

## AGENDA ITEM 4

### FOR THE CHAIR AND MEMBERS OF THE LICENSING SUB-COMMITTEE FOR 14 JUNE 2018

## APPLICATION FOR REVIEW OF PREMISES LICENCE

Ref No. OL/18/10

**Applicant:** Sinead Upton, Principal Trading Standards Officer

**Premises:** Boro 24 Hour Shop, 293 Linthorpe Road, Middlesbrough, TS1 4AP

**Application received:** 3 April 2018

#### **Summary of Current Licensable Activities:**

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

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

#### **1. Summary of Application:**

The purpose of this report is to enable Members to consider an application for a review of the premises licence for Boro 24 Hour Shop, 293 Linthorpe Road, Middlesbrough made by the Council's Trading Standards Service. This is a result of serious concern to the Council's Trading Standards Service about the operation of the business, particularly in relation to the business being involved in activities which breach criminal legislation. Concerns have also been raised about the operation of the business in relation to underage sales of restricted products from a Social Worker from Barnardo's following a visit to the premises as part of a multi-agency operation to safeguard vulnerable young people, and by Cleveland Police.

Following the receipt of intelligence about the sales of alcohol to children from the premises, on 16 June 2017 Trading Standards officers carried out a test purchasing exercise with two 15 year old male volunteers regarding the sale of alcohol. The volunteers were sold a pack of 4 cans of Stella Artois lager by the sales assistant at the premises who at no time asked the volunteers for proof of age.

On 30 June 2017 PC Arbuckle attended the premises to seize the refusals register and incident book and requested training records which were not at the premises and were produced at a later date. During this visit PC Arbuckle noticed that the CCTV system installed at the premises was not switched on. The training records show that the members of staff that sold alcohol to the volunteers on 16 June 2017 had not received any training.

Following a multi-agency operation on 5 January 2018 concerns were raised by a Social Worker from Barnardo's in relation to the sale of cigarettes. The Social Worker reported that a member of staff had confirmed that he would be willing to sell cigarettes to children as

young as 8 or 9 years provided the children rang their parents from the premises and got their permission for the sale to take place.

On 13 January 2018 a PCSO visited the premises and suspected that an underage sale of an age restricted product would have taken place had he not been present.

A copy of the review application submitted by Sinead Upton, 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 Surjit Singh Punyani 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 25 April 2018 the Director of Public Health submitted a representation in support of the review application, on the grounds of the prevention of crime and disorder and public safety. A copy of that representation is attached at **Appendix 3**. Copies of further documents submitted in support of the Public Health representation are attached at **Appendix 3 (a)**.

On 26 April 2018, a representation in support of the review application was submitted by Cleveland Police on the grounds of the prevention of crime and disorder and the protection of children from harm. A copy of that representation is attached at **Appendix 4**. A witness statement and incident reports since submitted by Sergeant Paul Higgins in support of the Police representation are attached at **Appendix 4 (a)**.

On 27 April 2018 a representation in support of the review application was submitted by the Responsible Authority for Children's Services on the grounds of the prevention of crime and disorder and the protection of children from harm. A copy of that representation is attached at **Appendix 5**.

In response to the representations made regarding the review of the premises licence, a letter has been submitted by the licensee Mr Punyani regarding staff training he has provided. A copy of such letter is 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 12 January 2007. Mr Surjit Singh Punyani has held the licence since 29 April 2013 following a transfer application made at that time. He has been the named designated premises supervisor since 29 July 2013.

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 Newport and Central Ward, the area within which these premises are situated. However, the guidance issued under the Licensing Act provides that cumulative impact assessments should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises (paragraph 14.45 refers).

#### **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
Protection of Children from Harm	Pages 30 to 35
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
Protection of Children from Harm	Starting at paragraph 2.22
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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