

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B was held on 10 July 2009.

****PRESENT:** Councillor Biswas (Chair), Councillors Cole and Lancaster.

****OFFICERS:** C Breheny, C Cunningham and S Morris.

****ALSO IN ATTENDANCE:** Mohammed Usman Wajid – Premises licence holder
Mr Wajid – Premises licence holder's brother
R Scott – Barrister Cleveland Police
PC Helyer – Cleveland Police
Sally Helyer – Observer (Work experience placement Cleveland Police)
Sandie McKenzie – Evening Gazette

****DECLARATIONS OF MEMBERS' INTERESTS**

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

LICENSING ACT 2003 – REVIEW OF PREMISES LICENCE – USMAN'S NEWS, 84 PARLIAMENT ROAD, MIDDLESBROUGH – REF: MBRO/PRO87

A report of the Head of Community Protection had been circulated outlining an application for a review of the Premises Licence for Usman's News, 84 Parliament Road, Middlesbrough, Ref No. MBRO/PRO87, as follows:

Summary of current Licensable Activities

Sale of Alcohol (Off Sales)

Summary of current hours of Licensable Activities

Monday to Saturday	8.00am – 11.00pm
Sundays	10.00am – 10.30pm

Full details of the current premises licence was attached at Appendix 1 to the submitted report.

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

The licence holder and his brother were present at the meeting and confirmed that a copy of the report and Regulation 6 Notice had been received.

Details of the application

The Licensing Officer presented the report, which was confirmed as being an accurate representation of the facts by the licence holder.

The report outlined that, on 18 May 2009, an application was received from Cleveland Police for a review of the premises licence for Usman's News, 84 Parliament Road, Middlesbrough on the grounds of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm. A copy of the application for review was attached at Appendix 2 of the submitted report.

Cleveland Police served copies of the application for review on all responsible authorities on 18 May 2009 and, in order to fulfil the requirements of the Licensing Act 2003, Licensing Officers posted notices in the vicinity of the premises and in Council Offices advertising the review application. At the end of the 28 day consultation period one further representation was received.

On 9 June 2009, a representation was received from Sinead Upton, Principle Trading Standards Officer. This representation supported the application for a review of the Premises Licence on

the grounds of the prevention of crime and disorder and the protection of children from harm. A copy of the representation was attached at Appendix 3 of the report.

Applicant in Attendance – Cleveland Police

PC Helyer and R Smith, Barrister Representative representing Cleveland Police, were in attendance at the meeting and presented the case in support of the application for a review of the licence in respect of Usman's News.

R Smith advised the Committee that prior to the commencement of the meeting she had explained to Mr Usman the options available to Members in determining the review. These options included modifying the conditions of the licence, excluding a licensable activity, removing the designated premises supervisor and suspending or revoking the licence.

The Committee was advised that the current premises licence had transferred over under 'grandfather rights' from its old justices' licence and that no conditions were attached to the current licence.

In light of the sales of alcohol made to underage persons in June 2006 and March 2009 a number of proposed conditions had been discussed with Mr Usman. Mr Usman had informed Cleveland Police that since receiving the notice of hearing a number of modifications to the premise had been made and that he had recently completed the personal licence holder course.

The conditions that the Police were proposing and that had been agreed with Mr Usman were outlined as follows:-

- The owner exhibits prominent notices in the premises emphasising that sales to under 18's are illegal and that customers will be asked to produce suitable identification of their age. The owner indicates clearly to anyone appearing to be under the age of 21 that if no identification is produced at the time of the request then the sale of alcohol will be refused.
- All staff are trained and re trained on a regular basis in relation to the sale of alcohol to underage persons and persons appearing to be under the influence of alcohol.
- The owner only employees staff over the age of 18 years.
- The premises should be fitted with colour digital CCTV which will monitor the premises internally and externally. All footage should be retained for a minimum of 31 days and CD ROMs should be kept in a locked and secure cabinet.
- The premises will have a personal licence holder on duty at all times.

R Smith advised that Mr Usman had agreed for the above conditions to be attached to his licence and had informed the Police that he had in fact already put in place a Challenge 25 scheme and displayed notices on the premise. Mr Usman's wife who worked at the premise was 27 years of age, his brother, who present at the hearing, was 19 years of age and his sister who also helped out at the premise was 18 years of age. Mr Usman recognised that persons under the age of 18 should not be employed at the premise. He had also acknowledged that the proposed conditions had been suggested to help safeguard him as designated premises supervisor as well as to help promote the four licensing objectives.

In terms of the proposed condition in respect of CCTV Mr Usman had advised the Police that he did have CCTV in place. However, at present the system only held 12 days worth of footage on the hard drive. The advantage of holding CCTV footage for 31 days had been explained to Mr Usman and he had shown a willingness to work with the Police and improve the CCTV system in order to promote the licensing objectives.

In relation to the proposed condition of ensuring that a personal licence holder was on duty at all times it had been discussed that a three month period was a suitable time within which someone else would need to be trained. At present Mr Usman's brother was completing a Trading Standards Course at Teesside University and Mr Usman had suggested that his wife and brother

could complete the personal licence holder course. It was noted that having another personal licence holder available would also enable Mr Usman to take some time off.

R Smith advised the Committee that she had informed Mr Usman of the emphasis that had been placed by the 2003 Licensing Act on the personal licence holder to take control of the premise and promote the licensing objectives through working with the Council, Trading Standards and the Police.

Questions to Cleveland Police from Members of the Committee

Members of the Committee were afforded the opportunity of asking questions of Cleveland Police and the following issue was raised:-

- In response to a query R Smith confirmed that Cleveland Police were satisfied that if the proposed conditions were placed on the licence in full the four licensing objectives would be promoted. Following the March 2009 incident the licence holder had not displayed a fundamental lack of willingness but rather a naivety. The licence holder had since completed the Level 2 personal licence holder course and was now aware of what was expected of him. R Smith advised that when the licensing law changed so had the expectation on the designated premises supervisor and the way in which the premise was managed was heading in the right direction.

Questions to the licence holder from Members of the Committee

Members of the Committee were afforded the opportunity of asking questions of the licence holder and the following issues were raised:-

- The licence holder confirmed that he had been the premises licence holder for 6 / 7 years just before the 2003 Licensing Act came into effect.
- The licence holder advised that his eighteen year old sister who currently helped out at the premise was not the sister referred to in relation to the sale of alcohol to an underage person, which occurred in 2006.

The licence holder was asked as to whether he had anything further he wished to advise the committee and he confirmed that he did not.

R Smith confirmed that she had nothing further to add in respect of Cleveland Police other than to emphasise Cleveland Police's request for the following condition to be added to the licence:-

The premises will have a personal licence holder on duty at all times.

R Smith advised that regular checks on the premise would be made following the review and after a 3 month period confirmation that another member of staff at the premise had completed the personal licence holder course would be need to be provided.

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 Premises Licence for Usman's News, 84 Parliament Road, Middlesbrough be retained subject to following conditions:-

- i. The owner exhibits prominent notices in the premises emphasising that sales to under 18's are illegal and that customers will be asked to produce suitable identification of their age. The owner indicates clearly to anyone appearing to be under the age of 25 that if no identification is produced at the time of request then the sale of alcohol will be refused.

- ii. All staff are fully trained and re trained on a regular basis in relation to the sale of alcohol to underage persons and persons appearing to be under the influence of alcohol.
- iii. Staff are trained to accept only identification which contains a current photograph e.g. passport, new style drivers licence, or licensing authority issued identification.
- iv. Signs are displayed at checkouts reminding staff to check proof of age by requesting identification.
- v. The owner only employs staff over the age of 18 years.
- vi. The owner exhibits notices prominently in the premises that he will refuse the sale of alcohol to adults who he believes are about to supply person(s) underage.
- vii. The owner will ban from the premises any adult customers found to be purchasing alcohol for person(s) underage. Details of person(s) barred will be documented in the refusals book.
- viii. The owner maintains a refusals book.
- ix. The premises will have a personal licence holder on duty at all times.
- x. The premises should be fitted with colour digital CCTV which will monitor the premises internally and externally. All footage should be retained for a minimum of 31 days and CD ROMs should be kept in a locked and secure cabinet.
- xi. The premises licence holder/DPS will complete a personal licence course (e.g. BIIAB Level 2).

The Committee emphasised to the premises licence holder that it was now a condition of his licence that a personal licence holder was on duty at all times. It was therefore in his best interests to ensure that another member of staff completed the personal licence holder course at the earliest opportunity. If a visit was undertaken and a premises licence holder was not on duty it would be deemed a breach of the conditions and the premises licence holder could be prosecuted.

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:-
 - Reviews, starting at paragraph 11.1 (page 82)
 - Prevention of Crime and Disorder, starting at paragraph 2.1
 - Protection of Children from Harm, starting at paragraph 2.41
 - Prevention of Public Nuisance, starting at paragraph 2.32
 - Pool of Conditions Annex D
3. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Prevention of Crime and Disorder (pages 17 to 20)
 - Protection of Children from Harm (pages 20 to 23)
 - Prevention of Public Nuisance (pages 10 to 15)
4. The case presented by Cleveland Police.
5. The written representation submitted by Sinead Upton, Principal Trading Standards Officer.