

AGENDA ITEM

FOR THE CHAIR AND MEMBERS OF THE LICENSING SUB-COMMITTEE FOR 8 JANUARY 2018

APPLICATION FOR REVIEW OF PREMISES LICENCE

Ref No. OL/18/01

Applicant: James P McCluskey, Principal Trading Standards Officer

Premises: MK Convenience, 31-33 Saltersgill Avenue, Middlesbrough, TS4 3LD

Application received: 5 October 2017

Summary of Current Licensable Activities:

Sale of alcohol (off sales) – 9.00am until 10.00pm on Mondays to Sundays

A copy of the current premises licence is attached at **Appendix 1**.

1. Summary of Application:

This report was due to be considered at hearing scheduled to be held on 30 November 2017. However, due to unforeseen circumstances the matter was adjourned until this.

The purpose of this report is to enable Members to consider an application for a review of the premises licence for MK Convenience, 31-33 Saltersgill Avenue, Middlesbrough made by the Council's Trading Standards Service. This follows a multi-agency operation carried out over 4 days in June and July 2017 involving officers from the Council's Trading Standards Service, HMRC, Immigration Enforcement and Cleveland Police licensing when 36 off licensed premises were visited within the Middlesbrough and Redcar areas.

At the time of the visit to these premises on 16 June 2017, HMRC officers revealed that UK Excise Duty in the sum of £458 had not been paid in respect of a range of alcoholic products being offered for sale. This resulted in the seizure of 99.5 litres of alcohol. A copy of the review application submitted by Mr McCluskey, Principal Trading Standards Officer is attached at **Appendix 2**.

2. Legislation

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety

- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State.

In accordance with the requirements of Section 51 of the Licensing Act 2003, a copy of the review application was served on the premises licence holder Mr Keith Pratt and all the Responsible Authorities.

Also, a notice of the review application was posted at the premises and also at the Council's offices at the Civic Centre, Middlesbrough.

3. Consultation on review application

The premises licence holder, any responsible authority or any other person are invited to make representations in respect of the review application within 28 days following publication of a notice.

In response to the consultation, on 18 October 2017 the Director of Public Health submitted a representation in support of the review application, a copy of which is attached at **Appendix 3**.

On 1 November 2017, a representation in support of the review application was submitted by Cleveland Police. A copy of that representation is attached at **Appendix 4**.

On 2 November 2017, a representation was received from the Licensing Authority acting in its role as a Responsible Authority. A copy of that representation is attached at **Appendix 5**.

On 30 November 2017, a submission was received from the licence holder's legal representative, enclosing three references from the police regarding the CCTV and management of the CCTV at the premises. Copies of these documents are attached at **Appendix 6**.

4. Background

These premises have operated with the benefit of a premises licence authorising the sale of alcohol for consumption off the premises since 19 March 2008. Mr Keith Pratt held the licence since 20 September 2012 following a transfer application made at that time. He has also been the named premises supervisor since that time.

On 29 November 2017, the licence holder Mr Pratt made application to vary the premises licence to change the premises supervisor to Carol Anne Nivens. Following a 14 day consultation period, the police raised no objections to the application and the licence has since been varied to include Ms Nivens as the new premises supervisor.

On 6 December 2017, Mark Patrick Finnegan submitted an application to transfer the premises licence for the MK Convenience Store from Mr Pratt. In response to the consultation on such application, the police have objected to Mr Finnegan becoming the premises licence holder in view of his involvement in the purchase of the alcohol that was seized by HMRC officers at the time of the visit to the premises on 16 June 2017.

In view of the police objection to Mr Finnegan's application to transfer the premises licence, provisional arrangements have been made for such application to be determined by the Licensing Sub-Committee in due course. Although a decision will be taken whether a

hearing of the transfer application will be necessary depending on the outcome of the review application.

5. The Licensing Policy

Members are referred to the following relevant sections of the Council's Licensing Policy.

Prevention of Crime and Disorder	Pages 20 to 24
Reviews	Pages 47 to 50

And any other sections of the Policy which Members consider to be relevant.

6. Guidance to the Licensing Act 2003

Members are referred to the following relevant sections of the Guidance.

Prevention of Crime and Disorder	Starting at paragraph 2.1
Reviews	Paragraph 11

And any other sections of the Guidance which Members consider to be relevant.

7. Members' Options

Members may consider the following options:

- a. To modify the conditions of the licence.
- b. To exclude a licensable activity from the scope of the licence.
- c. To remove the Designated Premises Supervisor
- d. To suspend the licence for a period of not exceeding 3 months.
- e. To revoke the licence.
- f. Alternatively, Members may consider that it is not necessary to take any of the above steps and may issue an informal warning and/or or recommend improvement within a certain time period.

Any party to the hearing who may be aggrieved by the decision taken by the Licensing Sub-Committee would have a right of appeal to the Magistrates' Court.

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