
LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 12 September 2005.

PRESENT: Councillor B Taylor (Chair), Councillors Lancaster and Mawston.

OFFICERS: C Arbuthnot, M Cooper, T Hodgkinson, I Nicholls, S Vickers.

ALSO IN ATTENDANCE: For Agenda Item 4 Only

Mr D Stokes (Applicant)
Councillor Michna (Representing Local Residents)
Mrs T Welsh (Local Resident)
Mrs M Gill (Local Resident)

For Agenda Item 5 Only

Mr S Cochrane (Applicant)
Mr K Sargent (Portman Street Residents Association)

DECLARATIONS OF INTEREST: There were no Declarations of Interest at this point in the meeting.

LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – THE PARK, 406 LINTHORPE ROAD, MIDDLESBROUGH – REF NO: MBRO/PR0159/019291

The Head of Community Protection submitted a report outlining an Application to Vary the Premises Licence for The Park, 406 Linthorpe Road, Middlesbrough.

SUMMARY OF CURRENT LICENSABLE ACTIVITIES

Sale by retail of alcohol for consumption on and off the premises
Live music, recorded music, performance of dance, making music and dancing

SUMMARY OF HOURS OF CURRENT LICENSABLE ACTIVITIES:

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

SUMMARY OF PROPOSED VARIATION OF LICENSABLE ACTIVITIES

As above plus:
Indoor sporting events

SUMMARY OF PROPOSED VARIATION TO HOURS FOR LICENSABLE ACTIVITIES

11.00am – 1.00am daily sale of alcohol
11.00am – 1.30am daily all other licensable activities

Full details of the Application and accompanying operating schedule were attached at Appendix 1 of the report.

The Chair introduced those present and outlined the procedure to be followed at the meeting. The Applicant was in attendance and confirmed that the Regulation 6 Notice and a copy of the report had been received, and that the report presented was accurate.

APPLICANT IN ATTENDANCE

The Applicant was invited to present the case in support of the Application. He explained that his solicitor had been expected but he was happy to proceed in his absence. This was allowed under Section 20 of the Licensing Act 2003 (Hearings) Regulations 2005.

The Applicant confirmed he had taken over the premises the previous year and between January and March 2005, an expensive refurbishment and improvement had been undertaken. A new kitchen would be operational in the next month, allowing food to be served from 10:00am to 11:00pm. As a result of these improvements and guidelines from the Police, the clientele had changed and was now more mature. The premises was a social venue with recorded background music.

Consultation with customers had indicated a requirement for a terminal hour of 1.00am. Other Licensable Activities would cease at 1:30am. The frequency of live music would not be increased from the current practice of fortnightly until 1.00am.

The Local Residents and the Ward Councillor were given the opportunity to ask questions and the following points were raised: -

- The nearest house was approximately 25 metres from the premises.
- Local residents were unable to leave windows open at night due to noise emanating from the premises.
- Later hours would have an impact on local residents, as the area was generally noisy at closing time.
- Reference was made to the employment of registered SIA Door Supervisors at the premises and the Applicant confirmed that this was in accordance with a Police requirement.

REPRESENTATIONS

A Representation had been made by Councillor Michna, Ward Councillor, objecting to the Application to Vary the Premises Licence on the grounds of the prevention of public nuisance. Councillor Michna was in attendance.

A Representation had also been made by local residents, objecting to the Application to Vary the Premises Licence on the grounds of the prevention of public nuisance. Two residents were in attendance and confirmed Councillor Michna would speak on their behalf.

It was stated that the objection was based on the proximity of the premises to residential properties and the concentration of licensed premises already trading in the vicinity. Councillor Michna then outlined the correspondence received from local residents regarding their current and anticipated concerns in connection with noise nuisance in the early hours and anti social behaviour.

Reference was made to Middlesbrough Council's Licensing Policy, specifically the following paragraphs: -

- Paragraph 38 Location Of Premises, Licensing Hours And The Prevention of Nuisance
- Paragraph 42 Location And Impact of Activity

It was then stated that, as the Park Hotel was situated in a residential area, the Application to Vary was unreasonable and not in accordance with the Council's Licensing Policy.

Local Residents were invited to speak in support of the Representation and the following points were raised: -

- Residents would not be able to leave windows open at night if the Application to Vary was granted.
- Increased Licensing Hours would not be fair to Local Residents.

SUMMARIES

Councillor Michna referred to the Council's Licensing Policy and emphasised the residential nature of the area. Later licensing hours would ultimately have an adverse impact on Residents.

The Applicant stated the premises was not on a residential estate but on a busy main road. Conditions had already been agreed with the Police and incorporated into the Operating

Schedule. The premises was operated without problems and with strong management. Reference was also made to the spirit of the Licensing Act 2003 and the need for change and flexibility regarding 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 Licence be granted subject to the amendment to the opening hours as follows:

11.00 am to 12 midnight Daily Sale of Alcohol
11.00 am to 12 midnight Daily All Other Licensable Activities

The reasons for the decision were based on the following: -

- i) The Application was considered on its own merits, taking into account the four licensing objectives of the Licensing Act 2003 and the information contained within the submitted report.
- ii) Consideration was given to the following paragraph of the Licensing Act 2003 Government Guidance:-

Paragraph 7.38 onwards including Annex G, in relation to Public Nuisance.
- iii) Consideration was given to the following sections of the Council's Licensing Policy:-

Page 10, paragraph 42, in relation to Licensed Premises in Residential Areas.
Pages 10 to 15, particularly paragraph 38, in relation to the Prevention of Nuisance.
- iv) Consideration was given to the case presented by the Applicant.
- v) Consideration was given to the representations made by Local Residents and their Representative, Councillor Michna, Ward Councillor.

LICENSING ACT 2003 – APPLICATION TO VARY PREMISES LICENCE – PSYCHE, 175 – 187 LINTHORPE ROAD, MIDDLESBROUGH, REF. NO. MBRO/PR0157/019292

The Head of Community Protection submitted a report outlining an Application to Vary the Premises Licence for Psyche, 175 – 187 Linthorpe Road, Middlesbrough, Ref No. MBRO/PR0157/019292 as follows: -

Current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises

Summary of Current Hours of Licensable Activities:

On Sales:
11.00am – 11.00pm Monday to Saturday
12 noon – 10.30pm Sundays

Off Sales:
8.00am – 11.00pm Monday to Saturday
10.00am – 10.30pm Sunday

Summary of Proposed Variation of Licensable Activities:

Films, Live Music, Recorded Music, Provision of facilities for dancing, late night refreshment and sale of alcohol

Summary of Proposed Variation of Hours for Licensable Activities:

9.00am – 2.00am Monday to Saturday
11.00am – 2.00am Sunday

Premises to remain open to public for an additional half hour following end of licensable activities.

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

The Principal Licensing Officer presented the report, which was confirmed as being an accurate reflection of the facts. Members were advised that the Application related to the ground and first floors of the Premises only.

Following negotiations prior to the meeting, the Applicant had agreed to amend the Operating Schedule to reflect the Conditions requested by the Environmental Health Team on the grounds of prevention of Public Nuisance. This Representation had subsequently been withdrawn.

It was noted that these conditions had not been attached to the submitted report and it was determined under Paragraph 16 of the Licensing Act 2003 (Hearings) Regulations 2005 for these to be taken into account by the Committee, and a copy subsequently forwarded to the representative for the Portman Street Residents Association.

Prior to the meeting, the Applicant had reached agreement with Cleveland Police regarding their representation in relation to Prevention of Crime and Disorder and the Protection of Children from Harm, subsequently allowing them to withdraw their representation.

A representation had been received from the Portman Street Residents' Association in relation to the prevention of Public Nuisance and Mr K Sargent was in attendance to speak in support of the objection.

APPLICANT IN ATTENDANCE

The Applicant was in attendance at the meeting and presented the case in support of the Application to Vary the Premises Licence.

It was stated that Psyche was a nationally recognised business established in 1982 and modelled on the style of Harvey Nicholls. The sale of alcohol in the form of quality wines and Champagne had only commenced recently. During this time there had been no complaints from any of the local residents. The Applicant had invested a large amount of money into the business.

The Applicant had also agreed to amend the Operating Schedule on the advice of the Environmental Health team to include the conditions as follows: -

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- Live and recorded amplified music, acoustic amplified music and choral performances would take place inside and outside the premises between the hours of 9.00am and 6.00pm
 - Unamplified acoustic and choral performances only to take place outside the premises between the hours of 6.00pm and 11.00pm
 - Live and recorded music between the hours of 11.00pm and 2.00am to take place inside the premises only
 - Between the hours of 11.00pm and 9.00am the noise would be inaudible in the nearest residential property.
 - Noise Limiters to be fitted and the level to be agreed with Environmental Health at a later date.

The Applicant also stated that they were one of the top retailers of Champagne in the North East and that 95% of the alcohol sales that took place on the premises were Champagne and fine wines. These were very expensive and were not drunk to excess.

Currently, four times a year, a Fashion Catwalk show was operated but it was anticipated that these shows would be held weekly in 2006.

In response to a query, the Applicant confirmed that the nearest residence was about 25 metres away from the premises. It was also clarified that there could be no possible infringement on their privacy as the Application was only concerned with the ground and first floors of the premises, and not the roof top restaurant.

RELEVANT REPRESENTATIONS

The representative of Portman Street Residents' Association was invited to speak in support of the representation as follows: -

- The amount of traffic on the side streets in the local vicinity would increase with deliveries being made to the premises from wagons. This would create more noise, which would interfere with the peace and quiet of local residents.
- The seats outside the premises were bolted down and would therefore attract drunken people to congregate late at night.
- The noise problem would be the same from a public house.

The representative felt that past undertakings by the Applicant had not been honoured.

SUMMARY

The Applicant was invited to respond to the representation. It was stated that the outside seats had been bolted in place on the advice of the Police as a preventative measure against anyone throwing them through any nearby windows. It was also stated that the deliveries made to these premises were made by van, not by heavy goods vehicles.

The Applicant also stated that he had requested arrangements for a traffic one-way system, adjacent to the premises. Delays had been experienced and vehicles were travelling in the wrong direction. This would be rectified as soon as possible.

Finally the Applicant stated that he had no wish to make residents lives worse. His business was providing more employment for local people and also attracting more quality outlets into a prestige area.

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 as follows: -

1. That the Application to Vary the Premises Licence be granted in full, subject to the additional conditions, from the Police and Environmental Health Team forming part of the Operating Schedule.
2. The reasons for the decision were based on the following: -
 - i) The Application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 2003, and the information contained within the submitted report.
 - ii) Consideration was given to the following paragraphs of the Licensing Act 2003 Government Guidance: -
 - Paragraph 7.20, Appendix D, regarding Crime and Disorder.
 - Paragraph 7.38, Appendix G, regarding Public Nuisance
 - Paragraph 7.47, Annex H, regarding Protection of Children from Harm
 - iii) Consideration was given to Middlesbrough Council's Licensing Policy.
 - iv) Consideration was given to the case presented by the Applicant.
 - v) Consideration was given to the case presented by the Representative of the Portman Street Residents' Association.