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## LICENSING SUB COMMITTEE C

A meeting of the Licensing Sub Committee C was held on 3 October 2005.

**PRESENT:** Councillor B Taylor (Chair), Councillors Elder and Heath.

**OFFICIALS:** J Thompson, T Hodgkinson, S Morris, M Cooper and C Barnfather.

**\*\*ALSO IN ATTENDANCE: For Agenda Item 4 Only**

A Akram (Applicant's Representative)  
Mr Mansha (Applicant's Representative)  
T Wilkinson (Applicant's Legal Representative)  
Mrs Robinson (Local Resident)

**For Agenda Item 5 only**

Mrs Robinson (Local Resident)

**For Agenda Item 6 only**

B Robinson (Chair, Beechwood Community Centre representing  
Local Residents)

### 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 Lancaster and Mawston.

### APPOINTMENT OF SUBSTITUTES

Councillor Elder was in attendance to act as a substitute for Councillor Lancaster and Councillor Heath was in attendance to act as a substitute for Councillor Mawston.

### SUSPENSION OF COUNCIL PROCEDURE RULE NO. 10 – ORDER OF BUSINESS

In accordance with Council Procedure Rule No. 10, the Committee agreed to vary the order of business to deal with the items in the following order: Agenda Item 4) Application for Premises Licence, Amigos; Agenda Item 6) Application for Premises Licence, Fernando's; and Agenda Item 5) Application for Premises Licence, La Rosa Pizzeria.

### LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – AMIGOS, 49 EASTBOURNE ROAD, MIDDLESBROUGH, REF NO. MBRO/PR0363

The Head of Community Protection submitted a report outlining an Application for a New Premises Licence for Amigos, 49 Eastbourne Road, Middlesbrough, Ref No MBRO/PRO363.

#### Summary of Proposed Licensable Activities

Provision of late night refreshment.

#### Summary of Proposed Hours for Licensable Activities

11.00pm – 12 midnight      Daily  
Premises to remain open to the public until 12.15am

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

A representation from local residents had been received on 3 September 2005, objecting to the Application for the premises to open beyond 11.00pm on the grounds of Public Nuisance.

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

### **Applicant in Attendance**

Mr Akram had been awarded Power of Attorney and was present at the meeting in place of the Applicant, Mr Akhtar. He was accompanied by his Legal Representative (T Wilkinson) and a friend (Mr Mansha). The Council's Legal Advisor stated that the Hearing proceed under Section 16 of the Licensing Act 2003 and Mr Akram's place of residence was confirmed as 7 Green Lane, Middlesbrough.

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.

### **Applicant's Representative in Attendance**

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

It was stated that the business had operated from the premises for fifteen years and no complaints had been received from local residents in connection with litter or late night noise nuisance. The area around the shop was kept clean and tidy and the Applicant removed rubbish on a regular basis. Five security cameras had been installed, which overlooked the forecourt, a car park was available for customers' use and taxis were obtainable close by. The Applicant's Representative described the business as a well ordered take-away, which served the needs of the local population. It was confirmed that children were only served in the shop when accompanied by adults.

The Applicant's Representative explained that the Application was for the same opening hours, as the premises had operated under to date, and that the additional fifteen minutes were to allow customers to collect their orders and leave the premises. On questioning, the Applicant's Representative stated that customers would not be admitted to the shop after midnight.

The Applicant was asked whether the police had ever been called to the premises to deal with any trouble. Mr Mansha stated that he had worked in the business for five years and the police had not once been called during that period.

### **Relevant Representations**

On 3 September 2005, a Representation had been received from Mrs Robinson, a Local Resident, objecting to the Application to open the premises beyond 11.00pm on account of public nuisance resulting from noise and litter. Mrs Robinson submitted a petition from local residents, objecting to the extension in opening hours of several food establishments, including the Application made by Mr Akhtar.

The Principle Licensing Officer advised that all residents who signed the petition had been contacted and informed of the date and time of the Hearing, as well as their right to attend. In response the Licensing Department had received calls and letters from a number of individuals who stated they had not signed the petition and did not object to the Application. Letters had been received from Miss Anne Louise Church, Mrs Wybird and Mrs Pittaway. A letter was also received from Mr Simmons, who had been under the impression that the Application included a request to sell alcohol. As this was not the case he wished to withdraw his objection.

Mrs Robinson stated the petition had been left in the Newsagents and as far as she was aware all signatures were genuine. The residents she had spoken to objected to having another take away on Eastbourne Road, open until the early hours, owing to the filth, muck, fighting and urinating in public that this resulted in.

Mrs Robinson further stated that due to the property's Planning Regulations the premises were only entitled to remain open until 11.30pm but that this is not adhered to. She had been advised by the Planning Section to monitor the situation and stated that the shop regularly stayed open

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until the early hours. The Senior Licensing Officer advised that the Committee could not comment on the Planning Regulations but emphasised that in terms of licensing, Takeaways were currently entitled to remain open until the early hours.

The Senior Licensing Officer confirmed that the introduction of the new licensing system was designed to regulate opening hours and advised that once the legislation came into force, prosecutions would be made against any individuals operating outside of the hours for which their licence has been obtained.

It was highlighted that an original copy of the petition had not been received and Mrs Robinson advised that the original had been forwarded to the Ombudsman. It was further noted that the petition had no heading and the Committee was unable to determine what people were signing for.

#### Summary of Application

The Applicant's Representative was invited to summarise the case. He stated that although there might be some apprehension relating to the increase in the number of late night takeaways, this Application was for the same operational hours as those presently in operation. The additional fifteen minutes had been requested to allow customers to leave the premises. On questioning the Applicant's Representative confirmed that no customers would be admitted after midnight.

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 for the provision of late night refreshment from 11.00pm to 12 midnight daily be granted.
3. That the premises be closed by 12 midnight.

It was advised that this Premises Licence did not override Planning Regulations. If Planning Regulations specified that the premises must close at 11.30pm a separate application would need to be submitted to the Planning Department in order to remain open until 12 midnight.

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 local residents where relevant.
- iii) Consideration was given to the relevant sections of Middlesbrough Council's Licensing Policy, Page 10 (paragraph 42) – Licensed Premises in Residential Areas, pages 10-15 (paragraph 38) – Prevention of Nuisance and pages 17 and 18 – Crime and Disorder.
- iv) Consideration was given to the relevant sections of Guidance to the Licensing Act 2003 issued by the Secretary of State (Public Nuisance Annex G, Paragraph 7.38; Paragraph 7.17 – Proportionality; Paragraph 5.32 -Interested Parties).

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**LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – FERNANDO’S, 37A  
SALTERSGILL, MIDDLESBROUGH, TS4 3LD – REF NO. MBRO/PR0357**

The Head of Community Protection submitted a report outlining an Application for a New Premises Licence for La Rosa Pizzeria, 64 Eastbourne Road, Middlesbrough, TS5 6QL

Summary of Proposed Licensable Activities

Provision of late night refreshment

Summary of Proposed Hours for Licensable Activities

11.00pm – 12 midnight      Daily

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

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

The Applicant was not in attendance at the meeting and the Committee accordingly agreed to proceed under Section 20(2) (b) of the Licensing Act 2003 (Hearings) Regulations 2005.

Relevant Representations

A representation from Mr Robinson (Chair of Beechwood Community Council) had been received on behalf of local residents on 5 September 2005, objecting to the Application for the premises to open beyond 11.00pm on the grounds of Public Nuisance.

Mr Robinson was in attendance, he addressed the Committee and stated that Beechwood Community Council would not object to licences that were not detrimental to the community. However, in relation to this Application a unanimous vote had been taken, that an objection be raised owing to the Anti-Social Behaviour associated with the management of this establishment.

Mr Robinson outlined his concerns and stated that since new management had taken over the premises Anti-Social Behaviour had risen dramatically. People living in the surrounding areas were regularly disturbed by youths congregating outside of the shop, drinking and smashing bottles until the early hours of the morning. The proprietor appeared to encourage the youths and both the Police and wardens had been called to deal with incidents.

Uncooked dough from the premises had also been removed from neighbouring gardens, cars had been damaged and staff were causing further disturbance by kicking footballs late at night. Letters had been sent to the Chief Constable and dispersal orders had been issued. Youths aged between eight and nineteen were drinking illegally outside of the shop and this behaviour continued from 5pm until 12 midnight –1.00am.

Mr Robinson requested that once the licensing legislation came into effect, the premises should be made to close at 11.00pm. Once the proprietors had proved themselves a further application could then be submitted to extend the opening hours until 12pm.

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 rejected in full.

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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 raised by Beechwood Community Council on behalf of Local Residents.
- iii) Consideration was given to the relevant sections of Middlesbrough Council's Licensing Policy, Page 10 (paragraph 42) – Licensed Premises in Residential Areas, pages 10-15 (paragraph 38) – Prevention of Nuisance and pages 17 and 18 – Crime and Disorder.
- iv) Consideration was given to the relevant sections of Guidance to the Licensing Act 2003 issued by the Secretary of State (Paragraph 7.38 Public Nuisance Annex G; and Paragraph 7.20, Annex D Crime and Disorder).

**LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – LA ROSA PIZZERIA, 64 EASTBOURNE ROAD, MIDDLESBROUGH – REF NO. MBRO/PR0359**

The Head of Community Protection submitted a report outlining an Application for a New Premises Licence for La Rosa Pizzeria, 64 Eastbourne Road, Middlesbrough, TS5 6QL

Summary of Proposed Licensable Activities

Provision of late night refreshment

Summary of Proposed Hours for Licensable Activities

11.00pm – 12 midnight      Daily

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

A representation from local residents had been received on 3 September 2005, objecting to the Application for the premises to open beyond 11.00pm on the grounds of Public Nuisance.

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

The Applicant was not in attendance at the meeting and the Committee accordingly agreed to proceed under Section 20(2) (b) of the Licensing Act 2003 (Hearings) Regulations 2005.

Relevant Representations

On 3 September 2005, a Representation had been received from Mrs Robinson, a Local Resident, objecting to the Application to open the premises beyond 11.00pm on account of public nuisance resulting from noise and litter. Mrs Robinson submitted a petition from local residents, objecting to the extension in opening hours of several food establishments, including the Application made by La Rosa Pizzeria.

Mrs Robinson addressed the Committee and stated that when she spoke to the proprietor he had advised that he was submitting an application for an extended licence, which would allow him to sell alcohol and remain open long past midnight. Upon listening to the details of the application Mrs Robinson stated that she did not object to the proposed hours of licensable activity up until 12 midnight.

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.

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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 for the provision of late night refreshment from 11.00pm to 12 midnight daily be granted.

Subject to the following conditions:-

- i) Music was not to be played in the shop at anytime.

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 relevant sections of Middlesbrough Council's Licensing Policy, Page 10 (paragraph 42) – Licensed Premises in Residential Areas, pages 10-15 (paragraph 38) – Prevention of Nuisance and pages 17 and 18 – Crime and Disorder.
- iii) Consideration was given to the relevant sections of Guidance to the Licensing Act 2003 issued by the Secretary of State (Paragraph 7.38, Annex G- Public Nuisance; Paragraph 7.17 – Proportionality)