

**FOR THE CHAIR AND MEMBERS OF
THE LICENSING SUB-COMMITTEE
FOR 15 MAY 2018**

APPLICATION FOR PREMISES LICENCE

Applicant: Carol Anne Nivens

Ref.No. OL/18/08

Premises: Carol's Convenience Store, 31-33 Saltersgill Avenue, Middlesbrough, TS4 3LD

Application received: 22 March 2018

Summary of Proposed Licensable Activities:

Sale of Alcohol (Off sales) 9.00am – 10.00pm Daily

Full details of the application and accompanying operating schedule have been reproduced at Appendix 1.

1. Notification to Responsible Authorities:

The following Responsible Authorities have all received notification of the application:

Chief Constable	Planning Manager
Chief Fire Officer	Trading Standards Manager
Area Child Protection Group	Director of Public Health
Environmental Health Manager (Public Safety and Public Nuisance)	Home Office (Immigration Enforcement) Licensing Authority

2. Application advertised by the applicant: Evening Gazette – 29 March 2018

3. 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.

4. Background

The premises consists of a local convenience store and newsagents which have also previously operated as an off licence from 19 March 2008 until 27 February 2018 when the Premises Licence was revoked by the Licensing Committee following a review hearing.

The premises, previously known as MK Convenience Store, was reviewed by the Council's Trading Standards Service following 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.

During a 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.

As a result of the application for review, the Council also received representations from Cleveland Police, Public Health and the Council's Licensing Service, acting as a Responsible Authority.

On 27 February 2018 the Licensing Committee heard representations from Trading Standards, Public Health, Cleveland Police, Licensing Officers and representations on behalf of the Premises Licence holder before deciding to revoke the Premises Licence. A copy of the notice giving reasons for the decision is attached at **Appendix 2**.

Members are reminded that as part of its overall Statement of Licensing Policy, the Council has established a Cumulative Impact Policy (CIP) in relation to off licence premises in Middlesbrough town centre which covers certain wards including Longlands and Beechwood Ward, the area within which these premises are situated.

Work has been carried out to identify the location of off licence premises and links to crime, disorder, anti-social behaviour and alcohol attributable admissions to James Cook University Hospital. The evidence shows that there is a relationship between the density of off licence premises, crime and disorder/antisocial behaviour and alcohol attributable hospital admissions.

The evidence shows that the wards of Central, Newport, Park, Longlands and Beechwood and North Ormesby have the highest level of crime and antisocial behaviour, the highest number of off licence premises and alcohol attributable hospital admissions.

The Licensing Authority considers that the density of off licence premises in these wards is having a negative impact on crime and disorder. Whilst maintaining public health is not a licensing objective, many of the hospital admissions arise from alcohol related crime and disorder.

The Cumulative Impact Policy has been applied to this designated area due to the number, type and density of the premises selling alcohol for consumption off the premises. The Licensing Authority is satisfied that there is good evidence that crime and disorder or nuisance occurring in this location is being caused by the customers of off licence premises, and that the cumulative impact of off licensed premises in this location is evident.

The Licensing Authority has agreed that the Cumulative Impact Policy should be applied to:

- new premises licences for the sale of alcohol off the premises
- material variations to existing off licence premises.

The effect of this policy is to create a rebuttable presumption (following relevant representations) that applications within the cumulative impact area will normally be refused. To rebut this presumption, an applicant would be expected to show through the operating schedule and where appropriate, with supporting evidence, that the operation of the premises will not add to the cumulative impact already being experienced.

With regard to Cumulative Impact Policies, the revised guidance issued under the Licensing Act effective from 6 April 2018 at paragraph 14.44 states that a Cumulative Impact Assessment (CIA) should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application or for a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

5. The Representations

On 7 April 2018 a representation was received from Cleveland Police objecting to the application on the grounds of the prevention of crime and disorder, public safety and because the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 3**.

On 18 April 2018, a representation was received from the Director of Public Health objecting to the application on the grounds of the prevention of crime and disorder, public safety and because the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 4**.

On 18 April 2018, a representation was received from the Trading Standards Service on the grounds of the prevention of crime and disorder, the protection of children from harm, and because the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 5**.

On 18 April 2018, a representation was received from the Council's Licensing Service, acting as a Responsible Authority, on the grounds of the prevention of crime and disorder, public safety and because the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 6**.

On 19 April 2018, a representation was received from Councillor Teresa Higgins and Councillor Charlie Rooney, Ward Councillors, objecting to the application. They state that they still have concerns relating to the links between the applicant and the previous management of the premises and point out that the premises is situated in one of the most deprived areas of Middlesbrough. A copy of that representation is attached at **Appendix 7**.

On 1 May 2018, further information was received from the applicant's Legal representative in support of the application. A copy of this information is attached at **Appendix 8**. On 3 May 2018, the applicant's legal representative submitted a petition in support of the application, a copy of which is attached at **Appendix 8 (a)**.

6. The Licensing Policy

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

Prevention of Crime and Disorder	Page 20
Public Safety	Page 25
Prevention of Public Nuisance	Page 27
Protection of Children from Harm	Page 30
Cumulative Impact – off licence premises	Pages 42 and 43

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

7. 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
Public Safety	Starting at para 2.7
Prevention of Public Nuisance	Starting at para 2.15
Protection of Children from Harm	Starting at para 2.22
Cumulative Impact	Starting at para 14.20

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

8. Members' Options

Members may consider the following options:

1. Grant the application subject to conditions consistent with the operating schedule modified to such extent as considered appropriate for the promotion of the licensing objectives, provided that Members are satisfied that the granting of the application will not add to the existing cumulative impact in the area of the premises.
2. To refuse to specify a person in the licence as the premises supervisor.
3. To reject the application.

Members are reminded that any aggrieved party (i.e. Applicant, Responsible Authority, Other Person) may appeal any decision of the Licensing Committee to the Magistrates' Court.

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