

LICENSING SUB COMMITTEE A

A meeting of Licensing Sub Committee A was held on 14 October 2010.

PRESENT: Councillor Porley (Chair); Councillors Mawston and J Walker.

OFFICERS: B Carr, C Cunningham and T Hodgkinson.

ALSO IN ATTENDANCE: R Bell - Training Manager, Bar Central Ltd
B Jenkins - Director, Bar Central Ltd
P Jenkins - Director & DPS, Bar Central Ltd
L Lewis - Objector - Chair, Middlehaven Community Council
T McClurg - Objector - Chair, Central Mews Residents Association
B Wilson - Objector - Treasurer, Central Mews Residents Association

**** DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members at this point of the meeting.

LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – THE CENTRAL, CORPORATION ROAD, MIDDLESBROUGH - REF. NO. MBRO/PRO135

A report of the Head of Community Protection had been circulated outlining an application to vary the Premises Licence in relation to The Central, Corporation Road, Middlesbrough, Ref No. MBRO/PRO135, as follows:-

Summary of Proposed Licensable Activities

Ground Floor - Monday – Sunday	10.00am – 1.00am
Christmas Day	11.00am to 2.00pm & 7.00pm to 12.00 midnight
Bank Holiday Weekends	10.00am to 12 midnight
New Years Day	10.00am to 12.30am
First Floor - Monday to Sunday	11.00am to 1.00am

A copy of the current premises licence was attached at Appendix 1 to the report.

Summary of Proposed variation

- To extend the hours for the ground floor of the premises to 1.00am, in line with the hours held for the 1st floor of the premises.
- To add a condition in relation to the provision of CCTV.
- To remove/amend wording on a number of current conditions.

Full details of the application and accompanying Operating Schedule were attached at Appendix 2 to the submitted report.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

The two Directors and the Training Manager of Bar Central Limited, were present at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received. The applicants presented additional documentation in support of their application for consideration by the Committee. The meeting was adjourned for ten minutes for the Objectors to consider the additional information and decide whether the documents could be considered as part of the application.

The representative from Middlehaven Community Council advised that she wished to object on behalf of the members of the Community Council, to the supporting information being considered as part of the application, on the grounds that the Community Council had not had the opportunity to consider the additional documentation. The Council's legal representative advised Members of the Committee to accept the supporting information as part of the applicant's case

as it expanded upon the initial application. Objectors had been given the opportunity to consider the documentation and could make representations and ask questions of the applicant in relation to it.

Details of the Application

The Principal Licensing Officer presented the report in relation to an application, received on 19 August 2010, for a variation of the Premises Licence in relation to The Central, Corporation Road, Middlesbrough, as outlined above. The applicant had advertised the application, as required by the Licensing Act 2003, in the Herald and Post on 9 September 2010.

The report provided background information in relation to the premises which, consisted of a ground floor bar/pub with a function room on the 1st floor of the premises.

Details of two representations, received from Middlehaven Community Council received on 10 September 2010 and Central Mews Residents Association received on 13 September 2010, were attached at Appendices 3) and 4) to the submitted report. It was highlighted that Middlehaven Community Council had made representations on the grounds of the prevention of crime and disorder and the prevention of public nuisance. Central Mews Residents Association had made representations on the grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

Cleveland Police had not offered any objections to the application following agreement with the applicant to the inclusion of the following conditions:

- Premises to be fitted with digital colour CCTV to cover both internal and external areas of the premises which will be recording at all times. Footage will be retained for a period of 31 days and will be made available to the Police and other responsible authorities.
- Signage will be on display, which will be visible to customers, informing members of the public that a CCTV system is in operation and recording.

The Council's Environmental Health Officer had not offered any objections to the application following agreement with the applicant to the inclusion of the following conditions:

- No amplified music or sound shall be permitted in the outside beer garden area to the north of the premises at any time.
- Notices in prominent positions easily seen by patrons using the beer garden should be displayed, advising customers that it is a residential area and that they should be considerate about the noise they make.

The applicant had met with the Council's Environmental Health Officer on a number of occasions regarding the use of the beer garden and had also given a written undertaking to the Environmental Health Officer that should any valid complaints be received from residents regarding the use of the beer garden, the use of the beer garden would be reviewed.

Applicant in Attendance

The two Directors and the Training Manager from Bar Central Limited presented the case in support of the application.

The applicants advised that they were a small family business, competing against large national operators. The premises operated a stringent pricing policy and all of their alcohol was priced at a minimum of £2.50 per pint. The premises attracted an older customer base with the majority of customers being in the 35 – 50 age range. Members were advised that the premises also operated a 'Challenge 21' policy to deter under age drinking.

Since taking over the tenancy of the premises on 3 January 2010, the Sub Committee was advised that the applicants had spent in the region of £35,000 on refurbishment of the premises, including the installation of CCTV to the interior and exterior of the premises. The applicant

advised that the Police and the Licensing Team had used evidence from the CCTV footage of the premises to assist in recent prosecutions in relation to anti social behaviour and a taxi licensing enforcement issue.

The applicants had met and held discussions regarding the future of the business with representatives from One North East and as a consequence, greater emphasis had been placed on attracting diners to the premises.

The applicants indicated that the granting of a 1.00am licence for the Ground Floor of the premises would not lead to an increase in customers to the premises. The customers would already be at the premises and it would enable them to remain for the rest of the evening, instead of moving on to another establishment with a 1.00am licence. It was highlighted that since the application had been submitted, the premises had opened until 1.00am on the 1st floor on twelve occasions, without any incidents.

The applicants acknowledged that in the summer of 2010 there had been a number of occasions where the external doors had been opened. However, the applicants advised that once the problem had been brought to their attention, the staff including the DPS had received further training and procedures were put in place to ensure that all external doors remained closed throughout the evening.

In response to the objections raised by the Central Mews Residents Association, the applicants advised that the incident in respect of anti social behaviour which took place on 6 September was not recorded on the premises CCTV footage, and could not be directly linked to The Central. In respect of reports of people urinating at the rear of the premises, there was no evidence to suggest that the people were customers of The Central. The applicants advised that they were the only premises within the saturation zone that securely locked up their bins.

Questions to the Applicant

The Council's legal representative and Members of the Committee asked questions of the applicants and the following issues were raised:

- In response to a query by the Council's legal representative, it was confirmed that the upstairs function room was open when hired which was most weekends and that the beer garden at the rear of the premises remained open until 1.00am. The applicant advised that the premises had recently acquired an extension until 2.00pm but had closed at 1.15pm through lack of customers.
- The applicant was asked by the Council's legal representative how they would prevent the incidents in respect of the rear doors being opened in future. The applicants advised that staff had received further training regarding the conditions of the licence. Regular checks were carried out to ensure the doors remained closed. The applicants advised that they had brought a copy of the staff training records and the staff training manual for Member's information.
- A query was raised regarding the possibility of locking of the double doors at the rear of the premises. The applicant's advised that the double doors were designated fire exits and as a consequence it was not possible for the doors to be locked.
- In response to a query regarding how customers dispersed from the premises, the applicants advised that customers vacated the premises via the front doors.
- In response to a query regarding smoking receptacles for customers to dispose of used cigarettes, Members were advised that a number of bins had been installed to dispose of discarded cigarettes.
- In response to a query regarding the noise levels of sound equipment, Members were advised that the sound level was set at 85db and only the DPS was authorised to change the settings. The applicants had also advised the DJ who performed at the premises on a Friday evening regarding the correct sound levels.

Relevant Representations

Middlehaven Community Council

The representative from Middlehaven Community Council was in attendance at the meeting to make representations on behalf of members of the Community Council who opposed the application.

The representative stated that residents of the Community Council were concerned regarding the proposed extension to the hours for the ground floor of the premises to 1.00am. Residents had indicated that they were concerned regarding the noise associated with the use of the beer garden. Residents had also expressed concern regarding the dispersal of customers at the end of the evening and whether the proposed extension to the hours would result in an increase in problems of anti social behaviour. The applicants advised that customers very rarely dispersed en masse and that they did not anticipate any problems with increased anti social behaviour.

Central Mews Residents Association

Two representatives from Central Mews Residents Association were in attendance at the meeting to make representations on behalf of members of the Central Mews Residents Association who opposed the application.

The Chair of Central Mews Residents Association congratulated the applicants on the installation of the CCTV system, however he pointed out that it did not monitor the volume of noise. He highlighted that the volume had been very loud throughout the summer months because of the open doors and windows. He reported that two weeks previously he had found 3 empty vodka bottles, 2 lots of vomit and some human excretion at the rear of the premises.

The Treasurer of Central Mews Residents Association asked the applicants if they were preventing customers from smoking outside the front of the premises because customers had the facility of the beer garden for the use of smoking.

The applicants stated that the problems with empty bottles, vomit and human excrement could not be directly attributable to customers of The Central, as there was five different licensed premises in the area. In response to the comment regarding smoking at the front of the premises, the applicants stated that they could not prevent customers from smoking at the front of the premises. The applicants had, however spent £2000 to have a mural painted in the beer garden and they had also acquired artificial trees to make the garden more attractive. The double doors at the rear of the property were double glazed to buffer the noise.

The Principal Licensing Officer advised that when the Licensing enforcement team had visited the area, the background noise in the area was higher than usual because of the number of premises in the area. He highlighted that the noise could not be attributed to one particular premise. He stated that the only time the enforcement could hear noise from the premises was when the double doors were open. When the Licensing enforcement team had asked the Premises Supervisor to close the doors, he had done so immediately, and the noise was no longer evident. Members were advised that the premises had also been monitored at the rear, in particular the beer garden, on a number of occasions and each time the monitoring had taken place, only two or three people had been present in the beer garden and there had been no notable problems in respect of noise.

Summing Up

The applicants summed up by stating that the proposed extension to the hours would bring the premises in line with neighbouring premises and would benefit their existing customer base. They stated that they had a strong working relationship with the Police and the Licensing Team and aimed to continue operating the premises in a responsible manner.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal Services and the Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Council's Legal Representative announced the Committee's decision.

The Committee considered the report and the written and oral representations made by the applicant and representatives from Middlehaven Community Council and Central Mews Residents Association.

It considered the guidance and Middlesbrough's policy including the saturation policy in the town centre area.

The Committee heard the residents' concerns about noise disturbance emanating from the premises when windows and doors are left open and general alcohol fuelled problems in and around the Central Mews area and the side access from the premises. It heard that any extension to the ground floor hours would only add to the problems. The Licensing Officer explained that there had been some breaches of licensing conditions in the past when windows and doors had been left open.

However, the Committee noted that neither the police nor environmental health objected to the extension of hours but agreed with the applicant that CCTV and prevention of noise disturbance conditions be put on the licence. The applicant confirmed that it had now trained all staff to ensure windows and doors were closed when regulated entertainment was provided, installed CCTV and worked with the police. It was confirmed that there are two sets of doors, internal and external which lead to the beer garden to prevent noise escaping from the premises. The Licensing Officer confirmed that when doors and windows were shut noise was not evident from the premises. The Licensing Officer also confirmed that environmental health monitored the noise level from the beer garden which, did not appear to be causing a disturbance.

The Committee therefore concluded if current, amended and new conditions were complied with, the additional hours in line with the existing hours operated on the first floor of the premises would not add to the problems or adversely impact on the saturation area.

Decision

That the sale of alcohol on premises and provision of regulated entertainment specified in the Application to Vary be extended until 1.00am Monday to Sunday (inclusive) with the premises to close 30 minutes thereafter.

That the current conditions be amended as follows:

1. Between the hours of 8pm and 1.30am on Fridays and Saturdays and between the hours of 8.00pm and 1.30am Sundays there shall be 2 SIA registered door staff in attendance at the Premises.
2. To fix and maintain in working order external lighting to illuminate the rear of the premises including the beer garden and the side and front accesses to the premises. The lighting to the rear of the premises must not shine directly on or illuminate adjacent residential premises.
3. That at least one personal licence holder be present on the premises at all times from 7.00pm until 1.30am Fridays to Sundays (inclusive).
4. All members of staff paid or unpaid to receive training every six months in relation to the conditions applicable to this licence including but not limited to audio equipment noise levels, the requirement for doors and windows to be closed when regulated entertainment is being provided and that no amplified sound be permitted in the outside beer garden. Once training has been completed every six months every member of staff must sign a document to confirm

such training has been undertaken by them. Documented records relating to every member of staff detailing the date and training received together with the staff member's signature must be maintained at the premises and must be made available to the police trading standards or enforcement officers on request and / or during an inspection of the premises.

5. All external doors and windows and the internal rear doors leading to the external doors to the beer garden to be kept closed when regulated entertainment is being provided except in the case of an emergency and except that the doors fronting Corporation Road are permitted to remain open until 8.00pm daily.

That the premises licence be subject to the following new conditions:-

1. The Premises be fitted with digital colour CCTV to be recording at all times clearly, the exterior and interior of the premises including the rear external area including the beer garden, the side and front entrances and exits. CCTV footage must be retained for a period of 31 days and must be made available to the police, trading standards and enforcement officers on request and / or during an inspection of the premises. The CCTV system must be maintained in good working order at all times.
2. Signage to be displayed externally at the rear of the premises and in the beer garden and internally informing the public CCTV system is in operation and recording.
3. That no amplified, recorded or live music or amplified or recorded sound shall be permitted in the beer garden to the rear of the premises at any time.
4. At least 1 Notice, easily seen by patrons, to be prominently displayed in the beer garden to the rear of the premises warning patrons that is near residential premises and to keep the noise levels low particularly after 11.00pm.

That the following condition be removed from the licence:

1. The premises shall comply with the requirements / recommendations of the MUSIC document.