

DURHAM COUNTY COUNCIL

At a Meeting of the **Statutory Licensing Sub-Committee** held in **Committee Room 2, County Hall, Durham** on **Tuesday 4 July 2023** at **9.30 am**

Present:

Councillor L Mavin in the Chair

Members of the Sub-Committee:

Councillors C Hampson and M Wilson

Also Present:

C Hazell – Council’s Solicitor

H Johnson – Licensing Team Leader

Applicant:

Mr David Dadds, Dadds Licensing Solicitors (representing the Applicant)

Mr S Kanapathi, Arka Licensing (Applicant’s Agent)

Mr Tharmarajah Sriskantharajah (Applicant)

Also in attendance:

Ms J Drane (other person)

Mr M Foster, Mincoffs Solicitors (Solicitor for Ms A Khan)

Ms H Franklin (other person)

Mr A Gavaghan (other person)

Ms A Khan (other person)

Ms K Parrish (other person)

Mr T Robson (Licensing Consultant)

1 Apologies

No apologies were received.

2 Substitute Members

There were no substitute members in attendance.

3 Declarations of Interest (if any)

There were no declarations of interest.

4 Minutes

The minutes of the meeting held on 28 March 2023 were agreed as a correct record and signed by the Chair.

5 Application for the Grant of a Premises Licence - Meadowfield Store, 43 Frederick Street North, Durham, DH7 8NB

Prior to the presentation of the report, Mr Dadds, solicitor for the Applicant addressed the Sub-Committee to request that the supplementary bundle of additional information submitted on behalf of Ms Khan in objection to the application, be disregarded. The request was made on the grounds that it introduced new information and it had not been submitted within the 28 day representation period.

The Applicant's solicitor's view was that Ms Khan, whose family operated a convenience store in close proximity to the application premises, had a vested interest. He also stated that the Licensing Consultant, Mr Robson, who undertook the exercise referred to in the additional information, was associated with Mincoffs Solicitors, who were in attendance at the meeting, to represent Ms Khan. The Solicitor for the Applicant highlighted that the exercise referred to in the additional information took place on 3 May, that the representation deadline was the 4 May and the additional information had not been served on the parties until Friday 30 June. Whilst an adjournment could be sought, the solicitor for the Applicant felt that would cause unnecessary delay to the matter which had had been adjourned on two previous occasions.

Representing Ms Khan, Mr Foster addressed the Sub-Committee, clarifying that Mr Robson, Licensing Consultant, was employed by Mincoffs Solicitors to conduct training. He added that Ms Khan's concerns had been documented in her original representation and that she had sought evidence from Mr Robson, as Section 182 guidance of the Licensing Act 2003 stated that decisions should be evidence based. He added that further delay in serving the evidence was caused due to the necessity to redact the documents.

The Applicant's Solicitor reiterated that the Licensing Consultant was instructed to carry out the exercise on 3 May, that the final day of the representation period was 4 May and that statutory guidance was clear that new representations should not be allowed.

The Licensing Team Leader informed the Sub-Committee that Ms Khan had requested that the Licensing Team disregard her previous emails and therefore previous correspondence from Ms Khan was not included in the paperwork.

At approximately 9.40am, the Sub-Committee retired to consider the admission of the additional information.

On reconvening at approximately 9.55am, the Sub-Committee reconvened and the Chair informed the parties that the additional information was to be disregarded as it was new evidence which had not been disclosed within the 28 day representation period. The Sub-Committee had considered Ms Khan's representation as contained in the papers and this did not include detail with regard to illegal vapes. The allegations contained in the additional information were new and were made outside the representation period, therefore, the Sub-Committee could not have regard to them.

The Senior Licensing Officer presented the report for the grant of a Premises Licence at Meadowfield Store, 43 Frederick Street North, Durham, DH7 8NB (for copy of report see file of minutes).

The Sub-Committee noted the hearing had previously been adjourned on two occasions and notices extending the time limit for the hearing had been issued. During the consultation period, 16 representations had been received opposing the application, that no comments had been received from the responsible authorities with the exception of the planning authority who had responded with comments for information only. The Licensing Team Leader confirmed that, following discussions, the Applicant had agreed to amend their requested licensable hours to 7am until 10am, seven days a week.

There were no questions in response to the Licensing Team Leader's presentation.

The Chair then invited representations from the Objectors.

Ms Khan's Solicitor addressed the Sub-Committee in objection to the application. He informed the Sub-Committee that Ms Khan's family operated a convenience store in the vicinity and that Ms Khan also resided in the area, therefore, Ms Khan was well-placed to comment on the difficulties being experienced relating to anti-social behaviour in the neighbourhood. He explained Ms Khan's concerns regarding the possible adverse impact resulting from another licensed operator; that Ms Khan had very little knowledge about the Applicant and that no operating schedule had accompanied the application. He reminded the Sub-Committee that Section 182 guidance stated that licensing authorities should expect applicants to prepare an operating schedule to set out steps to protect children from harm on the premises. Ms Khan was also concerned at the lack of information with regard to proxy sales, CCTV coverage and the sale of alcohol from 7 am to 10 pm which she felt would increase the anti-social behaviour issues currently being experiencing.

Ms Khan's solicitor drew the Sub-Committee's attention to the comments provided in relation to the conditions on the premises licence which were detailed in the papers.

In response to questions from her representative, Ms Khan confirmed that she had worked at the family store which, was approximately 200 yards from the application premises for approximately 10 years. She commented on the high level of anti-social behaviour and reported that she had suffered verbal abuse, that the council bins were vandalised on a daily basis and that staff regularly had to carry out litter-picks outside the premises. Ms Khan informed the Sub-Committee that staff frequently challenged sales of alcohol and challenges were often met with aggression. Ms Khan remarked that she had noticed fewer elderly people were visiting the shop which, in her view, was due to their fear of anti-social behaviour and she added that another convenience store would add to the problems.

Ms Khan then answered questions from the Applicant's solicitor. She confirmed that the family store promoted the licensing objectives, that it refused under-age sales and that that staff were trained to do so, without causing conflict. Ms Khan outlined her understanding of the licensing objectives and she added that fair competition was not a concern for her. She explained that whilst the family business could operate until 11pm, the family chose not to do so and the store closed at 9.00pm. As a resident, Ms Khan was of the opinion that it was detrimental to the community for businesses to operate later than 9pm.

On questioning by the Sub-Committee, Ms Khan responded that the family store opened at 7.00am. The Licensing Team Leader clarified that the Khan family premises was licenced from 8.00am-11.00pm Monday-Saturday and from 10.00am-10.30pm on Sundays. When asked by the Sub-Committee what measures were taken to prevent proxy sales, Ms Khan explained that suspicious behaviour was monitored by observing people on the street and with the use of cameras and she added that she had refused sales in the past.

Ms Franklin then spoke in objection to the application. She informed the Sub-Committee that she had resided at 37 Frederick Street North for over 30 years and she had seen a decline in the area over recent years, particularly in relation to the behaviour of young people. Ms Franklin commented that there had been an increase in the number of young people congregating in gangs in the area, leading to alcohol-fuelled anti-social behaviour. This included damage to property and vehicles, littering, graffitiing and vandalism of the local park. Ms Franklin had also observed an increase in the number of young people carrying alcohol and vapes. She spoke anecdotally of elderly people who felt intimidated and were reluctant to leave their houses.

In addition, she raised concerns at the possible increase in traffic on the A690 and further parking issues caused by another business operating.

The Licensing Team Leader asked Ms Franklin if she was aware of how the youths were obtaining the alcohol, Ms Franklin responded that she could not confirm that as there were a number of places that sold alcohol in the vicinity and she added that she was unsure as to whether the young people were buying the alcohol at Meadowfield or Brandon.

Objecting to the application, Mr Gavaghan summarised the anti-social behaviour he had witnessed, including vandalism and damage to cars. He expressed disappointment that whilst the community had raised money to repair the damage to the park caused by vandals, the park was repeatedly vandalised. He reported incidents of underage alcohol sales, verbal abuse, theft and youths congregating in the area and setting fire to bins. Mr Gavaghan also gave his view that public safety would be compromised due to a lack of allocated parking for the proposed premises and the possible increase in traffic on the busy road nearby. He highlighted that his property was above the application premises and he was concerned at the risk of fire, noise nuisance and littering. Mr Gavaghan also spoke of his concerns that young children were witnessing verbal abuse and anti-social behaviour and residents felt intimidated by the fear of violence.

Ms Parrish, also speaking in objection to the application, echoed the previous comments and spoke as a parent living at Browney which is approximately a five-minute walk away from the shops. She informed the Sub-Committee that she visits the park, which is repeatedly vandalised, with her children. She raised concerns that the youths congregate on the front street where there are a number of shops selling alcohol and she described the environment as unpleasant for school children and residents who use the local bus stop. She highlighted the importance of keeping residents safe, in particular, young children and she was disappointed that the police had made no representations as she was aware of a number of complaints that had been made to the police. Ms Parrish concluded by stating that granting the application would promote anti-social behaviour in the area.

Objector, Mrs Drane outlined her main concern was the anti-social behaviour. As a co-owner of number 42 Frederick Street North, she informed the Sub-Committee that she regularly suffered from anti-social behaviour caused by youths congregating outside her house who often, under the influence of alcohol, shout abuse and leave empty bottles of alcohol, fast-food packaging and other litter, on her doorstep.

The Chair then invited the Applicant to make representations.

The Applicant's solicitor clarified that the application was for a premises licence from 7am to 10pm and the premises was to be a commercial retail unit.

He highlighted that no responsible authorities were in attendance and, there had been no objection to the original application which had requested licensable activity from 6am to 11pm and he considered the objection from Ms Khan to be a trade objection. The Applicant's solicitor commented that as the premises would have CCTV cameras installed, this could assist neighbouring businesses as it may reduce anti-social behaviour and that all staff would be fully trained. He pointed out that the proposed conditions in the operating schedule had satisfied the responsible authorities. He noted that Ms Khan confirmed that her family business strived to ensure the licensing objectives were promoted and the Applicant intended to do the same. He outlined that cameras will be used to identify suspicious behaviour and proxy sales and that the Applicant intended to gain knowledge of his customers. The Applicant's solicitor informed the Sub-Committee that he had visited the application location that morning and he found the area to be clean and tidy. He gave the view that competition was healthy as it provided the community with choice and he reiterated the steps the Applicant would take to promote the licensing objectives including that all staff would be trained in relation to Challenge 25 and that records of staff training would be available for inspection. The Sub-Committee was asked to note that the application was in line with the Statement of Licensing Policy and the Applicant was a responsible retailer who would be purchasing alcohol and tobacco only from wholesalers.

In response to a question from the Licensing Team Leader, the Applicant's solicitor confirmed that, should the licence not be granted, the Applicant would, nonetheless, open the premises.

Replying to questions from the Sub-Committee, the Applicant's solicitor stated the Applicant would work in the premises and that the operating schedule included that a register of refused alcohol sales would be maintained, that a Challenge 25 scheme would be in operation, that there would be training for staff and the store would have an EPOS till system. He added that, given the comments made at the hearing, a litter pick will be undertaken in the immediate vicinity of the application premises, that training on proxy sales would be enforced and the CCTV system would be operated and maintained responsibly. The solicitor clarified that the premises would be a convenience store.

The Applicant's solicitor then responded to questions from Ms Khan's solicitor. He provided clarification with regard to where the alcohol would be sold within the shop and that the operating schedule included a condition that CCTV coverage would encompass ingress and egress to the premises.

Ms Khan's Solicitor raised concern that if the cameras did not cover the area of the street, it would be difficult to identify proxy-sales.

The Applicant's solicitor responded that residents' privacy must be taken into account and one of the objectors raised concern that CCTV camera coverage should not be intrusive. The Applicant's Solicitor confirmed that cameras would be angled on the public highway, away from homes and privacy blocks would be applied to screen house windows and doors so as not to infringe on residents' privacy.

In reply to a question from the Council's solicitor, the Applicant's solicitor confirmed that usually there will be two members of staff working in the shop.

The Applicant's solicitor also confirmed that the application premises would occupy the whole shop at number 43 Frederick Street North as per the plan at page 34 of the papers.

The parties were then invited to sum-up.

Ms Khan's solicitor spoke of his client's real concerns regarding another premises operating in the area, supplying age-restricted products. He added that her concerns had been echoed by a number of the Objectors who had also reported regular occurrences of public nuisance and crime and disorder. He commented on Ms Khan's disappointment that the police had not sought to make representation and the difficulties Ms Khan had experienced, working in her shop, which the solicitor commented, in his view, were not issues that could be addressed within the operating conditions, or, by the reduction in the operating hours. Ms Khan's solicitor concluded by saying that granting another premises licence threatened to increase the issues currently being experienced and therefore he requested the Sub-Committee to refuse the modified application due to the concerns raised by a number of residents with regard to another licensed premises operating in the area.

Ms Khan added that her main concern was not competition from other businesses but the impact on the community which she would like to be a safe environment for families.

In his summary, the Applicant's solicitor reiterated his opinion that Ms Khan's objection was a trade objection. He highlighted that Ms Khan's family operated their premises without undermining the licensing objectives and there was no reason why the Applicant could not do the same. He noted that not only did the police and safeguarding have no objections, they wrote to confirm that they had no objections. The solicitor commented that the concerns with regard to age restricted products had been addressed in the steps outlined in the application and therefore he requested that the application be granted, as amended.

At approximately 10.50am, the Sub-Committee **Resolved** to retire in private to consider the application.

At approximately 11.30am the Sub-Committee reconvened and the Chair delivered the decision of the Sub-Committee. In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, the representations made by the Objectors and the Applicant. Members also took into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

The Sub-Committee **RESOLVED:**

To grant the amended application for the Premises Licence subject to the conditions that were consistent with the operating schedule and the mandatory conditions under the Licensing Act 2003 as well as two further conditions appropriate to promote the licensing objectives as follows:

- a) All staff training should be refreshed every 6 months, documented and be available for inspection by the Police and Licensing Authority on request.
- b) At the cessation of trading end day, the premises will operate a litter pick within 25 meters either side of the premises.

The Premises Licence was granted for the following:

Licensable Activities	Proposed Day/Times
Supply of alcohol (off-sales)	Monday to Sunday 0700 hours-2200 hours
Hours open to the public	Monday to Sunday 0600 hours-2300 hours