement from Mr Lawrence dated 10th January, 2024
- Appendix 12** – Email from Klare Casey from Licensing matters dated 15th January, 2024
- Appendix 13** – Email from applicant dated 16th January, 2024 wishing to adjourn hearing scheduled for 18th January, 2024
- Appendix 14** - Email exchange between Mr Lawrence and the applicant between the 4th and 19th February, 2024
- Appendix 15** – Email from Mr Lawrence dated 21st February, 2024 to all objectors
- Appendix 16** – Email from Mr Lawrence dated 26th February, 2024 withdrawing the objections submitted by the Licensing Section
- Appendix 17** – Email from Amelia Barker from Environmental Health dated 27th February, 2024, withdrawing objection to application
- Appendix 18** – Email from Sarah Norman from Public Health dated 27th February, 2024, withdrawing her objection and the objection submitted by Councillor Chequer
- Appendix 19** – Emails from local residents withdrawing their representations
- Appendix 20** – Emails from local residents upholding their representations
- Appendix 21** - Email from Mrs Jill Lennox from Northumbria Police dated 8th March, 2024, confirming that the Police will be withdrawing their representation
- Appendix 22** – Further email from Mrs Lennox confirming the withdrawal of the representation provided by Northumbria Police

10.0 BACKGROUND PAPERS

- 10.1 None.