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## LICENSING SUB COMMITTEE B

A meeting of Licensing Sub Committee B was held on 27 September 2005.

**PRESENT:** Councillor Regan (Chair), Councillors Clark and A E Ward.

**OFFICIALS:** M Braithwaite, A Gray, T Hodgkinson and I Nicholls.

**ALSO IN ATTENDANCE: FOR AGENDA ITEM 4 ONLY**

S Duranni (Applicant)  
Councillor McIntyre (Ward Councillor on behalf of local residents)

**For Agenda Item 6 Only**

L Paleschi (Applicant)  
M Pollock (Premises Manager)  
S Catterall (Applicant's Legal Representative)  
Councillor J A Jones (Ward Councillor on behalf of local residents)  
P McClurg (Local Resident)  
G McClurg (Local Resident)

**\*\*DECLARATIONS OF INTEREST**

Councillor J A Jones had declared a Personal/Prejudicial Interest in relation to consideration of Agenda Item no. 6: Application to Vary Premises Licence for Turford Avenue Social Club, Turford Avenue, Middlesbrough, as he was Ward Councillor for North Ormesby and Brambles Farm. As a result, Councillor J A Jones did not sit on the Sub Committee.

**\*\*APPOINTMENT OF SUBSTITUTES**

Councillor Clark was present at the meeting to act as a substitute for Councillor J A Jones.

**SUSPENSION OF COUNCIL PROCEDURE RULE NO. 10 – 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 Agenda Items in the following order to allow discussions to take place between the Police and the Applicant, with a view to reaching agreement on changes to the Operating Schedule:

- Agenda Item 5 – Licensing Act 2003: Application to Vary Premises Licence – Mohan's, 29-41 Bedford Street, Middlesbrough
- Agenda Item 6 – Licensing Act 2003: Application for Premises Licence – Turford, Avenue Social Club, Turford Avenue Middlesbrough.
- Agenda Item 4 - Licensing Act 2003: Application to Vary Premises Licence – Khan's, 415-417 Linthorpe Road, Middlesbrough.

**LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – MOHAN'S, 29-41 BEDFORD STREET, MIDDLESBROUGH – Ref No. MBRO/PR0323**

A report outlining an Application to Vary the Premises Licence of Mohan's, 29-41 Bedford Street, Middlesbrough had been circulated prior to the meeting.

A representation had been received from Cleveland Police.

Prior to commencement of the meeting, an agreement had been reached between the Police and the Applicant to amend the Operating Schedule in respect of the Application to include additional conditions.

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Subsequently, the Responsible Authority (Police) withdrew its representation and, as there were no other representations, the variation to the Licence was granted and the hearing was cancelled.

**LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – TURFORD AVENUE SOCIAL CLUB, TURFORD AVENUE MIDDLESBROUGH REF NO. MBRO/PR0366**

**IN ATTENDANCE**

L Paleschi (Applicant)  
M Pollock (Premises Manager)  
S Catterall (Applicant's Legal Representative)  
Councillor J A Jones (Ward Councillor on behalf of local residents)  
P McClurg (Local Resident)  
G McClurg (Local Resident)

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

The Principal Licensing Officer presented a report of the Head of Community Protection outlining an Application for a Premises Licence for Turford Avenue Social Club, Turford Avenue, Middlesbrough.

Summary of Proposed Licensable Activities

Live music, recorded music and the supply of alcohol

Summary of Proposed Hours for Licensable Activities

9.00am – 12midnight daily – sale of alcohol  
9.00am – 12.30am daily – all other licensable activities

Full details of the Application and the accompanying Operating Schedule were attached at Appendix 1.

It was confirmed that the terminal hour would be 12.30am. The premises had previously operated with the benefit of a Justices 'On' Licence, which had subsequently expired and was therefore not eligible for conversion to a Premises Licence.

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

In response to a query, the Principal Licensing Officer confirmed that initially the Operating Schedule had specified that the sale of alcohol would cease at 1.00am and all other licensable activities would cease at 1.30am. As a result of agreements made with Cleveland Police and Environmental Health, the Operating Schedule had been altered to the times outlined in the report and the above summary.

Applicant in Attendance

The Applicant was in attendance and was invited to speak in support of the Application.

The Applicant's Legal Representative stated that agreement had been reached with both the Police and Environmental Health, leading to the alteration of the times in the Operating Schedule. However, agreement with local residents had not been reached.

The Ward Councillor and local residents asked questions and the raised the following concerns:

- The Application was for a Premises Licence, not a Club Premises Certificate.
- The Ward Councillor expressed concern that sufficient car parking would not be available for patrons, as the car park was currently used for other purposes; however, the Applicant confirmed that the car park could be made available if necessary.

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## Representations

Four representations, attached at Appendix 2, had been received from local residents on the grounds of the Prevention of Crime and Disorder and the Prevention of Public Nuisance, three of which had been withdrawn prior to the hearing. Members were advised of the circumstances leading to the withdrawal of the representations and it was confirmed that those received from Mr and Mrs McClurg were still valid.

The Ward Councillor and two local residents were in attendance. The local residents confirmed that the Ward Councillor was present to speak on their behalf.

The Ward Councillor was invited to speak in support of the representation and stated that the Premises were in a residential area, and referred the Council's Licensing Policy on such Premises. He stated that in order for the Application to be acceptable, noise from the Premises needed to be restricted. In addition, car parking facilities for patrons which were currently restricted needed to be made available.

The local residents were invited to make any further points in support of their representation. It was confirmed that their objection was not to the hours requested, but to the noise nuisance caused by people leaving the premises and taxis arriving late at night.

The Applicant's Legal Representative sought clarification from the Ward Councillor and the local residents on the details of their representation. The Applicant stated that notices had been posted around the Premises asking patrons to leave quietly.

## Summary

The Applicant and the Objectors were given the opportunity to sum up their case prior to the decision.

## Decision

**ORDERED** as follows: -

1. That the Application for a Premises Licence be granted in full.

The decision was based on the following reasons:

- a) The Application was considered on its own merits taking into account the four Licensing Objectives of the Licensing Act 2003.
- b) Consideration was given to the case made by the Applicant
- c) Consideration was given to the representation made by the Ward Councillor and Local Residents.
- d) Consideration was given to the following sections of the Government Guidance to the Licensing Act 2003: -  
  
Crime and Disorder Starting at paragraph 7.20 and Annexe D  
  
Public Nuisance Starting at paragraph 7.38 and Annexe G
- e) Consideration was given to the following sections of Middlesbrough Council's Licensing Policy:

Licensed Premises in Residential Areas Page 10, Paragraph 42

Prevention of Nuisance Pages 10 to 15 (in particular paragraph 38)

Crime and Disorder Pages 17 and 18

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2. The Sub Committee requested that the Applicant ensured sufficient car parking was provided for patrons and that notices were displayed requesting that patrons left the premises quietly.

**LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – KHAN'S, 415-417 LINTHORPE ROAD, MIDDLESBROUGH – REF NO. MBRO/PR0308**

In Attendance

S Duranni (Applicant)

Councillor McIntyre (Ward Councillor on behalf of local residents)

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

The Principal Licensing Officer presented a report of the Head of Community Protection outlining an Application to Vary a Premises Licence for Khan's, 415-417 Linthorpe Road, Middlesbrough.

Summary of Current Licensable Activities

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

Recorded music

Late night refreshment

Summary of Current Hours for Licensable Activities

11.00am – 12midnight Monday to Saturday

12noon – 11.30am daily Sunday

Summary of Proposed Variation of Licensable Activities

As above

Summary of Proposed Variation to Hours for Licensable Activities

11.00am – 1.00am Sunday to Thursday

11.00am – 2.30am daily – Friday and Saturday

Full details of the Application and the accompanying Operating Schedule were attached at Appendix 1.

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

Applicant in Attendance

The Applicant was in attendance and was invited to speak in support of the Application.

The Applicant felt that the Premises would provide an alternative to takeaways for patrons who wanted a meal late at night, such as those leaving cinemas or theatres.

Local Residents' complaints were then addressed as follows:

- CCTV and disciplinary measures had been used to ensure staff did not make excessive noise in the alley behind the Premises.
- CCTV encouraged patrons to park close to the Premises. Residents could contact the Applicant to complain if patrons parked elsewhere.
- Since 1982, the Police had been called to the Premises on four occasions.
- The current taxi company used by the Premises operated a call back system to inform customers their taxi had arrived, rather than sounding their horns.
- Relatively high alcohol prices discouraged excessive drinking at the Premises.

The following information was given in response to queries from Members: -

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- The Premises had double glazed windows that remained closed as air conditioning had been installed.
  - The employment of door staff was not considered necessary.
  - The Applicant was not aware of any further complaints from local residents.

### Representations

A representation had been received from Cleveland Police, who objected to the Application to Vary on the grounds of Prevention of Crime and Disorder. Prior to commencement of the meeting, an agreement was reached between the Police and the Applicant to amend the Operating Schedule in respect of the Application to include additional conditions. Subsequently, the Responsible Authority withdrew its representation.

A representation had also been received from Councillor Michna, Ward Councillor and local resident on his own behalf and on behalf of local residents, which objected to the Application to Vary the Premises Licence on the grounds of the Prevention of Public Nuisance. As Councillor Michna had a Personal/Prejudicial Interest in the matter he did not attend the hearing. Councillor McIntyre, Park Ward Councillor, was therefore present at the meeting to represent local residents.

Councillor McIntyre was invited to speak in support of the objections received.

It was stated that numerous complaints had been received from residents of Oliver Street regarding car parking and noise nuisance late at night. Further problems were anticipated, especially taxis sounding their horns, if the Licensed Hours were increased. It was thought unlikely that families with children would use the Premises late at night after visiting the cinema or theatre as suggested by the Applicant. Rather, it would be noisier groups leaving other licensed premises.

### **SUMMARY**

The Applicant and the Objectors were given the opportunity to sum up their case prior to the decision.

### Decision

**ORDERED** as follows: -

1. That the Application for a Premises Licence be granted in full.

The decision was based on the following reasons:

- a) The Application was considered on its own merits taking into account the four Licensing Objectives of the Licensing Act 2003.
- b) Consideration was given to the case made by the Applicant.
- c) Consideration was given to the written representation of Councillor Michna, Ward Councillor, on his own behalf and on behalf of local residents, and to the information provided at the hearing by Councillor McIntyre, Ward Councillor.
- d) Consideration was given to the following sections of the Government Guidance to the Licensing Act 2003: -

Public Nuisance                      Starting at paragraph 7.38 and Annexe G

- e) Consideration was given to the following sections of Middlesbrough Council's Licensing Policy:

Licensed Premises in Residential Areas                      Page 10, Paragraph 42

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Prevention of Nuisance Pages 10 to 15 (in particular paragraph 38)

Staggered Closing Times Page 13, Paragraph 59