

23rd August 2019

Dear Ms Moreton

I am the licensing consultant representing Mr Taylor in the matter of the premises licence application for Meat & More against which you have made representation. Having received a copy of your representation today I wonder if I might present our response for your consideration?

Your representation states the following:

I write on behalf of the Licensing Authority as a Responsible Authority to make formal representations to the above application for a new premises licence as the premises falls within Wednesfield C.I.Z.

There is a rebuttable presumption that applications within a C.I.Z will be refused unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives; Prevention of Crime and Disorder, Prevention of public nuisance, Protection of Children from Harm and Public Safety.

Further clarity is required within the operating schedule to rebut the presumption of none grant.

Your representation indicates that our premises falls within Wednesfield CIZ which is, of course, correct. The representation continues in its second paragraph by quoting the CI policy and concludes in paragraph three with a statement to the effect that further clarity is required within the operating schedule to rebut the presumption of refusal.

These brief three paragraphs might appear to contribute to the end effect of preventing the grant of our application. With that in mind we might reasonably have hoped for a rather more structured argument to support your position; for example, in which area(s) of the operating schedule is more clarity required? What are the perceived deficiencies of the operating schedule? How is it that you feel this application, should it be granted, will contribute to CI? How will the operating schedule adversely impact upon the promotion of the licensing objectives? Essentially, how is this application lacking in clarity further to the rebuttal of CI as we would like to address that concern?

Embedded within Wolverhampton's CI policy are the grounds on which the policy can be set aside: the presumption of an application's refusal may be overridden if the applicant can demonstrate that there will be no negative cumulative impact. Clearly, none of us have a crystal ball into which we can see the future so none of us is able to predict with certainty that CI *will* result from the grant of an application. What we can assess, however, is the potential areas of concern and hence put into place measures to mitigate these concerns. We feel we have done this by proposing a series of robust conditions to ensure we successfully promote the licensing objectives and negate any potential for a negative impact upon CI. What might appear to be absent from your representation is any supporting evidence to suggest that our operating schedule is less than robust, is inadequate to aid the promotion of the licensing objectives and will therefore lead to a negative impact upon CI.

The thrust of your representation appears to be that we need to provide further clarity in our operating schedule. If that is so I'm unsure why we were not given the

opportunity during the consultation period to address your concern in order that we might have had a chance to provide the clarity you seek?

To counter the point made in the third paragraph of your representation I would argue that we have provided a full rebuttal of the CI policy in section M(a). We argue that the nature of the premises as a large grocery store will place it outside the scope of the type of low-cost alcohol-only off-licence which attracts street drinkers and those individuals looking to buy cheap high-strength alcohol. We have proposed conditions restricting beer and lager to a minimum of a four-pack purchase and also proposed a restriction upon the strength of beer, lager and cider to that at 6.5%ABV or below.

In addition we have proposed conditions on staff training, full CCTV coverage, the use of an incident/refusals log, drinks promotions assessments and Challenge 25 among other proposals. The hours we seek are fewer than those we would have been legally entitled to under the 1964 Licensing Act which, as you know, was repealed almost 14 years ago when the 2003 Act came into force. Finally, we will be closed each evening at 19:30, long before any pubs and clubs close for the night thus effectively removing our premises from any involvement in any ASB which may result during the night economy period.

The nature of our customer base is predominantly families buying their weekly shopping. Our business operation is unlikely to be attractive to those individuals likely to go on to create ASB in the town and thus cause us to add to CI.

Based upon these proposals I must confess that I am struggling to see where further clarity might be needed? Obviously I would be pleased to receive your thoughts on this as we are keen to work with you in order that your concerns may be satisfied. If you have any conditions you would be reassured to see on our licence I will be pleased to receive them to present to the applicant for consideration with a view to adding them to our operating schedule.

Naturally we would prefer that there is no need for a hearing to determine this application so would like to suggest that based upon the matters detailed above you might give consideration to withdrawing your representation. Failing that we would respectfully request that you provide us with further information so that we may have an idea of what is meant with regard to providing further clarity within the operating schedule.

Having read this submission I hope you are able to reconsider your position and feel able to withdraw it. If I can assist further please do not hesitate to contact me.

I look forward to your response.

Many thanks

Kind regards

Paul Jones

Licensing Consultant
Innpacked



23rd August 2019

Dear PS Reynolds

I am the licensing consultant representing Mr Taylor further to the Meat & More premises licence application against which you have submitted a representation. With a view to mediation, working with the responsible authorities and seeking the withdrawal of your representation I wonder if I might address the points in your representation in order as I think that perhaps there may be a couple of areas for which I may be able to provide further clarification?

[Under the Prevention of Crime and Disorder](#)

[The application has not suitably addressed how they will not contribute to the CI in the area.](#)

Section M (a) of the application provides our response to the requirements of cumulative impact (CI). We feel that we have made a strong rebuttal argument further to CI. This, coupled with the conditions we have proposed and the nature of our premises, should be taken overall as our argument to rebut the CI policy. Our premises is similar in approach to an outlet like *Iceland*, that kind of grocery store. What we are not is a '*pile 'em high and sell 'em cheap*' off licence. Alcohol will be only a small part of the groceries we sell. More of this later.

[The application states they will "voluntarily" decline single sales. This is not enforceable and is then optional and cannot be controlled.](#)

With respect I think that this is a misunderstanding of the final sentence of paragraph two in section M (a). The point I made here was that we have *voluntarily* proposed a condition - M(b) condition 6 - preventing the sale of single cans so this *will* be conditional upon the licence. Our proposed condition 6 states:

All cans of beer, lager and cider in containers containing less than 500ml shall not be sold in single cans. A multipack containing a minimum of four cans shall be the only permitted purchase method.

As you can see, we are voluntarily self-imposing a condition preventing the sale of single cans. The condition is therefore enforceable and alcohol supplies can be controlled with the aid of this condition. Proposed condition 6 is also coupled with condition 5 restricting the strength of beers and lagers we sell to a maximum of 6.5%ABV. Clearly we are addressing the potential for street drinking issues with these two voluntarily self-imposed conditions.

[The alcohol sales time are in line with the opening hours from 08:30 hrs until 19:30 hours. There is nothing in the application that justifies the reason for alcohol sales that early.](#)

The s.182 Guidance states at para. 10.15:

"Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail

outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours."

This provides the justification for commencing alcohol sales at 08:30, i.e. the point at which we open our doors to the public – a public we should remember, who will be unable to buy single cans or cans of high-strength beer.

We should also consider that Guidance paragraph 10.10 includes the following provision:

Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.

Placing differing alcohol supply hours to opening hours on a premises licence can lead to the premises licence holder having to go to additional costs further to buying lockable display cabinets and the potential discord this can provide when a customer wants to purchase a bottle of wine with their shopping.

Additionally, we are looking to remain open to the public for eleven hours a day and six on a Sunday. Under the 1964 Licensing Act, repealed almost 14 years ago, off licences were permitted to remain open and selling alcohol for twelve hours a day. As we can see we have applied for fewer hours than we would have been entitled to 14 years ago and have not taken advantage of our right to apply for up to 24 hour alcohol supply. Our application, then, might appear to be quite modest in that regard. We will also be closed at 19:30, which I would suggest places us entirely outside any potential late night alcohol-fuelled town centre ASB problems which may arise in this CIZ.

It has not been established what proportion of the shops stock will be utilised for alcohol sales.

This is not entirely correct. The alcohol display area is clearly defined on the premises plans, i.e. the bottom right corner of the premises plans. As you can see the alcohol display area is very restricted and constitutes only a small proportion of the premises.

The application does not state whether spirits will be sold and if so where they will be located.

As I am sure you are aware there is no requirement within the Act to state in an application the types of alcohol to be sold from a premises. The licensable activity to be authorised is 'the supply of alcohol'; there is no necessity to clarify in an application whether spirits will be sold. All the alcohol will be located as per the premises plans. I can confirm, however, that spirits will not be sold at the premises and we will be happy to adopt a suitably worded condition further to this if it will offer you reassurance.

The premises is situated in a CIZ

The premises is indeed located within a CIZ. This alone is not a justification to refuse an application as applications which will *not* add to CI are able to be granted under a CI policy. The CI policy is not justification for a blanket refusal

of every application made with the CIZ. The policy itself states quite clearly that it is rebuttable, that is to say that written within the policy are grounds for disregarding that same policy. We have provided above and in section M (a) of the application form our grounds for disregarding, i.e. rebutting, the CI policy. We firmly believe that our premises will not contribute to CI and neither will it have an adverse effect upon the promotion of the licensing objectives.

I hope therefore that the matters I have listed above can offer you the reassurance that you need to be able to reconsider your position with regard to Police opposition against the application. While the Police are able to take a view on our submissions and have the right to disagree with our argument what might appear to be absent from the representation is any suggestion of how our operation is likely to *add* to CI or how our operation may be likely to adversely impact upon the promotion of the licensing objectives. What is either missing from, or included in, this application to which the Police can point and say that this or that will likely add to CI?

As a responsible authority the Police are entitled to make representation as they see fit; however, we should also remember that a premises licence application is not a paper exercise. This application represents Mr Taylor's livelihood, effectively the survival of the business. As we all know, in these challenging economic times surviving in a retail environment, particularly in the grocery sector, means having parity with your competition. It may be a harsh fact, but without the ability to sell alcohol a grocery business will struggle to compete with other businesses who are able to sell alcohol. We are not asking for more than our competitors, simply parity with them. An ability to compete and make a success of the business. Successful businesses contribute to successful towns, which is, after all, what we all want I would suggest.

Having read this submission I hope you are able to reconsider your position and give thought to withdrawing it. If I can assist further please do not hesitate to contact me.

I look forward to your response.

Many thanks

Kind regards

Paul Jones

Licensing Consultant
Innpacked

