

LICENSING SUB COMMITTEE B

A meeting of the Licensing Sub Committee B was held on 17 April 2008.

****PRESENT:** Councillor Biswas (Chair); Councillors Jones and Lancaster.

****OFFICIALS:** M Caveney, S Harker, T Hodgkinson

**** ALSO IN ATTENDANCE:** H M Karum - Applicant
Mr Gowan – Applicant's Solicitor

**** DECLARATION OF INTERESTS**

No declarations of interest were made at this point of the meeting.

LICENSING ACT 2003 – APPLICATION FOR PREMISES LICENCE: PRINCES FOOD STORE, 39 PRINCES ROAD, MIDDLESBROUGH TS1 4BE – REF: MBRO/PRO199

A report of the Head of Community Protection had been circulated outlining an application for a Premises Licence for Princes Food Store, 39 Princes Road, Middlesbrough TS1 4BE - Ref No. MBRO/PRO172, as follows:

Summary of proposed Licensable Activities

Sale by retail of alcohol for consumption off the premises.

Summary of proposed hours for Licensable Activities

8.00 am – 10.00 pm Monday to Saturday

9.00 am – 10.00 pm Sunday

Full details of the application and accompanying Operating Schedule were attached at Appendix 1 to the submitted report. In addition the applicant had agreed additional conditions with Cleveland Police following concerns raised by Police Licensing Officers. These conditions were attached at Appendix 2 to the submitted report.

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

The applicant was present at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Principal Licensing Officer confirmed that there were no absent parties and presented the report which was confirmed as being an accurate reflection of the facts by the applicant and the applicant's representative.

The report outlined that, on 25 February 2008, an application was received for a Premises Licence, as stated above, and the applicant had advertised the application, as required by the Licensing Act 2003, in the Herald and Post on 5 March 2008.

It was stated that the premises consisted of a Food Store situated in close proximity to residential premises.

On 4 March 2008 a representation was received from Councillor K Walker, Ward Councillor, on behalf of local residents and Gresham Community Council, who objected to the application on the grounds of the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm and was attached at Appendix 3 to the submitted report.

The Principal Licensing Officer informed the Committee that Councillor K Walker was unable to attend the meeting but had submitted a representation with a request that it was presented to the Committee. The Principal Licensing Officer read out the email received from Councillor Walker whose objections to the licence were on behalf of local residents and the Gresham Community Council for the following reasons:

1. This was an area which had experienced a very high level of anti-social and violent behaviour directly linked to alcohol abuse.
2. There had been a history of damage to residents' property and vehicles from young people drinking alcohol in the streets, often into the early hours of the morning.
3. This was a densely populated area that already had substantial numbers of corner shops that also provided off licence sale of alcohol to the public.
4. Young people must be protected against an over proliferation of off sale alcohol establishments.

The Committee was advised of the following options:

1. Grant the application subject to conditions consistent with the operating schedule and mandatory conditions if applicable.
2. Grant the application subject to the:-
 - addition of new conditions
 - modification of conditions
 - exclusion of any of the licensable activities
 - refusal to specify a person in the licence as the premises supervisor.
3. Reject the application.

Applicant in Attendance

Mr Gowan, the applicant's solicitor, was invited to present his case. The applicant had been operating food sales at the premises under the name of Princes Food Store at 39 Princes Road since September 2007. An application had been made for a licence to sell alcohol for consumption off the premises. The applicant had not had any experience of working in the retail trade prior to September 2007. It was confirmed that the applicant worked in the shop full time and employed one member of staff on a part-time basis. The wife of the applicant also worked in the shop part-time. The applicant confirmed that the business was successful and profitable. There had been one occasion when two youths had tried to steal from the shop and the Police had been contacted and the incident reported immediately. Apart from this one incident, there had been no other trouble at the shop.

The shop was situated on a street corner. There was only one other shop in Princes Road, which sold alcohol. There were also a number of shops in the vicinity situated on Gresham Road, some of shops sold alcohol and some did not. The applicant stated that he was not aware of any problems in Gresham Road which were related to the sale of alcohol.

The applicant's solicitor referred to page 19 of the application for the premises licence and highlighted the measures which would be taken by the applicant to promote the four licensing objectives. Confirmation was given by the applicant that CCTV had already been installed with three cameras inside the shop and one outside. The cameras were capable of recording for up to 40 days. Two members of staff would be working in the shop during evening hours. If the licence was granted the applicant intended to employ another member of staff on a full time basis.

With regard to the issue of public safety the floor areas of the premises would be kept clean and tidy at all times and all entrances and walkways would be unobstructed to ensure easy access to the premises. The applicant confirmed that if there were any issues regarding public safety he would seek advice from the Police or the Licensing Committee. With regard to the prevention of public nuisance, the applicant stated that if any person or persons had caused a disturbance or been abusive on a previous visit to the shop they would be denied entry. The numbers of people

allowed inside the shop at any one time would also be limited as appropriate. With regard to the protection of children from harm, the applicant stated that he would discourage children from congregating outside the premises and sitting on the window ledges of the shop. In addition, no children would be allowed in the stock room.

The applicant's solicitor referred to the additional conditions agreed with Cleveland Police which were appended at Appendix 2 to the submitted report. The applicant stated that he fully understood, and would adhere to, all the additional conditions attached to the licence.

The applicant stated that he was fully committed to the business and that this was his sole occupation. The applicant also confirmed that he did not live at the premises.

Questions to the Applicant from Members of the Committee

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

- In response to a query, it was confirmed that the applicant would be the Designated Premises Supervisor. The applicant did not currently hold a Designated Premises Supervisor Licence but was in the process of obtaining one.
- The Principal Licensing Officer confirmed that whilst a Premises Licence could be granted by the Committee, alcohol could not be sold unless a Designated Premises Supervisor, who held a valid licence, was employed at the premises. The Legal Officer clarified that the Designated Premises Supervisor did not have to be present on the premises at all times during working hours but that all staff should be suitably trained.
- Following a question, the applicant confirmed that the alcohol on sale would be kept behind the counter and the stock room would be secure.
- A Member queried how the applicant would ensure that customers using the shop did not create nuisance or disturbance, since the shop was situated in a residential area. The applicant confirmed that staff would be prepared to discourage customers from creating a disturbance. If required, the applicant confirmed that he would be willing to display warning notices inside and outside of his shop.
- Following a question regarding how the applicant intended to keep up to date with the law and the licensing trade, the applicant agreed that he would seek advice from his solicitor if necessary. The applicant also indicated that he and his staff would undertake relevant training on a regular basis.
- In response to a query, it was confirmed that the applicant would be prepared to attend Community Council meetings in order to address any issues concerning the premises with the local community.

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 for Princes Food Store, 39 Princes Road, Middlesbrough, TS1 4BE be granted subject to the following additional condition:-

1. The applicant, or his representative, must regularly attend, on no less than four occasions per year, the Council run 'Off Licence Forum'.

The reason for the addition of this new condition was to assist the applicant in keeping up to date with current licensing law.

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

1. The four Licensing Objectives of the Licensing Act 2003.
2. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Public Nuisance, starting at paragraph 2.32.
 - Prevention of Crime and Disorder, starting at paragraph 2.1.
 - Protection of Children from Harm, starting at paragraph 2.41.
 - The Pool of Conditions at Annex D.
3. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Prevention of Public Nuisance (pages 10 to 16 in particular paras 38, 41, 42,50 and 51).
 - Prevention of Crime and Disorder (pages 17 to 20).
 - Protection of Children from Harm (pages 20 to 23).
 - Off Sales (pages 27 to 28).
4. The case presented by the applicant.
5. The written representations received.