

AGENDA ITEM

FOR THE CHAIR AND MEMBERS OF THE LICENSING SUB-COMMITTEE FOR 12 JANUARY 2018

APPLICATION FOR REVIEW OF PREMISES LICENCE

Ref No. OL/18/02

Applicant: James P McCluskey, Principal Trading Standards Officer

Premises: CM News, 460 Linthorpe Road, Middlesbrough, TS5 6JG

Application received: 5 October 2017

Summary of Current Licensable Activities:

Sale of alcohol (off sales) –
8.00am until 11.00pm on Mondays to Saturdays
10.00am until 10.30pm on Sundays

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

1. Summary of Application:

This matter was due to be considered by the Licensing Sub-Committee at a meeting scheduled to be held on 29 November 2017. However, due to time constraints the matter was adjourned and rescheduled to be considered on this date.

The purpose of this report is to enable Members to consider an application for a review of the premises licence for CM News, 460 Linthorpe Road, 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 15 June 2017, HMRC officers revealed that UK Excise Duty in the sum of £346 had not been paid in respect of a range of alcoholic products being offered for sale. This resulted in the seizure of 200.5 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 Ms Mary Redjeevaraji Jeyaratnam 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**. The Police subsequently submitted a further statement and photographs in support of their representation, copies of which are attached at **Appendix 4a**.

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 24 November 2017, a submission was received from the licence holder's legal representative containing 55 pages of invoices in relation to purchases of various products including alcohol made by CM News. A copy of this bundle of invoices is attached at **Appendix 6**.

On 14 December 2017, the licence holder's legal representative submitted a list of 6 proposed conditions to be attached to the premises licence for the consideration of the review applicant Mr McCluskey and the other responsible authorities in an attempt to reach an agreed position to present to the Licensing Sub-Committee. A copy of such list of conditions is attached at **Appendix 7**. However, the responsible authorities consider that it is a matter for the Licensing Sub-Committee to determine whether the imposition of such conditions will be sufficient to address the concerns giving cause for the review application, having regard also for all the evidence, representations and submissions presented by all parties.

On 22 December 2017, the licence holder's legal representative submitted 4 photographs showing the inside of the CM News premises, copies of which are attached at **Appendix 8**. Also, a list of existing off licensed premises located within 500 metres of CM News, which the licence holder's legal representative wishes to make reference to is attached at **Appendix 9**.

4. Background

These premises have operated with the benefit of a premises licence authorising the sale of alcohol for consumption off the premises for a number of years. The current licensee Ms Jeyaratnam, has held the licence since 26 March 2015 following a transfer application made at that time. Ms Jeyaratnam is also the named premises supervisor on the licence.

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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