

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B was held on 10 February 2017.

PRESENT: Councillors S Biswas (Chair), D J Branson and J Rathmell

OFFICERS: B Carr

DECLARATIONS OF INTERESTS

None.

17/1 **APPLICATION FOR GRANT OF PREMISES LICENCE - 39 PRINCES ROAD
MBRO/PRO/500/089077**

DECISION

The Licensing Sub Committee decided to reject the application for a Premises Licence in respect of 39 Princes Road Middlesbrough for the off sale of alcohol from 8.00am until 10.00pm Monday to Saturday and from 9.00am until 10.00pm on Sundays, to the Applicant Mr Harde Mhauden Kareem under Section 18 of the Licensing Act 2003 ("the Act") for the following reasons.

1. The Licensing Sub Committee noted in accordance with Section 4 of the Act that it must carry out its functions with a view to the promotion of the licensing objectives and in carrying out those functions it must have regard to Middlesbrough Council's Statement of Licensing Policy ("the Policy") and the Guidance issued by the Government under Section 182 of the Licensing Act 2003 ("the Guidance").
2. The Licensing Sub Committee noted under Section 18 of the Act it must, having regard to the representations, take such steps, if any, as it considers appropriate for the promotion of the licensing objectives.
3. The Licensing Sub Committee had regard to the Guidance, in particular, but not exclusively, Part 9 which deals with determining applications and Part 13 in relation to cumulative impact.
4. The Licensing Sub Committee had regard to the Policy. It listened carefully to the case presented by the Applicant and the representations made by the Responsible Authorities and objectors.
5. After considering the application on its own merits, the relevant representations written and oral of the parties to the hearing including the applicant, the Policy and the Guidance, the Licensing Sub Committee considered that it was appropriate to reject the application to promote the prevention of crime and disorder, nuisance and the protection of children from harm.
6. The premises is situated in Newport Ward which has been declared by the Licensing Authority as being subject to a Cumulative Impact Policy.
7. The Guidance states that in some areas, where the number, type or density of premises selling alcohol is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. It states that licensing authorities should consider whether the number of off licences in an area contribute to these problems and may include them in a cumulative impact policy (13.21).
8. The Guidance confirms that the effect of adopting a special policy creates a rebuttable presumption that applications for the grant of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, unless the applicant can demonstrate in the operating schedule that there will be no negative impact on one or more of the licensing objectives. (13.30).

9. The Guidance also confirms that applications that are unlikely to add to the cumulative impact should be granted. The licensing authority should consider whether it would be justified in departing from its policy in light of the individual circumstances of the case. (3.36).

10. The Policy, at part 10 sets out the cumulative impact policies applicable to Middlesbrough, the reasons for implementing and the effect of those policies. The Policy confirms that work had been carried out to identify the location of off licence premises and links to crime and disorder, anti-social behaviour and alcohol attributable admissions to hospital. It confirmed that there is a relationship between the density of off licensed premises, crime and disorder, anti-social behaviour and alcohol related hospital admissions.

11. The Policy confirms that five wards were identified as being subject to a cumulative impact policy in relation to off sales of alcohol and at the time of the study those wards accounted for 61% of off sales premises, 61% of all crime and disorder and 53% of anti-social behaviour out of the whole of Middlesbrough.

12. Newport Ward was the second highest ward for incidents of anti- social behaviour and crime and disorder. Central Ward which is right next to Newport Ward had the highest number of crime and disorder and Anti- Social Behaviour in Middlesbrough.

13. The policy confirmed the Licensing Authority considered that the density of off licensed premises in the wards is having a negative impact on crime and disorder.

14. The Policy confirmed that the cumulative impact policy had been applied to Newport Ward and its neighbouring Central Ward due to the number, type and density of the premises selling alcohol off the premises. It confirms the Licensing Authority is satisfied that there is good evidence that crime and disorder or nuisance occurring in this location is being caused by the customers of the off licence premises is evidenced and that the cumulative impact of off licensed premises in this location is evident.

15. The Applicant advised the Committee that the licence will have some impact but will not add to the negative cumulative impact on the objectives.

16. The Committee considered the Applicant's case in full, in summary, the main areas Applicant's case that there would be no negative impact included:

- That the Applicant was found not guilty of any crime in relation to illicit cigarettes which was the main ground for the previous revocation of his licence
- That the Applicant has severed any ties with the person who was responsible for the crimes involving illicit cigarettes
- That the Applicant denied any previous wrongdoing at the Premises
- That there were no issues from test purchases for underage sales when the premises was licensed
- That the numerous conditions on the licence will prevent any negative impact
- The some of the incidents referred to by the police were outside of the area of the premises and were not alcohol related
- None of the incidents were related to the premises

17. The Applicant submitted that he had been found not guilty of charges brought for an offence in relation to illicit cigarettes found in a vehicle he was using, The Applicant also submitted that the charges for an offence in relation to illicit cigarettes being found in a different store were not proceeded with by the Council.

18. The Committee took into consideration that he had been found not guilty in a criminal court and noted that Mr Abassi took responsibility for the offence of illicit cigarettes being found at a different store and that no evidence was brought against the Applicant. Also that the Applicant said he no longer has a relationship with Mr Abbasi. However, the Committee remained concerned that the Applicant, whilst he had responsibility of being a Premises Licence Holder drove a vehicle containing 81,000 illicit cigarettes. The Committee were also concerned that the Applicant had a close business connection over a period of time with Mr Abbasi, the other store and vehicle which were clearly involved in criminal activity of illicit

tobacco. These concerns were also expressed by Trading Standards, Public Health and the Police. This was also set out in the minutes of the Licensing Sub Committee when the licence was revoked and upheld by the Magistrates Court.

19. The Applicant submitted that whilst he was a Premises Licence Holder he denied alcohol was served to someone who was drunk, that he had invoices to show that drinks were not sold cheaply or that a member of staff later sold alcohol to a group who were drunk. That no action was taken that the member staff who served the people no longer works at the Premises. The Applicant informed the Committee that there would be no reason for the premises licence holder to allow sales to drunks whilst he was at the premises knowing an enforcement officer was present in the store.

20. However, the Committee considered that this issue was addressed at the previous Licensing Committee. It was minuted that the Committee preferred the officer's evidence that a sale of a single can of high strength alcohol to one of a group of males who appeared to be under the influence, that the individual opened the can in the shop and started drinking it as he was leaving. That on another occasion there was a sale of lager to a group of males who appeared to be drunk and the minute goes on to state that the males were loud and aggressive, speech was slurred with a very strong smell of intoxicating liquor. The minuted also stated that Perry Products were on sale in breach of the conditions on the previous licence. The decision and reasons to revoke were upheld by a Magistrates Court. These concerns were also raised by Trading Standards and Public Health in their representations. Therefore the Committee considered that when the Applicant was a Premises Licence Holder he disregarded the rules and responsibilities that are applicable to that role in an area that suffered from serious alcohol related harms including street drinking.

21. The Applicant advised the Committee that the proposed conditions on the new Premises Licence would prevent any negative cumulative impact that the off sale of alcohol would have.

22. The Committee was concerned when the Application was made, the Applicant was not aware that Newport Ward was subject to a cumulative impact policy despite having previous experience as a Premises Licence Holder and both the Guidance and Policy states that an Applicant are expected to have regard to the Policy and should be aware of the risks posed to the local area and local initiatives. Prior to the hearing additional conditions were submitted. Some of the conditions, although accepted had the possibility of being modified were preventing acts that are unlawful in any event. The Applicant also advised the Licensing Committee that he would be subject to the mandatory restriction on price which relates to all licensed premises but he would not agree to a minimum unit price of 50 pence as suggested in the Policy.

23. The Applicant submitted that the incidents put forward by the police were not all alcohol related, some were quite a way from the Premises.

24. The police produced evidence of 77 incidents of crime and disorder or anti-social behaviour in the area where the premises are situated over a period of six months from July 2016 to January 2017. The Police confirmed that those incidents were produced on the basis of alcohol being a factor in the offences or reports made. It was confirmed that the alcohol related incidents of crime and disorder were analysed from a boarded area bounded by Union Street, Borough Road, Linthorpe Road, and Gresham Road. The Licensing Sub Committee considered the incidents and the additional information provided by Adam Parkinson, the Neighbourhood Safety Officer for the area. Many of the incidents were in and around the surrounding streets and some witnessed by children. Incidents included fighting in the streets, drunks stumbling around the streets, people shouting and urinating in the streets, street drinking and violence amongst many others. There had also been dispersal orders as a result of young people gathering, drinking alcohol leading to anti-social behaviour and crime in the area around Linthorpe Road. The Licensing Sub Committee considered that this particular area within the cumulative impact ward area suffers from serious and wide ranging alcohol related harms, crime and disorder and anti – social behaviour and the objectives including the protection of children from harm are being seriously undermined.

25. The Licensing Sub Committee in accordance with the Guidance considered that Police are

an essential and the main source of advice on the impact and potential impact of licensable activities, particularly on the crime and disorder. The Licensing Sub Committee therefore accepted the police representations and information about the problems in the area in accordance with the Guidance.

26. Although none of these incidents were related to the Premises, the Premises was not selling alcohol at the time, the off sales of alcohol in the area in accordance with the policy is having a negative effect on the problems in the area.

27. Although previously there were no positive test purchases at the Premises, as a result of the saturation of premises selling alcohol off the premises children are being harmed by either themselves drinking alcohol and causing anti- social behaviour or witnessing crime and disorder or anti-social behaviour or being exposed to drunken activity.

28. Public Health also confirmed its concerns in relation to the cumulative impact of the off sales having a detrimental impact on the objectives in the area.

29. The Licensing Sub Committee therefore has no justification to depart from the special cumulative impact policy, it considers that conditions themselves would not prevent a negative cumulative impact on the objectives in this particular area for this type of premises. In addition, in view of the Applicant's track record, the Licensing Sub Committee considers that his operation would be likely to add to the existing negative cumulative impact on the licensing objectives.

30. Licensing Sub Committee considered that it was appropriate to reject the application to promote the prevention of crime and disorder, nuisance and the protection of children from harm for the reasons set out above.

The applicant was reminded of the right to appeal to the Magistrates Court within 21 days of the date of the decision.