

REPORT OF THE DIRECTOR OF NEIGHBOURHOODS

LICENSING SUB-COMMITTEE – 7 MAY 2020

LICENSING ACT 2003 – CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PREMISES LICENCE

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LADYKIRK INVESTMENTS LIMITED

1.0 PURPOSE OF REPORT

- 1.1 To consider an application to grant a premises licence in respect of the above-mentioned premises.
- 1.2 This matter had been scheduled to be considered by the Sub-Committee on 20 April 2020. Such meeting was cancelled due to operational problems encountered because of the Coronavirus Pandemic.

2.0 DESCRIPTION OF DECISION

- 2.1 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 refuse to specify a person in the licence as the premises supervisor;
 - d) to reject the application.

3.0 INTRODUCTION/BACKGROUND

- 3.1 Members are reminded that as part of its Statement of Licensing Policy (Addendum Note to Section 7), in September 2018 the Council resolved to publish a cumulative impact assessment which indicates that “we consider that the numbers of relevant authorisations in respect of premises in certain parts of the City are such that it is likely that it would be inconsistent with our duty to carry out our functions under the Act (Licensing Act 2003) with a view to promoting the licensing objectives to grant any further relevant authorisations for the sale of alcohol in those areas.”
- 3.2 The Cumulative Impact Assessment (CIA) relates to 7 areas of the City, including the City Centre and East End (parts of Hendon, Millfield and St Michael’s wards). The premises to which this application relates are located within this area.
- 3.3 The Statement of Licensing Policy states that “these areas have been identified because evidence shows that the cumulative impact of the number and

concentration of licensed premises in these areas adversely affects the promotion of the following licensing objectives:

- The prevention of crime and disorder;
- The prevention of public nuisance; and
- The protection of children from harm”

- 3.4 The CIA does not relieve responsible authorities (and any other persons) of the need to make a relevant representation, before the Council may lawfully refuse an application.
- 3.5 The CIA also states that “the Council will consider properly the circumstances of all applications in respect of where relevant representations are received. Those applications which are considered to be unlikely to add to the existing cumulative impact upon the licensing objectives may be granted.”
- 3.6 The CIA further states that “the Council intends that the City Centre should remain as an area where it would encourage business to set up. The Council recognises that a dynamic trading environment will feature applications for new licences. The Council considers that the operation of well-run, high quality licensed premises should not have an impact upon the licensing objectives. The Council, therefore, would welcome the submission of applications for new licences by businesses whose operations would significantly enhance the economic vitality of the City Centre.”
- 3.7 With regard to the effect of CIAs, the statutory guidance issued under the Licensing Act at Paragraph 14.41 states “Anyone making a representation may base it on evidence published in the CIA, or the fact that a CIA has been published. It remains incumbent on all responsible authorities and other persons to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. As with all licensing applications under the 2003 Act, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.”
- 3.8 At Paragraph 14.44, the statutory guidance states “A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted.”
- 3.9 A copy of the application form and premises plan are attached at Appendix 1. The business operates as a Premier Convenience Store and has been trading selling non-alcohol products since early February 2020. Plans showing the location of the premises along with the surrounding area of the City Centre are shown at Appendix 2. The proposed licensable activity is for the sale by retail of alcohol for consumption off the premises on the following days and times:
- Mondays to Saturdays – 10.00 to 20.00
Sundays – 10.00 to 17.00
- 3.10 Prior to submission of the application, the applicant’s solicitors, Sintons Solicitors approached Northumbria Police and the Council’s Licensing Service to discuss the

merits of their proposals having regard for the position that the premises are located within the City Centre cumulative impact area. The application for a premises licence was subsequently made following these consultations, which also took account of the views of the Council's Public Health Service. The conditions proposed by the applicant, as contained within the operating schedule of the application form shown at Appendix 1, were prepared in prior consultation with the Police.

- 3.11 Despite the fact that the premises are located within the City Centre cumulative impact area, Northumbria Police are satisfied that the granting of the application, subject to the hours of opening for the sale of alcohol and the specific conditions proposed by the applicant, should not have an adverse impact on the licensing objectives. Accordingly, the Police have raised no objections to the grant of a premises licence on the terms proposed. Also, there are no objections to the grant of a licence from any of the other responsible authorities.
- 3.12 However, relevant representations have been received in relation to the application which are detailed at section 4.0 below.

4.0 CURRENT POSITION

- 4.1 Representations have been made in objection to the application in the form of two petitions that have been received. Copies of these submissions with the persons' names and other details redacted are attached at Appendix 3. In their representations, the objectors have raised concerns regarding crime and anti-social behaviour arising in the area of the premises proposed to be licensed. The first petition appears to have been signed by 23 people although they have not entered their full addresses and only postcodes have been provided. The second petition has been signed by 15 people who appear to be associated with certain other businesses currently operating within the vicinity of the Jopling Premier Convenience Store. However, at the time of preparation of this report, two of these signatories had confirmed that they have withdrawn their representations.
- 4.2 The applicant and their solicitor have been provided with copies of the representations and have been invited to participate in the hearing. The applicant has submitted a petition signed by 59 people expressing their support for the application, along with some photographs of the interior of the Premier Convenience Store. Copies of these submissions with the persons' names and addresses redacted from the petitions are attached at Appendix 4.
- 4.3 Where it has been possible to contact objectors, these persons have also been invited to participate in the hearing.

5.0 REASONS FOR THE DECISION

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

ALTERNATIVE OPTIONS

- 6.1 None submitted.

6.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

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

7.0 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 – Location plans

Appendix 3 - Copies of redacted objectors' petitions with names and other details of signatories removed.

Appendix 4 - Copies of redacted applicant's petitions with names and addresses of signatories redacted along with photographs of interior of premises proposed for licensing

10.0 BACKGROUND PAPERS

10.1 Statement of Licensing Policy and Cumulative Impact Assessment.

10.2 Secretary of State's guidance issued under Section 182 of the Licensing Act 2003.