

LICENSING SUB COMMITTEE B

A meeting of Licensing Sub Committee B was held on 3 April 2007.

PRESENT: Councillor Biswas (Chair); Councillors J A Jones and A E Ward.

OFFICIALS: J Dixon, A Gray, J Hodgson (agenda item 4 only) and T Hodgkinson (agenda item 5 only).

ALSO IN ATTENDANCE: For Agenda Item No. 4 only:-

D Gee – Secretary, D Hall – President, E Graves – Steward
(Dorman Long United Athletic Club)
Councillor Elder, Linthorpe Ward Councillor (representing local residents).
Mr Catterall and Mr Melville, local residents.

For Agenda Item No. 5 only:-

D O Uzoma – Applicant.
Applicant's colleague.
WPC F Helyer (Cleveland Police).
J Smith – Legal Representative for the Police.
Councillor Walker, Gresham Ward Councillor (representing local residents).
T Bishop (representing local residents).

**** DECLARATIONS OF MEMBERS' INTERESTS**

No Declarations of Interest were made by Members at this point of the meeting.

LICENSING ACT 2003: APPLICATION TO VARY CLUB PREMISES CERTIFICATE – DORMAN LONG UNITED ATHLETIC CLUB, OXFORD ROAD, MIDDLESBROUGH - REF. NO. MBRO/PR0313.

A report of the Head of Community Protection had been circulated outlining an application to Vary the Club Premises Certificate in respect of the Dorman Long United Athletic Club, Oxford Road, Middlesbrough, Ref No. MBRO/PR0313, as follows:-

Summary of Current Licensable Activities

Supply of alcohol for consumption on and off the premises, Recorded Music, Live Music, Facilities for Dancing, Indoor Sporting Events, Boxing or Wrestling, Films, Plays.

Summary of Current Hours of Licensable Activities

Supply of Alcohol:-

11.00am to 11.00pm Monday to Sunday.
Christmas Eve and Boxing Day 11.00am to 11.30pm.
Christmas Day 12.00 noon to 3.00pm and 7.00pm and 11.00pm.

Facilities for Dancing:-

11.00am to 11.45pm Monday to Sunday.

Recorded Music:-

11.00am to 11.45pm Monday to Sunday
New Year's Eve 7.00pm to 12.30am.

Live Music:-

Monday, Tuesday, Thursday, Friday and Saturday 7.00pm to 11.45pm.
Wednesday and Sunday 8.00pm to 11.45pm.

Indoor Sports:-
Sunday to Friday 7.00pm to 11.00pm.
Saturday 1.00pm to 5.00pm.

All Other Activities:-
Monday to Sunday 11.00am to 11.00pm.

Summary of Proposed Variation of Licensable Activities

No variation to activities.

Summary of Proposed Variation to Hours for Licensable Activities

Supply of Alcohol:-
10.00am to 1.00am Monday to Sunday.
Plays, Films, Indoor Sporting Events, Boxing or Wrestling:-
11.00am to 1.00am Monday to Sunday.
Live Music, Recorded Music, Facilities for Dancing:-
11.00am to 1.30am Monday to Sunday.

Full details of the application and accompanying Operating Schedule were attached at Appendix 1 to the submitted report.

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

Details of the Application

The Senior Licensing Officer presented the report which was confirmed as being an accurate reflection of the facts by the applicant.

The report outlined that, on 8 February 2007, the applicant had made an application to vary the club premises certificate, as stated above, and had advertised the application, as required by the Licensing Act 2003, in the Herald and Post on 14 February 2007.

A representation was received on 16 February 2007 from local residents, Mr and Mrs Watson, which objected to the application on the grounds of the prevention of public nuisance and was attached at Appendix 2 to the report.

A representation was received on 2 March 2007, from Councillor Elder, representing local residents, objecting to the application on the grounds of the prevention of crime and disorder and prevention of public nuisance and was attached at Appendix 3 to the report.

On 6 March 2007, a representation was received from Mr Maxwell, local resident, objecting to the application on the grounds of the prevention of crime and disorder and the prevention of public nuisance and was attached at Appendix 4 to the report.

A representation was received from Cleveland Police on 7 March 2007 which objected to the application on the grounds of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm and was attached at Appendix 5 to the report.

A representation was received on 7 March 2007 from Mr Catterall, local resident, which objected to the application on the grounds of the prevention of public nuisance and prevention of crime and disorder and was attached at Appendix 6 to the report.

The Senior Licensing Officer advised that, following notification of the representations and discussions with the Police, the applicant had amended the application to extend the sale of alcohol to 11.30pm on Fridays and Saturdays only, with no changes to the current hours for Sunday to Thursday and no changes to the current hours for other licensable activities. Subsequently, the Police confirmed that they had withdrawn their representations following the amended application.

Applicant in Attendance

The applicant, Mr Gee (Secretary, Dorman Club), was in attendance at the meeting accompanied by Mr Hall (President) and Mr Graves (Steward), Dorman Club. Mr Gee presented the case in support of the application to vary.

The applicant stated that the original application had been made in an attempt to put the club on a level playing field with other establishments in the Linthorpe Village area which were open until, or later than, 1.00am. It had not been the Club's intention to stay open until 1.00am every Friday and Saturday, however, they had wanted the option to stay open beyond their current hours. The applicant was of the opinion that the Club had lost business due to no longer being on a main bus route and advised that many patrons were leaving the Club to go into the village where they could continue drinking until 1.00am.

The applicant confirmed that the revised application requested a half-hour extension for the sale of alcohol, ie 11.30pm Fridays and Saturdays, with no change in hours for the sale of alcohol Sunday to Thursday and no changes to the hours for other licensable activities.

Questions from Members

Members of the Committee were afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- In response to a query as to whether the application had been made in response to a demand from patrons, the applicant advised that patrons were leaving the Club at approximately 10.30pm to go into Linthorpe Village as they were able to continue drinking in other establishments until 12.00 midnight/1.00am. The applicant considered that patrons would remain in the Club if it was licensed to sell alcohol for an additional half-hour on Fridays and Saturdays. Mr Hall, President of the Club, added that there had been occasions where no drinks had been sold after 10.00pm as patrons had moved on to other later opening establishments and felt that the extension in hours would help to sustain business.
- In response to a question, it was confirmed that the Club was a members only club and that visitors must be signed in by a member. There was a doorman present during the hours when alcohol was being sold.

Relevant Representations

Councillor Elder (Linthorpe Ward Councillor) acting on behalf of residents

Councillor Elder, Linthorpe Ward Councillor, was in attendance at the meeting to present the case for representations against the application, on behalf of local residents, and provided Members of the Committee with a list of 23 names of local residents who had contacted her to express their opposition to the application.

Councillor Elder highlighted that the application was in respect of a private members' club and not a public house and considered there to be no premises equivalent to the club in the vicinity. Councillor Elder was of the opinion that if patrons were leaving the club to go to other establishments in order to continue drinking, they were moving on because they wanted to and that an extension to the club's hours for the sale of alcohol would make no difference. Councillor Elder stated she found it sad that the club's own members were leaving the premises early as the activities provided within the premises were for their benefit and that consumption of alcohol was being stated as the main reason for their leaving and the reason for the subsequent application to vary.

Councillor Elder confirmed that she had received a number of complaints from local residents in relation to the Dorman Club regarding:-

- Noise disturbance from patrons leaving the premises (talking loudly/shouting/being boisterous).

- Noise from taxis collecting patrons (car doors slamming/taxis parking in the middle of Oxford Road).
- Hailing taxis (shouting) and fighting over taxis.
- Damage caused to residents' cars.

Councillor Elder also made reference to a 'riot' which had taken place outside the premises on 24 February 2007. Councillor Elder stated that she had spoken to the Police regarding the incident and had been advised that 90% of police officers on duty that night in Middlesbrough had been called to attend the incident. She added that an incident involving approximately 250 people fighting had occurred the previous year.

Councillor Elder referred to paragraph 42 of the Council's Licensing Policy which stated that a closing time of 11.00pm for licensed premises in predominantly residential areas would normally be encouraged by the Licensing Authority. She considered that if the application was granted, local residents would be forced to endure increased disturbance and felt they were entitled to a cast iron guarantee that there would be no further trouble at the premises and that a 'drinking up' time limit be set.

The Chair pointed out that the Council's Licensing Policy was a guideline and that the Committee would consider each case on its own merits, taking into account the submitted representations and the case made by the applicant.

Councillor Elder further stated that she had spoken with two members of the club, both of whom were not in favour of the application to vary.

Mr Catterall – Local Resident

Mr Catterall, local resident, was in attendance at the meeting and was afforded the opportunity to address the Committee in respect of the application.

Mr Catterall advised Members that he and his family lived directly opposite the premises and had moved into their home in January 2007. The family had previously lived opposite a private members club on Guisborough Road and had experienced no difficulties. Mr Catterall expressed concern with regard to the level of nuisance caused by Dorman Club being much higher than he had expected. He stated that he had observed patrons leaving the premises at midnight and that they were generally noisy. He added that he also experienced noise disturbance from taxis parking on Oxford Road as they tended not to pull into the premises' car park due to difficulties getting back out onto the main road.

Mr Catterall considered that he could cope with the current levels of noise disturbance created by those people leaving at midnight but that any later would be unreasonable. He added that he had four children, all of whom had been very upset and frightened by the incident which had occurred in February. He advised that there had been eight police vehicles in attendance that night and that it was approximately 1.30am before all those involved were dispersed. He expressed concern that if the application was granted, patrons would consume more alcohol, thereby increasing the potential for disturbance occurring. Mr Catterall hoped that, if the application was granted, the time that patrons left the premises would not be extended as local residents would experience greater disturbance than at present.

Mr Catterall stated that he objected to the application to vary as the club was situated in a residential area and was intended for use by its members. He felt that the club should not change its character in order to attract a different clientele to compete with pubs in the town centre/village.

In response to a query from the Chair, Mr Catterall clarified that he regularly observed patrons leaving the premises at midnight but his understanding was that patrons should leave by 11.45pm.

Mr Melville – Local Resident

Mr Melville, local resident, was in attendance at the meeting and was afforded the opportunity to address the Committee in respect of the application.

Mr Melville advised that he lived in Rockcliffe Road, situated behind Oxford Road and linked by an alleyway. He concurred with the comments made by Mr Catterall and stated that he experienced general noise disturbance from patrons leaving the premises and considered any extension beyond the current hours would impinge into residents' sleeping times. He added that people used the alleyway between Oxford and Rockcliffe Roads to walk home and that they tended to remain in the alleyway talking for several minutes before saying goodnight. He stated that whilst this currently caused him no major disturbance, the possibility of alleygates being constructed on the alley would potentially cause problems with key-holders opening and closing the gates (causing further noise disturbance – particularly if they were not in full control of their actions due to the influence of alcohol) in order to take a short cut home.

Mr Melville stated that he did not wish to see the club lose business but felt they should explore ways of attracting patrons to remain within the premises other than by extending the hours for the sale of alcohol. He added that people visiting pubs in the town centre/village area tended to go from pub to pub rather than remain in one pub all evening and that if patrons were leaving the club to go into town they would continue to do so whether or not the application to vary was granted.

Questions from Members

Members of the Committee were given the opportunity to ask questions of the objectors and the applicant and the following issues were raised:-

- In response to a query as to the cause of the 'riot' in February, Councillor Elder explained that she understood the incident to have been started by an altercation between two family members in attendance at a private function within the club who were subsequently asked to leave the premises. Upon leaving the premises, the argument had continued in the car park with more people becoming involved and fighting had broken out. It was acknowledged that those involved were not all members of the club. The Police had subsequently attended and had later advised Councillor Elder that 90% of officers on duty in Middlesbrough that night had attended the incident.
- A Member queried what measures the Club had in place to prevent similar incidents occurring in the future. In response, the applicant advised that an unlicensed doorman was present during the times that alcohol was sold, who was able to contact club officials should any trouble arise but acknowledged that no-one was present at the door when patrons were leaving the premises. The applicant added that a total of 16 CCTV cameras were located inside the premises and in the car park.
- Clarification was provided in relation to the list of names circulated to the Committee by Councillor Elder. It was confirmed that there had been no petition submitted to the Council regarding the application and the list names were those of local residents who had approached Councillor Elder expressing their opposition to the application.
- In reply to a query, the applicant stated that there were three doormen at the Club, with one being on duty at any one time, and confirmed that their primary reason for being there was to check that people entering the club were members and that visitors were signed in. The doorman was able to view all 16 CCTV cameras and was aware of the requirement to call for a club official if there were any difficulties.

Summing Up

The Chair invited all parties to sum up.

The Applicant

The applicant summed up by stating that he had been an official at the club for 11 years and could only recall receiving one complaint in relation to noise disturbance from taxis parking in the main road. On that occasion, he had contacted the taxi firm used by the club's committee members and staff and requested that all vehicles wait in the club car park and not the main road. He added that in his 20 years as a member of the club he could only recall three major incidents occurring.

The applicant made reference to the incident which had occurred in February and concurred with the explanation provided by Councillor Elder. He advised that 12 arrests had been made that evening and of those people, just two had been present in the club and no charges were brought against them. He highlighted that there had been a significant Police presence in Linthorpe Village that evening prior to the incident at the club and that people had been observed following the police vehicles into the club car park. He added that it had been an isolated incident and was not a regular occurrence.

The applicant referred to the list of objectors supplied by Councillor Elder and suspected that they had objected to the original application to vary the hours until 1.00am on Fridays and Saturdays. He stated he was not aware of any further objections other than those appended to the report and added that the two club members that Councillor Elder referred to as being in opposition to the application had not submitted their objections in writing or objected directly to club officials.

The applicant closed by stating that any entertainment provided within the premises was usually terminated at 10.30pm after which time music was played and it was envisaged that music would not be played beyond 11.45pm, however, patrons were currently unable to purchase a drink after 11.00pm. He added that patrons were asked to leave the premises quietly.

At this point, the Chair stated that the Police had expressed initial concerns with regard to door staff not being SIA registered and with regard to the Club's exit strategy. The Chair asked the applicant whether he could elaborate on those points.

The applicant advised that the issue of SIA registered door staff had been fully discussed with the Police and they had no concerns following those discussions and the Club's willingness to amend the application. With regard to the Club's exit strategy, patrons were asked to leave quietly at the end of the night. The Chair felt that the Club should give further consideration to its exit strategy.

Councillor Elder (making representations on behalf of local residents)

Councillor Elder summed up by expressing her concern that if the application was granted it would encourage increased alcohol consumption and a potential increase in noise disturbance and anti social behaviour which would impact on local residents. Councillor Elder wished to make clear that she had nothing against the Club as it was part of the local community but considered the application should not be granted in the interest of local residents.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal Services and the Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

DECISION

ORDERED AS FOLLOWS:-

1. That the application to Vary the Premises Licence be granted as follows:-
 - Sale of alcohol: 11.00am to 11.00pm Sunday to Thursday.
 - 11.00am to 11.30pm Friday and Saturday.
 - All other Licensable Activities – No variation to current hours;

and for the premises to close at 12.00 midnight daily.

In reaching the above decision Members had considered the following:-

1. The case presented by the applicant.
2. The representations made by Councillor Elder on behalf of local residents (in writing and verbally at the meeting).
3. The written representations submitted by local residents.
4. The representations made by Mr Catterall and Mr Melville at the meeting.
5. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Crime and Disorder, starting at paragraph 7.20, Annex D.
 - Prevention of Public Nuisance, starting at paragraph 7.38, Annex G.
 - Protection of Children from Harm, starting at paragraph 7.47, Annex H.
6. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Licensed Premises in Residential Areas, page 10, paragraph 42.
 - Prevention of Public Nuisance, pages 10 to 15.
 - Prevention of Crime and Disorder pages 17 and 18.
 - Protection of Children from Harm pages 19 to 22.

Members had made their decision based on the following reasons:-

1. That there was no evidence of disorder on the premises.
2. No problems could be solely attributed to the club itself.

In addition, the Committee wished to make the following suggestion:-

1. That the Club Steward maintain a presence in the club car park until all visitors had left the premises.

LICENSING ACT 2003: APPLICATION FOR PREMISES CERTIFICATE – DESMAS ODUMEGWU UZOMA, 62 CLIFTON STREET, MIDDLESBROUGH - REF. NO. MBRO/PR0342.

A report of the Head of Community Protection had been circulated outlining an application for a Premises Licence in respect of 62 Clifton Street, Middlesbrough, Ref No. MBRO/PR0342, as follows:-

Summary of Proposed Licensable Activities

Sale by retail of alcohol for consumption off the premises.

Summary of Proposed Hours for Licensable Activities

8.00am – 10.00pm daily.

Full details of the application and accompanying Operating Schedule were attached at Appendix 1 to the submitted report.

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

Details of the Application

The Principal Licensing Officer presented the report which was confirmed as being an accurate reflection of the facts by the applicant.

The report outlined that, on 13 February 2007, the applicant had made an application for a Premises Licence, as stated above, and had advertised the application, as required by the Licensing Act 2003, in the Herald and Post on 21 February 2007.

A representation was received on 19 February 2007 from Councillor Coppinger, Gresham Ward Councillor, on behalf of local residents, which objected to the application on the grounds of the prevention of public nuisance and was attached at Appendix 2 to the report.

A representation was received on 5 March 2007, from Cleveland Police, which objected to the application on the grounds of the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm and was attached at Appendix 3 to the report.

On 12 March 2007, a representation was received in the form of a petition organised by Sajaad Khan and Tony Bishop who were asked to speak to the Licensing Committee on behalf of a number of local residents. The petition, signed by 32 local residents, objected to the application on the grounds of the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm and was attached at Appendix 4 to the report.

On 7 March 2007, a representation was received from Councillor Walker, Gresham Ward Councillor, representing local residents and Gresham Community Council, which objected to the application on the grounds of the prevention of crime and disorder and prevention of public nuisance and was attached at Appendix 5 to the report.

The Principal Licensing Officer advised that on 16 March 2007, following information received from local residents, a test purchase exercise was carried out by two Licensing Officers at 62 Clifton Street which resulted in two one-litre bottles of Lambrini wine being sold to the officers by the applicant. The applicant was interviewed, under caution, by the Police and the Principal Licensing Officer, with prosecution pending.

The Police Legal Representative advised that the Police had initially objected to the application and proposed a number of conditions which, if agreed to by the applicant, would allow them to withdraw their representations. However, since the test purchase incident, the Police had reconsidered their position and their objection would not be withdrawn on that basis.

Applicant in Attendance

The applicant, Mr Uzoma was in attendance at the meeting accompanied by his colleague. Mr Uzoma's colleague presented the case in support of the application.

It was stated that there were currently three off-licences within the vicinity of Mr Uzoma's premise, however, none were situated in Clifton Street. He highlighted that the applicant's store was not part of a chain and just a single store and he felt that there would be no adverse affects on the community if the applicant were permitted to sell alcohol from his store. The applicant's colleague advised that he was unaware of any incidents of disturbance/anti social behaviour but had spoken to some local residents with regard to the issues raised within the objections to the application and considered those incidents to be isolated.

The applicant's colleague referred to the test purchase incident and stated that the applicant had made an honest mistake due to his limited knowledge of the English language.

The applicant addressed the Committee in relation to the test purchase incident and explained that when he had submitted his application and paid the associated fee, he had been advised that this would allow him to sell alcohol. The applicant stated he had misunderstood this to mean that he could begin the sale of alcohol with immediate effect and had begun to do so. The Principal Licensing Officer and PC Helyer had purchased alcohol from the store during the test purchase exercise and had ordered the applicant to cease sales and remove the alcohol from the premises which he confirmed he had done.

Questions from Members

Members of the Committee were afforded the opportunity to ask questions of the applicant and the following issues were raised:-

- In response to a query the applicant confirmed that he held a Personal Licence. The Chair stated that in obtaining a Personal Licence, the applicant would have been required to complete a two day course culminating in a final exam before being issued with the Licence. The course would have covered the rules and procedures of the Licensing Act and included

the requirement for a Premises Licence to be obtained prior to the sale of alcohol being permitted.

- The Principal Licensing Officer clarified that Mr Uzoma had been advised by one of the Licensing Admin Assistants, when he had called into the office, that he was permitted to sell alcohol as she was not aware that he did not have a Premises Licence, however, the necessity for a Premises Licence would have been fully explained in the Personal Licence Holder course which Mr Uzoma successfully completed.
- Clarification was provided in response to a query, that despite test purchase incident being the subject of legal proceedings it would not prevent the Committee considering the application and making a decision.
- In response to a query, the Principal Licensing Officer informed Members that the sale of alcohol without a licence was an offence under the Licensing Act 2003 and a criminal offence which was punishable by a fine of up to £20,000 or a custodial sentence.
- In response to a question, the applicant advised that the store's current opening hours were 9.00am to 8.30pm daily.

Relevant Representations

Cleveland Police – J Smith, Legal Representative

J Smith, Police Legal Representative, and WPC Helyer, Cleveland Police, were in attendance at the meeting to present the case for representations against the application.

The Chair gave permission for the Police Legal Representative to ask the applicant a number of questions, outlined as follows:-

- The applicant's colleague confirmed that he was not a legal representative, was not connected to the applicant's business in any way and was not a Personal Licence holder. He advised that he and the applicant worshiped at the same church and had become friends. He stated that he was assisting Mr Uzoma due to his limited knowledge of the English language.
- The applicant's colleague accepted that he had limited knowledge of licensing legislation and that he had tried to assist the applicant as far as possible and to research issues which he did not fully understand.
- The applicant confirmed that he had moved to England approximately two years ago and had started running the store in February 2007, selling African food items.
- The applicant confirmed that alcohol had first appeared in his store approximately two days prior to the test purchase taking place.
- The Police Legal Representative stated that the applicant had completed the Personal Licence Holder course which would have covered, in detail, the requirement for a Premises Licence in order to sell alcohol and that having completed the course, the applicant would have accepted and been fully aware that he was not able to sell alcohol from his store until he had obtained a Premises Licence.
- At this point the applicant's colleague objected to the questions being asked by the Police Legal Representative and expressed concern that such questions would have an impact on the applicant's potential court case with regard to the test purchase. The Chair assured him that the Committee was completely independent of any legal proceedings and that the application would be considered on its own merits.
- The Applicant confirmed that he was aware of the requirement to obtain a Premises Licence in order to sell alcohol from his store and that his store currently did not have one.

- In response to several queries it became apparent that the applicant was confused regarding the difference between the four Licensing Objectives, which he was required to promote, and licensable activities.
- Prior to the test purchase incident, it was stated that the initial Police representation had requested a number of proposed conditions to be attached to the licence, including the condition that no perry be stocked or sold from the premises. The applicant had agreed to those conditions, however, during the test purchase incident the applicant had made a sale of Lambrini perry to the Licensing Officers. In response to this statement, the applicant advised that he had asked five people, all of whom were students, what perry was and claimed that all five people had not known.
- In response to a supplementary question, the applicant confirmed that none of the people he asked for advice had any licensing experience or knowledge of licensing legislation.

Tony Bishop (Labour Party Candidate, Gresham Ward) representing local residents

Tony Bishop, Labour Party Candidate for Gresham Ward, was in attendance at the meeting and advised the Committee that whilst he and his colleague, S Khan, were campaigning in Gresham Ward they were asked by local residents to draw up a petition opposing the application for a Premises Licence at 62 Clifton Street. The submitted petition consisted of 34 names. Mr Bishop considered there to be a direct correlation between alcohol and anti social behaviour in the area.

Mr Bishop noted that the applicant had specified within his application that he would provide full training to any staff he employed, however, Mr Bishop expressed concern that the applicant himself appeared to have a number of shortcomings with regard to his own understanding of his obligations and requirements.

Mr Bishop added that Gresham Ward already suffered problems with anti social behaviour induced by alcohol and that local residents were concerned regarding the sale of alcohol from the store which would potentially increase anti social behaviour. Mr Bishop was of the opinion that the application went against the four Licensing Objectives and should be rejected.

Councillor K Walker (Gresham Ward Councillor) representing local residents

Councillor K Walker, Gresham Ward Councillor, was in attendance at the meeting to speak in opposition to the application on behalf of local residents. Councillor Walker advised that he was one of three Ward Councillors in Gresham Ward, all of whom were opposed to the application. Councillor Walker further stated that he had been asked to speak on behalf of the Gresham Community Council who were also in opposition to the application.

Councillor Walker highlighted that, within the Statement provided by Cleveland Police, mention was made of 442 reports of anti social behaviour, largely as a result of alcohol, during the period 1 June to 31 August 2006 in and around the area where the applicant's store was located.

Councillor Walker advised that he had represented the Gresham area for the past 12 years and had received a large amount of complaints relating to underage drinking and anti social behaviour and considered Clifton Street to be plagued by problems which would be made worse if a Premises License was granted at the store. Councillor Walker considered that whilst the applicant was probably a decent and caring person, he did not appear to be au-fait with the requirements of holding a Premises Licence or a Personal Licence and felt that it was extremely important that only 'fit and proper' persons such hold such licences.

Councillor Walker expressed concern that the premises were located in a residential area and that the applicant wished to operate from 8.00am to 10.00pm daily and considered that local residents were entitled to peace and quiet and that the application should be rejected.

Cleveland Police – WPC Helyer

WPC Helyer of Cleveland Police was in attendance and spoke at this point in the meeting in relation to the Witness Statement she had provided in relation to the application.

It was noted that the premises currently operated as a convenience store, in a residential area, the store being an end-terraced property attached to occupied terraced houses. The statement contained information relating to 442 reports of anti social behaviour in the area where the premises were situated during the period 1 June to 31 August 2006, as previously alluded to by Councillor Walker.

The submitted Statement provided details of incidents reported to the Police between 6 July 2006 and 16 March 2007 linked to the store and it was stated that on 16 March 2007 the Police had received intelligence to suggest alcohol was being sold from the premises without a Premises Licence. The same afternoon, two Licensing Officers attended the premises and purchased two bottles of Lambrini wine. Later that day, PC Helyer and the Principal Licensing Officer entered the premises and observed alcohol stocked on shelves and in one of the fridges on the shop floor. The applicant had subsequently been interviewed in relation to this and the earlier test purchase. PC Helyer expressed concern that the applicant did not fully understand the law regarding licensing legislation and had made his lack of understanding known to her, the Principal Licensing Officer and the Committee.

PC Helyer considered that the Gresham area was already suffering from high levels of anti social behaviour and was concerned that positive test purchases would continue to occur due to the applicant's lack of knowledge and understanding of the licensing legislation.

Questions from the Committee and the Applicant

Members of the Committee and the Applicant and his colleague were given the opportunity to ask questions of the objectors and the following issues were raised:-

- The applicant's colleague stated that he was under the impression that the Police would have withdrawn its representations had the applicant agreed to the conditions it had proposed. PC Helyer responded that the view of the Police had changed following the intelligence received and the test purchase carried out in relation to the sale of alcohol.
- The applicant's colleague was of the opinion that the test purchase that was carried out was entrapment. PC Helyer advised that intelligence had been provided to the Licensing Department and that the necessary papers had been obtained allowing a test purchase to be carried out in order to ascertain whether the intelligence was correct. The Principal Licensing Officer added that test purchasing was a common and acceptable practice and had been carried out to discover whether the applicant would make the sale of alcohol without having the correct licence in place. The Police Legal Representative agreed that this had been an appropriate course of action and that the applicant had accepted that he had stocked the shelves with alcohol himself.
- In response to a query from the applicant's colleague, the Police confirmed that they would have maintained their representations against the application had the test purchase incident not occurred and had the applicant not been in agreement with the conditions proposed by the Police.
- A Member of the Committee referred to the conditions initially proposed by the Police which included the provision of CCTV and the applicant was asked whether he operated a CCTV system in his store. The applicant replied that he had advised the Police that he would install CCTV but was awaiting the outcome of his application before he did so.
- In response to a query from a Member, Mr Bishop advised that he had drawn up the petition in response to requests from local residents whilst canvassing in Gresham Ward. Mr Bishop wished to clarify that the submitted petition and representations made on behalf of local residents, had been made prior to having any knowledge of the test purchase incident.

Summing Up

The Chair invited all parties to sum up.

Cleveland Police (making representations)

The Police Legal Representative summed up by stating that wherever a new application for a Premises Licence was made, the impact on the local area must be gauged and the applicant's knowledge of the relevant licensing legislation and how they would promote the four licensing objectives should be taken into account. She stated that the applicant had been proven to be selling alcohol from the premises prior to a Premises Licence being granted which was illegal and now pending prosecution which could result in the removal of the applicant's Personal Licence. The applicant had stated that he was fully aware of the requirement to obtain a Premises Licence and the Legal Representative was unsure as to whether he had made a genuine mistake or attempted to further his business prior to obtaining a licence.

The Legal Representative considered that there would be difficulties if the application was granted due to the applicant's clear lack of understanding of the licensing legislation and requirements. It had become apparent that when the applicant required guidance, it had not been sought from the appropriate sources and concerns were raised that he would continue to operate in the same manner and not to seek guidance from the correct authorities.

The Legal Representative made reference to various paragraphs of the Government Guidance in relation to the Licensing Act 2003 and Middlesbrough Council's Licensing Policy and concluded that should Members grant the application, those conditions initially proposed by the Police should be the very minimum conditions attached to the licence. However, the Legal Representative considered that the application should be rejected due to the applicant's inability to run the premises responsibly which would have a detrimental affect on the area.

The Applicant

The applicant summed up by stating that he had made a genuine mistake and would ensure that he would abide by the law should his application be granted.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal Services and the Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

DECISION

ORDERED that the application for a premises licence in respect of 62 Clifton Street be refused.

In reaching the above decision Members had considered the following:-

1. The case presented by the applicant.
2. The representations made by Cleveland Police
3. The petition submitted by Mr Bishop and Mr Khan and representations made verbally at the meeting by Mr Bishop on behalf of local residents.
4. The written representations submitted by Councillor Coppinger (local Ward Councillor), on behalf of local residents.
5. The representations made by Councillor K Walker (local Ward Councillor), both written and verbally at the meeting, on behalf of local residents and Gresham Community Council.
6. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Crime and Disorder, starting at paragraph 7.20, Annex D.
 - Prevention of Public Nuisance, starting at paragraph 7.38, Annex G.
 - Public Safety, starting at paragraph 7.31, Annex E.
 - Protection of Children from Harm, starting at paragraph 7.47, Annex H.
7. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Prevention of Public Nuisance, pages 10 to 15 (particularly paragraph 38).

- Prevention of Crime and Disorder, pages 17 and 18.
- Protection of Children from Harm, pages 19 to 21.
- Public Safety, pages 16 and 17.
- Premises Licences, paragraph 26.

Members had made their decision based on the following reasons:-

1. In considering paragraph 26 of Middlesbrough Council's Licensing Policy, Members did not consider that the applicant had adequately addressed the Licensing Objectives within his Operating Schedule.
2. That the Operating Schedule had no regard to the fact that the premises was located in a highly populated residential area and the problems the area was already experiencing with underage drinking.
3. The applicant's apparent lack of knowledge of licensing legislation led the Committee to conclude that the Licensing Objectives would not be promoted if the licence was granted.