
LICENSING SUB COMMITTEE C

A meeting of the Licensing Sub Committee C was held on 15 August 2005.

PRESENT: Councillor J Jones (In the Chair), Councillors Lancaster and Morby.

OFFICIALS: C Arbuthnot, M Cooper, J Hodgson, I Nicholls, S Ratcliffe, S Vickers.

****ALSO IN ATTENDANCE: For Agenda Item 3 only**

T Singh (Applicant)
Mrs Tersam Kaur (Applicant's representative)

For Agenda Item 4 only

N Connor (Applicant's Legal Representative)
T McLachlan (JD Wetherspoon's - Manager)
V Stuart (Premises Manager)
D Skipsey (Shift Manager)
J Constable (Legal Representative – Cleveland Police)
PC Graham (Licensing – Cleveland Police)

DECLARATIONS OF MEMBERS' INTERESTS

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

APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors B Taylor (Chair) and Mawston.

APPOINTMENT OF SUBSTITUTES

Councillor J Jones was in attendance to act as a substitute for Councillor B Taylor (Chair) and Councillor Morby was in attendance to act as a substitute for Councillor Mawston.

LICENSING ACT 2003: NEW PREMISES LICENCE APPLICATION – THE RAJ, 2 HENRY STREET, NORTH ORMESBY, MIDDLESBROUGH REF NO. MBRO/PR0073/018338

The Head of Community Services submitted a report outlining an Application for a New Premises Licence for The Raj, 2 Henry Street, North Ormesby, Middlesbrough.

Summary of Proposed Licensable Activities

Provision of late night refreshment

Summary of Proposed Hours for Licensable Activities

11.00pm - 1.00am Daily

Full details of the Application and Operating Schedule were attached at Appendix 1.

A representation from Mr D Taylor, Chair of North Ormesby Community Council had been received on 13 July 2005, objecting to the Application for the premises to open beyond 12 midnight on the grounds of Public Nuisance.

Applicant in Attendance

The Applicant was present at the meeting accompanied by his Representative (wife). It was confirmed that copies of the report and the Regulation 6 Notice had been received and that the report was an accurate reflection of the facts.

The Applicant's Representative was invited to present the case in support of the Application and to address the Representation that had been made.

It was stated that the business had operated from the premises for eight years and no complaints had been received from local residents in connection with litter or late night noise nuisance. There had been an occasional problem with local children. The area around the shop was kept clean and tidy and the Applicant always swept up outside after closing. No problems had been experienced.

On questioning, the Applicant's Representative explained that the premises were on the corner of two terraced streets, with residential properties on either side. It was confirmed that the majority of food orders were delivered to customers, with a small proportion of patrons calling at the premises.

It was confirmed to the Applicant that all Licensable Activity, including delivery to customers' homes, should cease at the terminal hour of 1.00 am and that the Licence would require annual renewal.

Responsible Authority - Representation

On 13 July 2005, a Representation had been received from D Taylor, Chair of North Ormesby Community Council, objecting to the Application to open the premises beyond 12 midnight on account of public nuisance resulting from noise and litter. However, no representative from the Community Council was in attendance. Accordingly, the Committee determined to consider the written representation under Section 20 of the Licensing Act 2003 (Hearings) Regulations 2005.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee determined the Application.

Subsequently, all interested parties returned to the meeting whilst the Chair announced the Committee's decision.

DECISION

ORDERED as follows:-

1. That the Application for a Premises Licence be granted.
2. That the hours for Licensable Activities of the provision of late night refreshment of 11.00pm to 1.00 am daily be granted.
3. The decision was based on the following reasons:-
 - i) The application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003.
 - ii) Consideration was given to the objection from North Ormesby Community Council.
 - iii) Consideration was given to the relevant sections of Middlesbrough Council's Licensing Policy.
 - iv) Consideration was given to the relevant sections of Guidance to the Licensing Act 2003 issued by the Secretary of State.

LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – J D WHETHERSPOON PLC - ISAAC WILSON, 61 WILSON STREET, MIDDLESBROUGH – REF NO. MBRO/PROO67/018212

In attendance:

N Connor (Applicant's Legal Representative)
T McLachlan (JD Wetherspoon's - Manager)
V Stuart (Premises Manager)
D Skipsey (Shift Manager)
J Constable (Legal Representative – Cleveland Police)
PC Graham (Licensing – Cleveland Police)

The Head of Community Protection submitted a report outlining an Application to Vary the Premises Licence for the Isaac Wilson, Wilson Street, Middlesbrough, as follows:

Current Licensable Activities

Sale by retail of alcohol for consumption on and off the premises
Provision of Late Night Refreshment

Current Hours of Licensable Activities

11.00am – 11.00pm Monday to Saturday
12 noon – 10.30pm Sundays.

Summary of Proposed Variation of Licensable Activities

None

Summary of Proposed Variation to Hours for Licensable Activities

09.00am - 12.30 am Sunday to Thursday
09.00am - 1.00 am Friday and Saturday
To extend the hours on various notable dates throughout the year.

Full details of the Application and Operating Schedule were attached at Appendix 1.

The Principal Licensing Officer advised that the Applicant, his Legal Representative, the Planning Department and Cleveland Police had held discussions prior to the meeting. The Applicant had agreed to apply for Planning Permission to extend the opening hours of the premises and the Planning Department had therefore agreed to withdraw their Representation.

The Principal Licensing Officer confirmed that there were no absent parties.

Applicant in Attendance

The Applicant's Legal Representative was present at the meeting and confirmed that copies of the report and regulation 6 Notice had been received. It was also confirmed that the report was an accurate reflection of the facts.

The Applicant's Legal Representative was invited to present the case in support of the Application and to address the relevant Representations remaining outstanding.

The premises were described as a typical JD Wetherspoon's establishment with no music and an emphasis on food provision. It was anticipated that there would be no substantial change to this or the clientele if longer hours were permitted. It was stated that all JD Wetherspoon's staff underwent extensive training. JD Wetherspoons operated a responsible drinking policy and had moved away from cheap alcohol and drinks promotions.

It was also confirmed that the Planning Variation would be sought prior to trading under the Variation to the hours if granted.

The Applicant's Representative confirmed that discussions with the Police had taken place prior to the meeting. Agreement had been reached regarding an amended Condition 4, which was to be incorporated into the Operating Schedule as follows:

'No drink in any glass, open bottle or other open container shall be *intentionally* allowed to leave the premises'

It was considered that the other Conditions requested by the Police were not necessary for the following reasons:

- Conditions 1, 3, 5, 6, 7 were complied with in accordance with J D Wetherspoon's Company policy.
- The installation of a colour digital CCTV required by Condition 2 was not necessary as a system was already installed.
- Condition 8 relating to 2 SIA registered door supervisors was not necessary as no problems of disorder were experienced at the premises.

The Applicant agreed to withdraw the Application for non-standard timings on 12 occasional days.

In response to a query it was agreed that JD Wetherspoon's policies could be subject to change in the future.

It was stated that the Police were very rarely called to the premises, and that conditions 1-7 were already operational, except condition 2 where the CCTV was analogue and black and white, rather than digital and colour. It was confirmed that JD Wetherspoon's policies could be subject to change over time. However the Applicant did not envisage any substantial change in the clientele of the premises as younger people favoured venues which provided music and dancing. It was suggested that the issue relating to the provision of Door Supervisors could be reviewed by the Company in consultation with the Police after the Second Appointed Day.

Responsible Authorities

Representation from Middlesbrough Borough Council Planning Department

On 5 July 2005, a representation had been received from the Planning Department objecting to the Application to Vary the hours on the grounds of the prevention of Public Nuisance. However, this had subsequently been withdrawn as the Applicant had undertaken to apply for Planning Permission to extend the opening hours of the premises.

Representation from Cleveland Police

On 27 June 2005, a Representation had been received from Cleveland Police objecting to the Application to vary the hours on the grounds of the prevention of Crime and Disorder.

The Police representatives were invited to present their case.

In making their Representation the following had been considered:

- The Licensing Act 2003 and Middlesbrough Council's Licensing Policy (paragraphs 26, 30, 83).
- The Applicant's Operating Schedule was generic and not specific to the premises.
- The requirement to impose Conditions 1-7 was on the grounds of prevention of Crime and Disorder.
- The Condition relating to door supervisors was a "light touch" - attendance at premises was required for only 4% of the proposed hours of opening.
- Longer licensed hours would lead to an increase in crime and disorder.
- Various examples of disturbances and incidents of disorder over the last 12 months were quoted
- The Conditions requested were common-sense preventative measures.

In response to a query raised by the Police the Applicant clarified that the current CCTV installation was in fact a black and white analogue system. The Police Solicitor explained that a colour digital system provided clearer images for identification purposes in Court prosecutions.

It was confirmed that the applicant could not to be held responsible for incidents that occurred outside the premises or when the premises were closed. However, the Police intended to take a preventative, proactive approach to incidents Crime and Disorder.

In response to a query it was confirmed that one incident of crime and disorder referred to by the Police had in fact taken place in the doorway of the premises at 12.57 am – long after the premises were closed.

SUMMARIES

The Applicant's Legal Representative summed up the Application and confirmed that the installation of a colour CCTV system was not a matter of cost to the Company but of need. The Police conditions should relate to specific premises and could not be aspirational. There was no history of incidents of disorder at the premises. Any later problems could be addressed by the reviewing mechanism of the Licensing Act 2003. It was agreed that the Application was a general one about the Company had 550 premises to deal with. The Company was not aiming to attract a different clientele and considered that the premises would be busier earlier rather than later in the evening.

The Representation by the Planning Department had been withdrawn prior to the meeting as agreement had been reached.

The Police's legal representative summed up their objection by confirming that their requested Conditions were based on a common-sense, proactive approach to deal with the anticipated increase in incidents of crime and disorder as a result of longer licensing hours.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee determined the application.

Subsequently, all interested parties returned to the meeting whilst the Chair announced the Committee's decision.

DECISION

ORDERED as follows:-

1. That the Application to Vary the Premises Licence be granted with the Variation in Hours as follows:

9.00 am - 12.30 am Sunday to Thursday
9.00 am – 1.00 am Friday and Saturday

To include the Notable Dates as set out in the Operating Schedule but excluding the twelve occasional dates.

2. That the Operating Schedule be amended to include the Police Conditions numbered 1, 3, 4 (amended version) 5, 6 and 7 as set out in the submitted Police representation.
3. That the Operating Schedule be further amended to include the Condition that the premises have a colour CCTV analogue system installed by 24 November 2005.
(NB. The Committee's original decision to impose a Condition for a digital system to be installed was rescinded having taken legal guidance from the officer from Middlesbrough Council's Legal Services and after further deliberation.)
4. That the Operating Schedule be further amended to include the additional condition that on every Friday and Saturday evening two SIA Registered Door Supervisors should be employed between 11 pm and the terminal hour.

The decision was based on the following reasons:-

- I) The application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003.
- II) Consideration was given to the case made by the Applicant.
- III) Consideration was given to the relevant sections of the Middlesbrough Council's Licensing Policy (Pages 17 and 18 – Crime and Disorder).
- IV) Consideration was given to the relevant sections of the Government Guidance to the Licensing Act 2003 (Appendix D paragraph 7.20 – Crime and Disorder)
- V) Consideration was given to the Representations made by Cleveland Police.