

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B was held on 2 August 2012.

PRESENT: Councillors S Biswas, (Chair) M Hudson and M B Williams

ALSO IN ATTENDANCE: F Jennings - Designated Premises Supervisor
D Freeman - Licensing Manager - Amber Taverns
G Roberts - Operations Manager - Amber Taverns
M Nevison - Cleveland Police Legal Representative
Sgt P Higgins - Cleveland Police Licensing Unit
I Fixter - Cleveland Police Licensing Unit

OFFICERS: B Carr, K Metcalfe and T Hodgkinson.

DECLARATIONS OF INTERESTS

There were no Declarations of Interest made by Members at this point of the meeting

12/2 **LICENSING ACT 2003: APPLICATION TO VARY THE PREMISES LICENCE FOR LAST ORDERS, ZETLAND ROAD, MIDDLESBROUGH, TS1 1EE, REF: MBRO/PRO328.**

A report of the Assistant Director Community Protection had been circulated outlining an application to vary the Premises Licence in relation to Last Orders, Zetland Road, Middlesbrough, Ref No. MBRO/PRO328, as follows:-

Summary of Current Licensable Activities

Films, live music, recorded music, performances of dance, activity like music/dance, facility for making music and dancing - Sunday to Wednesday 10am to 2am, Thursday to Saturday 10am to 2.45am

Sale of Alcohol (off Sales). Sunday to Wednesday 10.00am to 2.00am
Thursday to Saturday 10.00am to 2.45am

Summary of proposed variation

To extend the terminal hour for the sale of alcohol and the provision of regulated entertainment on Thursdays to 3.00am and Fridays and Saturdays until 3.30am and to allow an additional hour on Christmas Eve, Boxing Day, the Thursday preceding Good Friday, the Friday, Saturday and Sunday of each bank holiday weekend, St Georges and St Patricks Day.

On 7 June 2012 the application to extend the hours for the sale of alcohol and the provision of regulated entertainment on Thursdays was withdrawn by Amber Taverns.

Full details of the application and accompanying operating schedule were attached at Appendix 1 to the 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. The report provided background information regarding the premises, which consisted of a public house situated on Zetland Road within the town centre and cumulative impact zone in close proximity to a residential area. A plan of the area was attached at Appendix 2 to the report.

The report outlined the history of the licence and a copy of the existing Premises Licence was

attached at Appendix 3 to the report. On 28 July 2011, an application was received from the applicant to extend the licensable hours for the premises until 3am on Thursday to Saturday however the application was subsequently withdrawn following the receipt of representations from Cleveland Police. The latest application for the proposed variation to the premises licence was received on 7 June 2012.

On 29 June 2012 representations attached at Appendix 4 to the report were received from Cleveland Police objecting to the application on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

On 2 July 2012 a letter was sent to Cleveland Police from the applicant offering to amend the application to vary the hours for the sale of alcohol from 3.30am on Fridays and Saturdays to 3am and for Thursdays to remain at 2.30am. A copy of the letter was attached at Appendix 5 to the report.

Applicant in Attendance

The Operations Manager presented the case in support of the application. The Operations Manager advised that in his view the majority of trade at the premises occurred after 11pm at night and before then the premises had limited footfall. Current clientele left the premises between 1.30am to 1.40am to go to bars with later closing times and the premises stopped admitting new customers after 2.00am.

The Operations Manager acknowledged that although there had been incidents at the premises the management had worked hard to reduce the number of them. The premises had introduced a new dispersals policy so that customers could disperse safely from the side entrances. He also referred to the unofficial taxi rank outside of the premises and advised that he would like to see taxi marshals operating on the rank. The Principal Licensing Officer advised Members that the licensing office had received a request to review all of the taxi ranks and a request had been made for the unofficial rank to be a permanent fixture and a consultation process was underway in respect of this issue.

Members were advised that some of the incidents referred to in the report had occurred after the premises had closed. The premises had door staff outside the premises for half an hour after the premises closed to ensure customers dispersed safely.

The Operations Manager advised that in 2010 a high number of incidents had been reported and the Police had developed an Action Plan in consultation with the premises and the licensing authority. The premises had improved lighting and CCTV at the premises and had installed an enclosed smoking area. The premises also operated an organised queuing system and employed additional security staff. The premises also had polycarbonate glassware and PET plastic bottles following an incident in the back alley near to the premises.

Cleveland Police

The Police legal representative advised that the premises were situated within a saturation zone. Members were advised that the premises had to show that the granting of the variation of the licence would not undermine the licensing objectives. The legal representative asked PC Fixter to go through his statement and the incidents referred to in the statement and confirm that the details provided were correct.

The police legal representative confirmed that the police did not object to the applicant's extension requests in relation to Christmas Eve, Boxing Day, St George's Day and St Patrick's Day, when there will be a higher number of police officers on duty in the area. The Police did however object to the premises' opening hours being extended for Maundy Thursday and bank holiday weekends, and in relation to the extra 30 minutes on Friday and Saturday nights, when the police would have normal staffing levels.

Sgt Higgins advised that many of the actions detailed in the Action Plan had been converted into licensing conditions on the premises licence and although he acknowledged that there

had been improvements at the premises since the Action Plan had been initiated, he stated that in his view if the additional half hour was granted it would lead to further incidents of disorder.

The Police went through the list of detailed incidents and identified which of the incidents was directly attributable to the premises and which were listed as in the vicinity of the premises. The Police advised that if the extension was to be granted it could impact on the police overlay shift by requiring officers to work later than 3am.

Summing Up

The Police

The Police advised that members had heard evidence and concerns that if the variation to the licence was granted it would undermine the licensing objectives. The police acknowledged that the premises had adhered to the Action Plan but stated that if the additional half hour extension was to be granted then it would only add to crime and disorder in the area.

It was highlighted that the incidents that had occurred had mainly taken place on Fridays and Saturday evenings. The premises were situated in a saturation zone and the onus was on the premises to demonstrate that the granting of the licence would not add to crime and disorder in the area. The Police referred to the section 9.13 and 9.16 and section 34 - 36 of the Council's Licensing Policy. The Police also referred to section 13.29 and 13.34 of the Government Guidance.

The Applicant

The Applicant advised which of the incidents he thought were directly attributable to the premises. He stated that the premises operated a dress code which stated no hoodies or sportswear was allowed in order to attract a better clientele. The premises had also adopted the Challenge 25 policy rather than the Challenge 21 policy.

The applicant referred to the fact that the premises had traded responsibly and taken remedial action as a result of the Action Plan. He advised that the premises had a good and very proactive DPS who had a good working relationship with the police, the licensing authority and the premises customers.

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

This is the decision of the Licensing Sub-Committee [the Committee] held on 2 August 2012 in relation to an application by Amber Taverns [the applicant] (reference: MBRO/PR0328) to extend the terminal hour for the sale of alcohol and the provision of regulated entertainment at Last Orders, Zetland Road, Middlesbrough [the premises].

A relevant representation against the application was lodged by Cleveland Police.

Representatives attended the hearing on behalf of the applicant and Cleveland Police.

A report written on behalf of the Council's Assistant Director of Community Protection [the report to Committee] had been circulated to Committee members, the applicant and Police ahead of the hearing. Principal Licensing Officer Tim Hodgkinson formally presented the report to the Committee and highlighted that the premises stand in a cumulative impact policy zone.

The applicant and Cleveland Police were each given an opportunity to present their case to

the Committee in open session. The Committee then went into closed session to make its decision.

Summary of decision

The application will be granted with a necessary modification of the licensing conditions for the premises.

Reasons

1. This application was considered on its own merits.
2. Careful account was taken of the 4 licensing objectives set out in the Licensing Act 2003. It was noted that the written representations received from Cleveland Police before the hearing (which were reproduced in the appendices to the report to Committee) indicated objections in relation to all 4 objectives. It was further noted that in the evidence presented to the Committee at the hearing, Cleveland Police focused on the objective of preventing crime and disorder.
3. Consideration was given to the Secretary of State's published guidance on the Licensing Act 2003, in particular (reflecting the objections made by Cleveland Police and the evidence provided by their witnesses) in relation to preventing crime and disorder.
4. Consideration was given to Middlesbrough Borough Council's own licensing policy, in particular the parts of the policy relating to preventing crime and disorder.
5. The Committee also considered the Council's special policy on cumulative impact, which is explained at 9.13 to 9.21 of the Council's Licensing Policy Statement. There was no dispute that the premises are in the area to which this special policy applies. The Committee recognised:
 - That the existence of the cumulative impact policy creates a rebuttable presumption against granting variations to existing licences that would add to cumulative impact;
 - That if an application is refused, the Committee must be able to show that the grant would undermine the promotion of one of the licensing objectives, and, if it would, that necessary conditions would be ineffective in preventing the problems involved.
6. The Committee noted that on 7 June 2012 the applicant had modified its original application in an email to the Council's licensing department in which it withdrew a part of the application relating to opening hours on Thursdays. The applicant had then written to the Chief Constable of Cleveland Police on 2 July 2012 saying that it would limit the extension request to 30 minutes on Friday and Saturday nights, rather than seeking a one hour extension for each night. The applicant also confirmed to the Committee (when summing up its case) that it was happy to seek a 30 minute extension for those nights.
7. Cleveland Police said in their evidence that they do not object to the applicant's extension requests in relation to Christmas Eve, Boxing Day, St George's Day and St Patrick's Day, when there will be a higher number of police officers on duty in the area. The Police do object to the premises' opening hours being extended for Maundy Thursday and bank holiday weekends, and in relation to the extra 30 minutes on Friday and Saturday nights, when the police would have (in the words of one witness) normal staffing levels.
8. The Committee heard that between February 2010 and September 2010 the applicant followed an action plan drawn up by Cleveland Police in response to earlier crime and disorder problems. Both parties indicated that implementing the action plan had helped promote the crime and disorder licensing objective. The measures introduced under the action plan included strengthening the provision of security personnel at the premises.
9. When writing to the Chief Constable the applicant explained (inter alia) that its security personnel will monitor and assist our clientele to fully utilise the taxi facilities to ensure a safe journey home and that, there would be a security personnel presence in the area until 3:30am

(if the application to trade until 03:00am was successful).

10. The applicant had also proposed [in its operating schedule] that the restriction on having bottles at the premises be added to, to prevent its customers from bringing sealed bottles into the premises.

11. The Committee discussed and weighed up the submissions they had heard from the applicant and from Cleveland Police. The Committee noted that both the applicant and the Police presented their case in a clear and structured way, and that both parties also answered questions from Committee members clearly and concisely.

12. The Committee was satisfied in this case that the extension can be granted on the basis that it is unlikely to add to cumulative impact provided there is a sufficiently strong security presence operating from the premises until customers have dispersed at closing time.

Standard days

The extension means that the premises' terminal hour for the sale of alcohol and the provision of regulated entertainment becomes 3:00am on Friday night and 3:00am on Saturday night. There is no change to terminal hours on any other weeknight.

Non standard timings

On Christmas Eve, Boxing Day, Maundy Thursday, St George's Day, St Patrick's Day and for the Friday, Saturday and Sunday of bank holiday weekends the premises' terminal hour for the sale of alcohol and the provision of regulated entertainment becomes 3:30am.

Modified conditions

In the premises licence Part A, under Licensing Objectives, the prevention of crime and disorder, 2 and 3 should be altered as is here shown underlined:

2. Whenever the premises are open after midnight on Fridays and Saturdays and on Maundy Thursday [the Thursday preceding Good Friday] and on Sundays at bank holiday weekends, for the first 200 patron(s) there will be a minimum of 3 SIA registered door supervisors on duty from 10 pm until the premises close and customers have thereafter been dispersed safely from the premises. An additional 1 x door supervisor will be on duty for every 100 extra patron(s) thereafter. On other days when the premises are open after 12 Midnight, there will be 2 SIA registered door supervisors on duty from 10pm until the premises close for the first 200 patron(s). An additional 1 x door supervisor will be on duty for every 100 extra patron(s) thereafter. Door Supervisors will sign a signing in register at the start of each tour of duty.

3. No glasses/open bottles or other open containers shall be allowed to leave the licensed area at any time. No person(s) in possession of a glass/open bottle or any other open container will be allowed entry to the premises. No person in possession of a closed glass bottle shall be allowed entry to the premises.