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## LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B was held on 20 September 2005.

**PRESENT:** Councillor Porley (In the Chair), Councillor J A Jones and Councillor G Clark.

**OFFICIALS:** C Arbuthnot, M Braithwaite, T Hodgkinson, S Vickers and S Wears.

**\*\*ALSO IN ATTENDANCE:**

**For Agenda Item 4 only – The Kingfisher:**

PC. Graham (Cleveland Police Licensing Dept.)  
Y Taylor (Legal Representative for Cleveland Police)  
R Allen, (Applicant)

**For Agenda Item 5 only – Coulby Farm Hotel:**

PC. Graham (Cleveland Police Licensing Dept.)  
Y Taylor (Legal Representative for Cleveland Police)  
C Telford (Spirit Group)  
C Johnston (Legal Representative for Applicant)  
Cllr P Thompson

**For Agenda Item 6 only – Café Central Park**

P Williams (Manager)  
I Mulally (Owner)  
C Harvard (Legal Representative for the Applicant)  
VV Anderson (Licensee)  
Cllr J Michna

**For Agenda Item 7 only – The Smithy**

Mr Lowe (Applicant)  
Cllr P Thompson

**\*\*DECLARATIONS OF MEMBERS' INTERESTS**

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

**\*\*APOLOGIES FOR ABSENCE:**

Apoloiges were submitted on behalf of Councillor Regan and Councillor A E Ward.

**\*\*APPOINTMENT OF SUBSTITUTES:**

Councillor Porley was in attendance to act as a substitute for Councillor Regan (Chair) and Councillor Clark was in attendance to act as a substitute for Councillor A E Ward.

**\*\*SUSPENSION OF COUNCIL PROCEDURE RULES – ORDER OF BUSINESS**

In accordance with Council Procedure Rule No. 10, the Sub-Committee agreed to vary the order of business to deal with the items in the following order to allow discussions to take place between the Police and applicants with a view to reaching agreement on changes to the Operating Schedules:

Agenda Item 6) Application to Vary Premises Licence - Café Central Park  
Agenda Item 5) Application to Vary Premises Licence – Coulby Farm Hotel  
Agenda Item 4) Application to Vary Premises Licence -The Kingfisher  
Agenda Item 7) Application to Vary Premises Licence -The Smithy.

**LICENSING ACT 2003. APPLICATION TO VARY PREMISES LICENCE – CAFÉ CENTRAL PARK, 337 LINTHORPE ROAD, MIDDLESBROUGH – REF NO. MBRO/PR0258/19585**

In attendance: Mr P Williams (Manager)  
Mr I Mulally (Owner)

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Mr C Harvard (Legal Representative for the Applicant)  
Mr V Anderson (Licensee)  
Cllr Michna

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

The Chair sought legal advice in regard to Councillor Michna's status as a resident in the ward and his ability to make representations on behalf of ward residents. After receiving advice the panel determined that Cllr Michna did not have a prejudicial interest.

The Head of Community Protection submitted a report outlining an Application to Vary the Premises Licence of Café Central Park, 337 Linthorpe Road, Middlesbrough. Ref No. MBRO/PRO258/19585 as follows: -

Summary of Current Licensable Activities:

Live and recorded music, dancing, late night refreshment and sale of alcohol for consumption on the premises.

Summary of Current Hours of Licensable Activities:

11.00am – 12 midnight Monday to Saturday  
12 noon – 11.30pm Sunday

Summary of Proposed Variation of Licensable Activities:

As above.

Summary of Proposed Variation to Hours of Licensable Activities:

11.00am – 12.30am daily (sale of alcohol)  
11.00am – 1.00am daily (all other activities)

Full details of the application and Operating Schedule were submitted. The Sub-Committee also received, circulated under separate cover, confirmation of the Applicants willingness to accept the following additional conditions:

- The first floor windows of the premises shall be closed at 23.30 hours;
- The conditions on the existing Public Entertainment Licence apply, namely that a noise limiting device be set at a level not to exceed 75 dB(A) when measured at 1 metre from speakers.

The Applicant confirmed that the Regulation 6 Notice had been received and that the report was an accurate reflection of the facts.

APPLICANT IN ATTENDANCE

The legal representative acting on behalf of the Applicant presented the case in support of the application to vary the licence.

He advised that the premises had been open for twenty years and had operated under the same licence for nineteen years. The applicant had recently commenced building work for an extension of the premises on the upper floor, for which a further application would be submitted and confirmed that the application before the Panel related only to the ground floor.

Speaking in support of the application the following points were made in respect of the objections received:

- Linthorpe Road was a busy area both in and out of the town centre, the police were used to covering the particular area of the town and had not raised any objections to the application;

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- The premises did not have the facility to sell alcohol for consumption off the premises;
  - The premises had been open for the past twenty years and the same licensee had been there for the last nineteen years. The Applicant had commenced building an extension on the upper floor of the premises, however the current application was only concerned with the ground floor
  - The disturbances referred to caused by people outside residents properties could not be directly attributed to patrons from the premises;
  - The premises mainly catered for families and couples rather than large groups of young people;
  - The premises did not generate large amounts of litter as they did not provide a take-away service
  - The premise already had a noise limiter installed the limits for which had previously been agreed with the Council's Environmental Health service.

It was suggested that the handwritten note in Appendix 2 of the report, attributed to a representative of McCarthy and Stone Developers, should not be regarded as a relevant representation as it was purely of a commercial interest and did not directly relate to one of the four Licensing Objectives of the Licensing Act.

It was stated that the representations submitted by Councillor Michna on behalf of Mr Khan were concerned with the potential increase in parking and noise as a result of additional traffic. The representative acknowledged that parking was difficult in the vicinity of the premises, it was however a matter of balance

It was confirmed that in order to limit noise disturbance notices had been fitted asking clients to exit the premises with respect for the surrounding area. It was also intended that background music would be played at a lower level for the hour before the premises was to close.

It was stated that the Applicant took the concerns of the surrounding residents very seriously and had no wish to be a bad neighbour, if it was necessary he was willing to meet with the residents to discuss any concerns that they might have.

The Principal Licensing Officer confirmed that the Premises Licence would include the conditions on the existing Public Entertainments Licence regarding the noise limiter, and that the Applicant had agreed to close all the windows in the premises at 11.30pm.

## RELEVANT REPRESENTATION

A representation had been received on 25 August 2005 from Councillor Michna, ward member for Park Ward on behalf of Mr Khan, a resident of Kensington Road objecting to the request for an increase in hours on the grounds of public nuisance relating to the proximity of the premises in a residential area, increased noise and disturbance and parking difficulties, the details of which were attached at Appendix 5 to the submitted report. The Councillor confirmed that although there was an overlap in comments received as part of other representations he was not representing residents from Constantine Court.

## SUMMARY

The Applicant and objectors were given the opportunity to sum up their cases prior to decision.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Sub-Committee determined the application.

Subsequently all interested parties returned to the meeting whilst the Chair announced the Sub-Committee's decision.

**ORDERED** as follows:

That the Application to Vary the Premises Licence be granted as follows:-

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11.00am – 12.30am. daily (Sale of Alcohol)  
11.00am – 1.00am daily (Other licensable activity)

Subject to the conditions consistent with the Operating Schedule and conditions on the existing Public Entertainment Licence including the fitting of a noise limiter together with an additional condition that all window be closed at 11.30pm

Reasons for the decision:

- i) The Application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003 and the information contained within the submitted report.
- ii) Consideration of the following paragraphs of Government Guidance issued by the Secretary of State on the Licensing Act 2003:
  - Paragraph 7.38 and Appendix G in relation to Public Nuisance.
- iii) Consideration of the following sections of the Council's Licensing Policy:
  - Page 10, Paragraph 42 in relation to Licensed Premises in Residential Areas
  - Pages 10 –15 particularly Paragraph 38 in relation to the Prevention of Nuisance.
- iv) Consideration of the case presented by the Applicant.
- v) Consideration of the representations made by Councillor Michna on behalf of Mr Khan.
- vi) Consideration of the written representations made by residents of Constantine Court.

**LICENSING ACT 2003. APPLICATION TO VARY PREMISES LICENCE – COULBY FARM HOTEL, STOKESLEY ROAD, MIDDLESBROUGH – REF NO MBRO/PR0032/018065.**

In attendance: PC. Graham (Cleveland Police Licensing Dept.)  
Y Taylor (Legal Representative for Cleveland Police)  
C Telford (Spirit Group)  
C Johnston (Legal Representative for Applicant)  
Cllr P Thompson

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

The Head of Community Protection submitted a report outlining the Application to Vary the Premises Licence of the Coulby Farm Hotel, Stokesley Road, Middlesbrough, Ref No. MRO/PR0032/018065.

The Principal Licensing Officer presented the report and drew attention to a correction to the date of receipt of the application, which was amended from 6 June 2004 to 28 July 2005, the corrected date being the date that the application was advertised in the local press.

The report was presented as follows: -

Summary of Current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises.  
Recorded music, provision of late night refreshment.

Summary of Current Hours of Licensable Activities:

11.00am – 11.00pm Monday to Saturday  
12 noon – 10.30pm Sunday

Summary of Proposed Variation to Licensable Activities:

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To include the following regulated entertainment:  
Live/recorded music, dancing

Summary of Proposed Variation to Hours of Licensable Activities:

10.00am – 12 midnight Sunday to Wednesday  
10.00am – 1.00am Thursday to Saturday

Premises to remain open to the public for an additional hour following the end of licensable activities, allowing for provision of late night refreshment.  
An additional hour on various notable times throughout the year.

Full details of the Application and Operating Schedule were submitted. The Sub-Committee also received, circulated under separate cover, clarification of the Applicant's statement regarding use of SIA approved door supervisors.

However, the Applicant's legal representative indicated that her client:1) sought to amend the proposed hours in line with those indicated in the Summary below, 2) had withdrawn the request for additional opening hours on occasions of local, national or international significance or for charitable events and 3), agreed to cease all activity in the area of the beer garden at 11.00pm:

Summary of Revised Proposed Variation to Hours of Licensable Activities:

Monday to Sunday 10.00 a.m. to 12 midnight

Premises to remain open to the public for an additional thirty minutes following the end of licensable activities, allowing provision of late night refreshment.

One additional hour on statutory bank holiday periods (Friday, Saturday, Sunday and Monday, Thursday before Good Friday and Christmas Eve, plus St David's, St Patrick's, St George's and St Andrew's days

The Applicant confirmed receipt of the Regulation 6 Notice and that the report was an accurate reflection of the facts.

The Principal Licensing Officer advised that following negotiations prior to the meeting, the applicant had agreed to amend the submitted Operating Schedule to reflect the conditions requested by the Police, thus allowing those elements of their representations to be withdrawn:

- An incident log to be kept up to date at all times.
- A representative from the premises to regularly attend Pubwatch.
- No time-led or all-inclusive drinks promotions
- No person under the age of 16 to be allowed in the licensed area after midnight whether accompanied or not.
- No licensable activities or consumption in the beer garden after 11.30pm

The remaining Police objections related mainly to issues relating to use of CCTV, the requirement for a drugs policy and secure drug safe and use of toughened glass for all drink glasses.

APPLICANT IN ATTENDANCE

The legal representative for the Applicant was invited to present the case in support of the Application.

It was confirmed that the Application had been amended to include the points mentioned above.

The applicant's legal representative submitted that there had been no significant police involvement in the past, nor had there been any complaints to the licensee from local residents

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within the previous year. As experienced licensees they had managed the premises for the previous four years and had no conditions attached to the current Justices Licence.

The premises were situated in their own substantial grounds and the nearest residential properties were eighty to one hundred yards away. Of the relevant representations that had been received, one had stated that they had had no problem with the premises, but did not wish to see the premises turned into a “night-club”, it was stated that that was not an intention.

Referring to the remaining Police representations regarding CCTV, the use of toughened glass and a drugs safe to be installed at the premises and drugs policy, it was felt that there was no evidence to suggest that any of the measures suggested were necessary for the premises. Black and white CCTV equipment was already in place and, that due to the location (i.e. not a town centre premise), size and nature of the premises, the requirement for colour CCTV was unnecessary. The Police had presented no evidence of issues that would require the use of toughened glass for all drinking glasses, nor evidence that the use of drugs on the premises would require the installation of a “drugs safe”. It was submitted that the representations made by the Police were standard and as such went against the spirit of the Licensing Act. The requests were not venue specific and should not be implemented as part of the Licence.

## RELEVANT REPRESENTATIONS

### **CLEVELAND POLICE**

The Police representatives were invited to present their outstanding representations against the variation to the licence.

Referring to paragraphs 26, 30, 42 and 80-83 of Middlesbrough Council’s Licensing Policy regarding the impact of licensed premises on the local area, and their responsibility in relation to the prevention of Crime and Disorder; it was stated that the Police had had some difficulty in tailoring the representations to the particular premises due to the generality of the Application, which was not venue specific and that, the wording of the text in Section Q of the Application was such that it was intended to cover all possibilities. The Police contested the statement that their representations were generic and assured Members that their comments were tailored to each premise.

It was acknowledged that the venue did have the benefit of Black and White CCTV but contended that the installation of coloured, digital CCTV would enhance the ability of the Police to deal with incidents of crime and disorder as it had been established that later opening hours did contribute to such incidents. Drugs were a feature in all walks of life and it was a problem for all premises. The introduction of a “Drugs Box” would provide a safe and secure place to store recovered drugs. Use of toughen glass would prevent the use of the glass as a weapon should an incident take place.

It was acknowledged that the premises were currently family oriented but that an extension to the opening hours would change the nature of the business. It was also stated that the measures requested in the representations were proactive in the prevention of Crime and Disorder and that the costs involved would not be prohibitive to a company of the size of Spirit Group.

### Unique Developers Ltd

No representative of Unique Developers Ltd was in attendance. Accordingly, the Sub-Committee determined to consider the written representation under Section 20 of the Licensing Act 2003 (Hearings) Regulations 2005.

### Ward Member and Local Residents

Councillor Thompson was invited to present his representations and those on behalf of Coulby Newham residents and the Coulby Newham Community Council against the Variation.

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The Councillor stated that the objections related to the extension of hours on the grounds that the extra hours would increase noise nuisance suffered by residents, particularly so for those residents whose properties boarded the premise's beer garden and, possible anti-social behaviour.

Councillor Thompson confirmed that the objections were not related to the requested extension for Christmas/New Year opening but submitted that Middlesbrough Council's Licensing Policy stated that the norm for licensed premises in a residential area was to close at 11.00pm. It was felt that with the location and proximity of the premises, backing directly on to residential properties on 3 sides, limiting external activity to 9.00 p.m. would not be unreasonable.

In response to a query regarding the Councillor's personal status as a ward resident he confirmed that he did not have a prejudicial interest as he lived some distance from the premises but had been asked by the residents to attend on their behalf.

## **ENVIRONMENTAL HEALTH**

The Environmental Health Officer was invited to present their case against the Variation.

The officer contested the statement made by the applicant's representative regarding the distance between the premises and nearby houses, suggesting that it was more in the region of 20 yards away from the nearest residences rather than the 80/100 yards referred to, and as such, noise sensitivity would be an issue.

The Environmental Health Team had requested during all periods of regulated entertainment: -

- All windows and doors should be closed.
- All live and recorded music, dancing be restricted to inside the premises.
- A noise limiter be installed.
- Activity in the beer garden to cease at 11.00pm.

## **SUMMARY**

The Applicant and objectors were given the opportunity to sum up their cases prior to decision.

The Police legal representative stated that Section 17 of the Crime and Disorder Act placed a duty on the Police to do all they could to prevent crime and disorder in a given area. Representations therefore centred on 2 objectives of the Licensing Act: the Prevention of Crime and Disorder and the Protection of Children from Harm.

Paragraph 5.65 of Government Guidance stipulated that the Applicant must carry out a thorough risk assessment of the premises prior to submitting the Application. As a generic application this was unlikely and as such could not be specific to the premises. The wording in Section Q of the application was too vague to assist the Police in tailoring representations to the premises. There was no evidence in the Operating Schedule to reflect that the Applicant would be a good neighbour. They were however prepared to accept that they could be providing the requested conditions, which were considered to be proportionate, practical and achievable, were taken on board. Without the suggested conditions there would be a negative effect on crime and disorder in the area. The measures requested were considered to be proactive in the prevention of Crime and Disorder in line with paragraph 7.25 and 7.27 of Government Guidance.

Councillor Thompson stated that the increased use of patio heaters gave extended use of outdoor facilities on the premises and any increase in hours would provide the potential for major nuisance and increased disturbance for the residents of the area together with a loss of their own facility.

The Applicant's legal representative indicated that the beer garden was currently open until 11.00pm and there had been no complaints in the past regarding noise disturbance.

It was also submitted that had representations not been received, then the Licence would have automatically been granted in full, which would mean that the Sub-Committee would not be afforded the opportunity to use its discretion in determining the conditions on the Licence. There

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was no evidence that the requests made by the Police and Environmental Health were necessary in this case, and they were in fact standard condition, which contravened paragraph 7.17 of Government Guidance.

It was stated that in accordance with paragraph 7.19 of the Guidance, the Sub-Committee should have regard the fact that the other responsible authorities had raised no concerns.

In accordance with paragraph 7.25 of the Guidance, the Sub-Committee may impose conditions if it had good reason to suppose disorder may take place, but there was no evidence to suggest this would have been the case. Without evidence the Sub-Committee could not impose conditions.

The Applicant's representative suggested that the representation from Unique Developments Ltd should not be considered as relevant, as it did not relate to any of the four Licensing Objectives.

The representative also confirmed that the Applicant was willing to cease all activity in the beer garden at 11.00pm.

In response to a query the legal representative for the Applicant drew attention to the need to provide evidence to support the imposition of conditions on the licence in accordance with the ruling of the Canterbury Judicial Review.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Sub-Committee determined the application.

Subsequently all interested parties returned to the meeting whilst the Chair announced the Sub-Committee's decision.

**ORDERED** as follows:

That the Application to Vary the Premises Licence be granted as follows:-

10.00am to 12 midnight Monday to Sunday

Premises to remain open to the public for an additional thirty minutes following the end of licensable activities, allowing provision of late night refreshment.

One additional hour on statutory bank holiday periods (Friday, Saturday, Sunday and Monday, Thursday before Good Friday and Christmas Eve, plus St David's, St Patrick's, St George's and St Andrew's days.

Subject to:

- i) The conditions consistent with the Operating Schedule;
- ii) The additional conditions agreed with the Police, in relation to Prevention of Crime and Disorder and Prevention of Harm to Children, prior to the meeting;
- iii) The additional conditions agreed with Environmental Health (Noise Team), in relation to Public Nuisance, prior to the meeting;
- iv) An additional condition that no activities be permitted in the external beer garden after 11.00pm
- v) The removal of the requested extension of hours on occasions of local, national or international significance or for charitable events.

Reasons for the decision:



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- i) The Application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003 and the information contained within the submitted report.
  - ii) Consideration of the following paragraphs of Government Guidance issued by the Secretary of State on the Licensing Act 2003:
    - Paragraph 7.20 onwards Appendix D, in relation to Crime and Disorder
    - Paragraph 7.38 onwards Appendix G, in relation to Public Nuisance
  - ii) Consideration of the following sections of the Council's Licensing Policy:
    - Page 10, particularly Paragraph 42, in relation to Licensed Premises in Residential Areas
    - Pages 10 –15 particularly Paragraph 38, in relation to the Prevention of Nuisance.
    - Pages 17 and 18 in relation to Crime and Disorder
  - vi) Consideration of the case presented by the Applicant.
  - vii) Consideration of the representations made by local residents including those made by Councillor Thompson on behalf of residents and the Coulby Newham Community Council.
  - viii) Consideration of written representations made by Unique Developers Limited

**LICENSING ACT 2003. APPLICATION TO VARY PREMISES LICENCE – THE KINGFISHER, STAINTON WAY, MIDDLESBROUGH – REF NO. MBRO PR0283**

In attendance: PC. Graham (Cleveland Police Licensing Dept.)  
Y Taylor (Legal Representative for the Police)  
R Allen, (Applicant)

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

The Head of Community Protection submitted a report outlining the application for Variation of the Premises Licence of The Kingfisher, Stainton Way, Middlesbrough, Ref No. MBRO/PR0283.

The Principal Licensing Officer presented the report and drew Members' attention to an error within the Operating Schedule submitted. Members were advised that the necessary public advertisement and the statement of proposed hours as detailed on page 8 of the application both stated that the hours being applied for included an additional thirty minutes following the end of licensable activities and that the applicant had failed to mention the additional time on the Operating Schedule (Page 23 refers), forwarded to the responsible authorities and on which their representations had been based. It was confirmed that the public advertisement contained correct information.

In order to allow the Sub-Committee to receive legal advice as to whether the application should be re-submitted, Members agreed a short adjournment during which the applicant and objectors withdrew. On being re-convened the Chair announced that the application should proceed as it was felt that there was no evidence to suggest that the Operating Schedule was misleading.

Summary of Current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises  
Recorded and Live music  
Dancing

Summary of Proposed Variation of Licensable Activities:

As above plus indoor sporting events.

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### Summary of Proposed Variation to Hours for Licensable Activities:

11.00am – 11.00pm Monday to Thursday  
11.00am – 12 midnight Friday and Saturday  
12 noon – 11.30pm Sunday

Premises to remain open thirty minutes after licensable activities cease.

Full details of the Application and accompanying Operating Schedule were submitted. The Sub-Committee also received, circulated under separate cover, confirmation of the Applicants willingness to accept the following additional condition:

- All windows and doors remain closed at all times when public entertainment is taking place except for normal ingress and egress (as stated on existing Public Entertainment Licence).

The Applicant confirmed receipt of the Regulation 6 Notice and that the report was an accurate reflection of the facts.

Prior to commencement of the meeting agreement had been reached with representatives from Cleveland Police to amend the Operating Schedule to include additional conditions in relation to the prevention of crime and disorder. With the exception of a request for a condition regarding the installation of CCTV, the Police representations had been withdrawn.

### Applicant in Attendance

The Applicant was invited to present the case in support of the application.

The Applicant stated that he was an experienced landlord, with over sixteen years experience. He had been in charge of the premises for eleven months. He acknowledged that under its previous management the premises had a recent history of anti-social behaviour. However, this was no longer the case.

The Applicant stated that he wished to be a good neighbour and had already erected notices asking patron to exit the premises quietly. Since taking over management of the premises extraction equipment had been installed in order that the doors and windows remain closed when regulated entertainment was taking place, new electrical equipment had been installed and repairs undertaken where necessary. In order to improve safety in the beer garden fencing had also been erected.

The Applicant indicated that during his tenure as manager the Police had not been called to attend the premises. He therefore felt that the installation of a CCTV system at this point was unnecessary. He was however prepared to consider the matter further if future circumstances warranted its use.

### Relevant Representations

The representative for Cleveland Police was invited to present the case in regard to the remaining objection.

It was recognised that the premises had a previous history of anti-social behaviour and confirmed that under the current management regime the situation had improved. There was still a need however to look at preventative measures and be proactive in order to deter crime and disorder. It was submitted that the use of CCTV prevented crime and disorder and that whilst the extended opening hours requested were not excessive, the potential for such an increase in crime and disorder did exist. In the circumstances therefore and, in order not to be cost prohibitive, they were prepared to accept a system appropriate to the premises rather than the stipulated digital, colour CCTV system.

### Summary

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The Applicant and objectors being invited to sum up their cases reiterated the points made above.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Sub-Committee determined the application.

Subsequently all interested parties returned to the meeting whilst the Chair announced the Sub-Committee's decision.

**ORDERED** as follows:

1. The Application to Vary the Premises Licence be granted as follows:-

11.00am – 11.00pm Monday to Thursday  
11.00am – 12 midnight Friday and Saturday  
12 noon – 11.30pm Sunday

Premises to remain open thirty minutes after licensable activities cease.

Subject to the following additional conditions:

- i) No person should be allowed to consume any drink in any exterior drinking area after 11.30pm on any occasion.
  - ii) The Designated Premises Supervisor shall attend the appropriate Pubwatch scheme where possible.
  - iii) An incident book shall be kept fully up to date at all times.
  - iv) No time-led or all-inclusive drinks promotions will be held at any time.
2. That whilst desirable, the Sub-Committee is satisfied that there is no evidence of the need for CCTV at the premises. The request for the imposition of a condition requiring its installation be not acceded to at this time.

Reasons for the Decision

- i) The Application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003 and the information contained within the submitted report.
- ii) Consideration of the following paragraphs of Government Guidance issued by the Secretary of State on the Licensing Act 2003:
  - Paragraph 7.20 onwards Appendix D, in relation to Crime and Disorder
- iii) Consideration of the following sections of the Council's Licensing Policy:
  - Pages 17 and 18 in relation to Crime and Disorder
- ix) Consideration of the case presented by the Applicant.
- x) Consideration of the representations made by Cleveland Police on the grounds of the prevention of crime and disorder.

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**LICENSING ACT 2003. APPLICATION TO VARY PREMISES LICENCE – THE SMITHY,  
128 HOLLOWFIELD, COULBY NEWHAM, MIDDLESBROUGH – REF NO. MBRO/PR0071/018336**

In attendance                      D Lowe (Applicant)  
   Cllr P Thompson

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

The Head of Community Protection submitted a report outlining the application for Variation of Premises Licence of The Smithy, 128 Hollowfield, Coulby Newham, Middlesbrough – Ref No. MBRO/PR0071/018336.

The Principal Licensing Officer presented the report as follows: -

Summary of Current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises.  
Recorded music.

Summary of Current Hours for Licensable Activities:

11.00am – 11.00pm Monday to Saturday.  
12 noon – 10.30pm Sunday.

Summary of Proposed Variation of Licensable Activities:

Films, indoor sporting events, live music, recorded music, performance of dance, dancing, late night refreshment, sale of alcohol

Summary of Proposed Variation to Hours for Licensable Activities:

11.00am – 11.30pm daily.

Premises to remain open for the above activities for an extra hour on specified dates throughout the year.

Premises to remain open thirty minutes after licensable activities cease.

Full details of the application and accompanying Operating Schedule were submitted. The Sub-Committee also received, circulated under separate cover, confirmation of the Applicants willingness to accept the following additional conditions:

- All CCTV footage recorded should be kept for a minimum of 31 days and whichever format the footage is recorded on should be kept in a locked and secure cabinet;
- No personal shall be allowed to consume any drink in any outside area of the premises.

The Principal Licensing Officer confirmed that all Regulation 6 Notices had been sent, however, the Applicant stated that he had not received the Notice.

The Applicant confirmed that the report was an accurate reflection of the facts.

Applicant in Attendance

The Applicant was invited to present the case in support of the Application.

The Applicant stated that in the five and a half months since he had taken over management of the premises he had taken measures to reduce the noise levels emanating from the premises by installing a noise-limiting device and that there had been no complaints from the Environmental

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Health (Noise Team). And although there had been a history of anti-social behaviour in the past, the Police had not attended in the past six months.

### Relevant Representations

Councillor Thompson was invited to present the case in objection to the Application.

Councillor Thompson in clarifying the position regarding his personal status as a ward resident confirmed that he did not have a prejudicial interest as he lived some distance from the premises and he was not a customer. His attendance at the meeting was to present representations made by himself and Councillor Brunton, acting on behalf of local residents and on behalf of the Coulby Newham Community Council.

Councillor Thompson acknowledged that the Applicant was relatively new to the premises but that the concerns expressed were based on a history of anti-social behaviour associated with the premises and complaints from the residents regarding noise emanating from the premises. He indicated that the primary objection was against noise nuisance rather than the period of drinking hours requested and drew attention to Paragraph 42 of Middlesbrough Council's Licensing Policy, which suggested that licensed premises in residential areas should be restricted to 11.00pm closing. The representation made by the Community Council sought to limit the licensing of music to 10.30pm with a terminal hour of 11.00pm

In response to a query, the Principal Licensing Officer confirmed that there had been no representations from Environmental Health regarding noise, on the condition that a noise-limiting device was fitted and all windows and doors were closed when regulated entertainment was taking place. Councillor Thompson stated that if such conditions had been a feature of the current licence they had not been adhered to. The Principal Licensing Officer advised that if premises were found to be in breach of any conditions they would be subject to review.

### Summary

The Applicant being invited to sum up his case stated that he wanted the premises to be used by the whole community and confirmed that there would be a "chill out" period prior and that music would be turned off half an hour before the close of the premises.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Sub-Committee determined the application.

Subsequently all interested parties returned to the meeting whilst the Chair announced the Sub-Committee's decision.

**ORDERED** that the application be granted in full.

### Reasons for the Decision

- ii) The Application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003 and the information contained within the submitted report.
- ii) Consideration of the following paragraphs of Government Guidance issued by the Secretary of State on the Licensing Act 2003:
  - Paragraph 7.38 onwards Appendix G, in relation to Public Nuisance
- iv) Consideration of the following sections of the Council's Licensing Policy:
  - Page 10, in particular Paragraph 42, in relation to Licensed Premises in Residential Areas
  - Pages 10-15, in particular Paragraph 38, in relation to Prevention of Nuisance

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- xi) Consideration of the case presented by the Applicant.
  - v) Consideration of the representations made by Councillors Brunton and Thompson on behalf of local residents and Coulby Newham Community Council on the grounds of the prevention of public nuisance.