
LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 29 May 2007.

PRESENT: Councillor B Taylor (Chair); Councillors Mawston and Morby.

OFFICIALS: C Cunningham, J Dixon and J Hodgson.

ALSO IN ATTENDANCE: J Smith – Applicant’s Legal Representative (Poppleston Allen).
D Crabtree – Managing Director 3D Entertainment Group (CRC) Ltd (Applicant).
A Blackburn – Designated Premises Supervisor (Chicago Rock Café).
M Nevison – Police Legal Representative.
PC Helyer, PC Walker – Licensing Unit, Cleveland Police.
DC Whiteley – Cleveland Police.

PRESENT AS OBSERVERS: J Schwarz and A Hopson, Chicago Rock Café.

**** DECLARATIONS OF MEMBERS’ INTERESTS**

No Declarations of Interest were made by Members at this point of the meeting.

LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – CHICAGO ROCK CAFÉ, WILSON STREET, MIDDLESBROUGH - REF. NO. MBRO/PR349

A report of the Head of Community Protection had been circulated outlining an application for a Premises Licence for the Chicago Rock Café, Wilson Street, Middlesbrough, Ref No. MBRO/PR349, as follows:-

Summary of Current Licensable Activities

Sale by retail of alcohol for consumption on and off the premises.
Live/recorded music, dancing, films, late night refreshment.

Summary of Current Hours of Licensable Activity

11.00am to 1.30am daily.
Premises to close 30 minutes after the end of licensable activities.

Summary of Proposed Licensable Activities

Sale by retail of alcohol for consumption on and off the premises.
Live/recorded music, dancing, films, late night refreshment.

Summary of Proposed Hours of Licensable Activities

11.00am to 1.30am – Sunday to Thursday.
11.00am to 2.30am – Friday and Saturday.
Premises to close 30 minutes after the 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, Mr Crabtree, Managing Director of 3D Entertainment Group (CRC) Ltd, Mr Smith, Legal Representative and Mr Blackburn, Designated Premises Supervisor of Chicago Rock Cafe, were present at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Senior Licensing Officer presented the report which was confirmed as being an accurate reflection of the facts by the applicant.

The report outlined that, on 5 April 2007, an application was received for a Premises Licence, as stated above, and the applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 16 April 2007.

The Committee was asked to note that on 27 July 2005, the previous owner of the premises, Luminar North Ltd, applied to convert and simultaneously vary the premises licence to increase the licensable hours to 11.00am to 2.30am Sunday to Thursday and 11.00am to 3.30am Friday and Saturday, with the premises to close 30 minutes after the end of licensable activities. This licence was granted on 25 August.

On 29 September 2006, an application was received from Cleveland Police for a review of the premises licence on the grounds of the prevention of crime and disorder and public safety. The matter was subsequently considered by a Licensing Sub Committee on 21, 22 and 23 November 2006, when Members allowed the premises licence holder to retain the licence but reduced the trading hours to those stated above and added a number of conditions, as follows:-

1. The dispersal policy annexed to the Premises Licence shall be observed at all times.
2. A headcam will be used by a dedicated member of staff with recordings being made available to the Police and Local Authority.
3. A Door Supervisor Standards of Service Requirement and Incident Management Protocol (including ejection policy), annexed to the Premises Licence, will be observed at all times.
4. All licensable activities shall cease at 1.30am with the premises closing at 2.00am, seven days a week.
5. The last admission time will be 12.45am.
6. An approved bottle bank to be used during trading hours.
7. On any occasion when the premises is open after 8.00pm, a minimum of three SIA registered door supervisors to be on duty until closing time and when there are more than two hundred persons within the premises there will be an additional SIA registered door supervisor to every 100 patrons.
8. A light patrol system to be in full use and exercised every thirty minutes during trading hours.
9. A male and female toilet attendant to be on duty in the male and female toilets from 9.30pm until 1.45am every night.
10. Within three months of the review of the premises licence by Middlesbrough Council, on 23 November 2006, a meeting will be held between the appropriate area manager of Luminar Leisure Ltd and Cleveland Police to review the number of incidents occurring at the premises and if Cleveland Police feel it necessary, the Premises Licence will be referred back to the licensing Sub Committee of Middlesbrough Council for it to consider whether it should exercise any of its powers under Section 52(4) of the Licensing Act 2003.

On 22 January 2007, the premises licence was transferred to the 3D Entertainment Group (CRC) Ltd and on 27 January 2007 the premises were found not to be complying with several licensing conditions when routinely inspected by Officers from the Council's Licensing Section and Cleveland Police. The premises licence holder was requested, in writing, to rectify the problems on 31 January 2007, a copy of which was attached at Appendix 2 to the report. The matters in question had since been rectified.

On 3 April 2007 an application was made by the Premises Licence Holder to vary the licence to change the Designated Premises Supervisor for the premises.

On 26 April 2007 a representation was made by Cleveland police on the grounds of the four licensing objectives, again the application to increase the hours for licensable activities was attached at Appendix 3 to the submitted report.

It was highlighted that since the report was written, two further items had been produced by the Police and circulated with the papers to Members, namely witness statements from PC Helyer and DC Whiteley.

Applicant in Attendance

The applicant, Mr Crabtree, Managing Director of 3D Entertainment Group (CRC) Ltd, Mr Blackburn, Designated Premises Supervisor and Mr Smith, the applicant's legal representative were in attendance at the meeting. The applicant's legal representative presented the case in support of the application.

The applicant's legal representative commenced by highlighting two amendments to the application as follows:-

- Page 12, item 13, should read "... a minimum of three SIA registered door supervisors ...".
- Page 12, item 14, to be deleted as the application was being made as a fresh application and had been revised to request an additional hour plus 30 minutes drinking up time on Saturdays only (following discussion and a partial compromise with the Police).

The legal representative made reference to the premises' previous licensed hours and the review held in November 2006 when the hours had been reduced and conditions imposed.

It was highlighted that in January 2007, there had been a 'management buy-out' of the premises whereby some of the management of Luminar had formed part of the new company, 3D Entertainment Group (CRC) Ltd which had bought the premises. The management take-over included Mr Crabtree and he had held discussions with the Police on 27 February 2007, as stated at number 10) of the imposed conditions on the licence, and referred to at page 4 of PC Helyer's statement.

It was stated that there had been a dramatic reduction in the number of incidents occurring at the premises and reference was made to those conditions which were found as not being complied with during the routine inspection on 27 January:-

- Signs referring to free drinking water were now on display.
- The CCTV system had been rectified to ensure that footage was kept for 31 days and upgraded to a colour system - Police and Council Officers had confirmed they were now happy with this.
- There was no explanation as to why there had been no toilet attendant on duty at the time of the inspection.

Members were advised that progress had been made but it was highlighted that PC Helyer and Sgt Higgins had indicated that they did not consider the improvements could be sustained.

The statement submitted by PC Helyer contained an Index of Event Chronologies which briefly outlined 10 incidents which had occurred during the period 2 December 2006 to 28 April 2007. The applicant's legal representative made reference to this document and queried two of the incidents that had been included as they referred to theft and he considered that incidents of theft were not usually included in such chronologies. He stated that at the Review Hearing in November 2006 information had been provided in relation to 146 incidents during a six month period in direct comparison with the 10 incidents for the December 2006 – April 2007 period, and that those 146 incidents had been narrowed down to 31 incidents during the period 26 November 2005 to 13 September 2006 and that of those 31 incidents, no thefts had been included. The legal representative was unsure that the index chronologies for the two periods were a like for like comparison.

In response, PC Helyer referred to the Index Event Chronology for the period December 2006 to May 2007, attached at her statement, and identified numbers 1) and 8) as being thefts which had occurred on the premises. The fact that the thefts had occurred on the premises was the reason for their inclusion in the chronology.

At this point, the Police Legal Representative requested that the Police be permitted to submit additional evidence in order to assist with the clarification of the incidents contained in the index of events chronology by way of the incident chronology reports. The applicant's legal representative

objected on the grounds that he considered the evidence should have been circulated prior to the meeting in order for all parties to have the opportunity to fully consider the information.

The Police Legal Representative explained that, as the applicant's legal representative was questioning whether some of the incidents within the chronology had actually occurred on the premises, the incident chronology reports would provide a clearer picture and that it had been agreed previously that the full chronology reports would not be reproduced within the evidence submitted to Committee as they were sensitive and bulky documents.

PC Helyer clarified that when examining the event chronologies she also considered the crime report and had only included incidents in the chronology that she knew to have occurred at the premises.

The applicant's legal representative confirmed that the incidents which he was querying were numbers 3, 6, 7 and 9 of PC Helyer's index chronology and it was agreed, with the consent of all parties, in accordance with paragraph 16 (a) of the Licensing Act 2003 (Hearings) Regulations 2005, that copies of those specific chronologies be obtained for consideration by the applicant and his legal representative.

Accordingly, at 10.35am, the meeting was adjourned for a period of 15 minutes, in order for the applicant and his legal representative to consider the additional information.

Subsequently all parties returned to the meeting and the applicant's legal representative stated that he was still unsure as to how many of the incidents could be attributed to the Chicago Rock Café. He stated he still questioned number 3) of the chronology which referred to a male being arrested outside the premises for a public order offence, and did not understand how this was attributable to Chicago Rock.

The applicant's legal representative made reference to comments made previously by the Police that they did not believe the improvements made at the premises, in terms of management and the decrease in the number of incidents, could be sustained. The legal representative did not agree with this comment and stated that the premises had been turned around.

He advised that Committee would be shown video evidence by the Police in relation to the final incident listed on the chronology and made reference to PC Helyer's statement which observed that there had been no door supervisors present when the incident had initially started, nor had high visibility jackets been worn. The requirement for door staff to wear high visibility jackets had been one of the conditions imposed by the Licensing Sub Committee at the Review Hearing in November 2006. The legal representative informed Members that Phoenix Security were in charge of security at the premises and that this requirement had been included within their own staff handbook.

With regard to the objections submitted by the Police, the applicant's legal representative summarised that the objections had been made on the following grounds:-

- 1) That it was too soon to approve a request for additional hours following the Review of Premises Licence.
- 2) The application was too soon after the transfer of the management of the premises to 3D Entertainment Group (CRC) Ltd in January 2007. The legal representative stated that the management group to which it had been transferred was a breakdown of the previous management group, Luminar Leisure.
- 3) That the DPS, Mr Page, had recently left and that it was too soon to tell whether Mr Blackburn could sustain the improvements made at the premises. The legal representative stated that Mr Page had left two months ago and acknowledged that he had been brought in to manage the premises on a temporary basis.

The Committee was advised that Mr Blackburn had been the Manager of the premises since April 2007 and that only two incidents had occurred since that time. Mr Blackburn had been a licensee for 21 years and was a Personal Licence holder, managing Chicago Rock premises in

Huddersfield and Barnsley. It was stated that Mr Blackburn had never been interviewed in relation to the application despite his attempts to make contact with the Police Licensing Unit. It was also highlighted that Mr Crabtree had made several telephone calls to the Police Licensing Unit which had not been returned. The Legal Representative stated he had personally made calls to Sgt Higgins of the Police Licensing Unit, with no return call made.

The applicant's legal representative referred to Temporary Event Notices (TEN) and stated that the premises had initially wanted to "test the water" by using a TEN to open later as the Police had considered it to be too soon to assess whether the decrease in the number of incidents at the premises could be sustained under the management of Mr Blackburn. A TEN only allowed up to 500 patrons entry to the premises and the capacity for Chicago Rock was 800 people. The legal representative stated that this could create a problem as the premises attracted a capacity crowd on Saturdays and that turning people away would lead to queues. Proposals had been made to refurbish the premises in July and it would be closed for a period of five to six weeks, therefore, the applicant wished to be given the opportunity to open until 2.30am on a Saturday and would be happy for that to be time-limited, for example for a three month period or until the refurbishment of the premises, in order for an assessment to be made as to whether the later opening hours was working satisfactorily as Saturday was the busiest night at the venue.

The legal representative commented that the premises had previously opened until 3.30am but had its hours reduced to 1.30am following the Review Hearing in November. The applicant was now requesting a compromise of 2.30pm. He highlighted that other premises in the vicinity were currently trading later than this. The legal representative stated that he did not consider that the reduction in hours alone to be the reason for the decrease in the number of incidents, but felt that good management was also a significant factor. It was noted that the previous DPS, Ms King, had been part of the previous problems.

The legal representative went on to outline the ten conditions which had been placed on the license following the Review Hearing in November 2006 and advised that the applicant had learned from the mistakes that had been made, had rectified those conditions which had been breached in January and introduced a number of changes. In conclusion, he stated that the applicant was not requesting a permanent change in the licensable hours, but a chance to prove that, with a certain timeframe, the good management of the premises could be sustained.

Applicant in Attendance – Mr Crabtree (3D Entertainment)

The applicant, Mr Crabtree, Managing Director of the 3D Entertainment Group (CRC) Ltd, was in attendance at the meeting and spoke in support of the application.

The applicant outlined that there were approximately 50 Chicago Rock Premises in the UK under the management of 3D Entertainment and 14 of those premises had been refurbished. He advised that 3D Entertainment wished to invest in all of the CRC premises within the next 12 months, including Middlesbrough. He stated that the refurbishment would generate a more contemporary environment, increased seating, new bars and lighting and more contemporary music. He informed that each refurbishment would cost approximately £300,000 - £400,000. He advised that, following refurbishment, he felt the premises would attract an older crowd and a better mix of male and female patrons, with more people eating at the premises rather than just drinking.

The applicant stated it would be difficult to put that level of investment into a premises that had to close early as customer demand was for the premises to stay open later. He considered that by closing earlier they were already losing custom as patrons simply left in order to go to later-opening premises. He added that the premises had already lost a considerable amount of money each week since the reduction in hours was imposed.

The applicant advised Members that, since the Review Hearing, he considered the premises to have turned around from a dire situation to one where it was recognised that Chicago Rock was being run as a safe business and one of the best venues in Middlesbrough. He concluded that he wanted the Police to feel confident that Chicago Rock was a good example of managing a late night premise.

The applicant's legal representative clarified that the application in respect of the proposed refurbishment had not been submitted for Members' consideration as the applicant first needed to establish whether he could open until 2.30am before proceeding with refurbishment plans.

Questions to the Applicant

The Council's legal representative sought clarification in relation to the Designated Premises Supervisor being stipulated as Mr Page. The applicant's legal representative explained that this was due to time constraints and, if the application was approved, the DPS would be changed to Mr Blackburn.

In response to a query with regard to the toilet attendant, the operating schedule stated that they would be on duty from 21:30 hours to 01:45 hours, the applicant's legal representative confirmed that this would be amended to 02:45 hours (end of trade on Saturdays) should the application be granted.

Questions to the Applicant from Members of the Committee

Members of the Committee had the opportunity to ask questions of the applicant and the following issues were raised in relation to the breaches of conditions:-

- In response to a query as to why the CCTV footage had not been kept for the required period of 31 days, the applicant explained that this had occurred during the transition to a colour CCTV system. The new colour system, and the additional monitor which had been installed as requested, resulted in the system's hard-drive being unable to store the data for the required period of time, therefore, there had been a couple of days when footage had not been stored for the required 31 days.
- A Member queried whether the signs in relation to free drinking water were now on display. The applicant's legal representative confirmed that they were on display and admitted that the manager should have ensured that they were on display.
- In relation to the toilet attendants not being on duty, the applicant's legal representative stated there was no excuse for this.
- A Committee Member asked the applicant how long he had been involved with Chicago Rock prior to the management buyout. The applicant stated that he had joined in July 2005 as Managing Director of Luminar Leisure, Entertainment Division and was responsible for the running of two-thirds of the business that he now looked after and also Jumpin' Jaks.

Relevant Representations

Cleveland Police

The Police Legal Representative, M Nevison, PC Helyer and DC Whiteley, were in attendance at the meeting to present representations against the application.

Cleveland Police – Legal Representative/PC Helyer

The Police legal representative presented the case for the representations and advised that the Police was objecting to the application to extend the trading hours as it was just four and a half months after the premises had its licence reviewed and reference was made to the submitted statements from PC Helyer and DC Whiteley.

PC Helyer confirmed the contents of her Statement dated 15 May 2007. She advised that in relation to serious concerns raised by the Police regarding incidents of crime and disorder at the premises during the period November 2005 – November 2006, two or three meetings had been held between the management team of Luminar Leisure and Police Licensing Officers prior to the Review being brought about in November 2006.

In relation to the outcome of the Review Hearing, ie a reduction in the premise's opening hours, PC Helyer advised that this had resulted in the desired affect, coupled with the replacement of the DPS at that time. PC Helyer added that the reduction in hours and the conditions which had been attached to the licence had also had a positive impact on nearby premises and their patrons. She explained that some of the patrons who had been causing problems at Chicago Rock had also been frequenting other nearby premises and the reduction in hours had led to some of those people visiting that particular area less frequently. PC Helyer further stated that, at the time of the Review, other premises had heard about what had happened through the Pubwatch meetings and had subsequently approached the Police for advice.

In relation to the breaches of conditions which were discovered during the inspection on 27 January 2007 by the Police and Licensing Officers, PC Helyer confirmed that this was just two months after the Review Hearing.

PC Helyer provided details in relation to each breach of the conditions as follows:-

- a) CCTV footage was found not to have been retained for the required 31 day period although the system should have been a colour system at the time of inspection as it had been discussed the applicant, Mr Crabtree. The matter was rectified.
- b) No signs relating to free drinking water – It was explained that free drinking water should be available as it could assist a person under the influence of alcohol or drugs and that appropriate signage should be displayed. On the night of the inspection, the Manager of the 'Lava' premises was on duty at Chicago Rock and had stated he believed the signs had been taken down in error. PC Helyer confirmed that she had seen the signs on display near bar areas prior to the inspection and was assured they would be replaced.
- c) No female toilet attendant on duty – Members were advised that some of the incidents referred to at the Review Hearing were incidents of assaults which had occurred in the toilets. The Committee had felt it necessary to impose a condition that a toilet attendant should be on duty in the toilets to help stop this happening and to promote public safety and the prevention of crime and disorder.

The Police legal representative referred to condition number 10 of the conditions imposed on the Premises Licence at the Review Hearing in November, which stated that a meeting should take place within three months of the review with the appropriate area manager and Cleveland Police at which some of the incidents which had occurred, and the breaches in the conditions, were discussed. The meeting was held in February 2007 and PC Helyer advised that Mr Crabtree had mentioned a potential request for additional hours. This information had been reported back to the Police's Management Team. Subsequently, the application to extend the hours was received on 5 April 2007.

PC Helyer advised that the Police had been aware of Chicago Rock's intention to make an application for an extension of hours and also of the proposals to refurbish the premises to attract more patrons. She stated she was not aware of any correspondence between Sgt Higgins and the applicant and had not been made aware of any telephone messages being left for him. The applicant's legal representative replied that he had personally left two telephone messages for Sgt Higgins which were not returned.

PC Helyer advised Members that even if there had been no change in the DPS at the premises, the Police would have still objected to the application as they did not consider there had been an adequate period of time from the Review in November when the hours had been reduced, to measure improvement and performance. She added that the Police would expect a period of 12 months to be a more substantial period of time in which to make an assessment, even if there had been no incidents or breaches of conditions.

With regard to the negotiations that had taken place, the Committee was informed that discussions were held between the applicant's legal representative, Mr Smith, and the Police legal representative, Ms Nevison. Initially the applicant had mentioned a request for additional hours for a temporary period of time and the Police had not agreed to this. A Temporary Event Notice

(TEN) was then suggested by the applicant's legal representative for Friday and Saturday nights to which Sgt Higgins had initially agreed. The applicant's legal representative had then realised that a TEN would not allow admission of a capacity crowd as it only allows up to 499 on to the premises. The Police had initially agreed to four TENs for Saturday nights over a period of three months but four weeks at a time in order to measure performance and look at any incidents that might have occurred. The Police could then object to future TEN applications if necessary. The applicant's legal representative had advised the Police that he felt the TENs would cause more crime and disorder with not being able to admit a capacity crowd which would lead to queuing outside. The Police stated that having given the matter more consideration they would object to a TEN.

The Police legal representative queried what the Police's stance now was on increasing the hours for a temporary period. PC Helyer responded that the Police would object to any temporary period of time.

PC Helyer provided Members with an explanation for each of the events listed on the chronology appended to her statement and confirmed that each incident had occurred on or outside the premises.

In relation to incident number 10), the chronology stated that on 28 April 2007 an ambulance was requested outside of the premises after a male had been assaulted and one male had been arrested for a section 18 assault. At this point in the meeting the Committee was shown video evidence in the form of CCTV footage in relation to the incident.

It was noted that no door staff were visible when the incident had started outside the doorway of the premises at 1.40am. PC Helyer pointed out a number of males wearing striped tops and stated that this particular dress code group were causing premises problems. A male was then seen to be wielding a metal chain and people were attempting to take possession of the item from him. At this point there were still no door staff visible and there should have been three SIA registered door staff on duty from 8.00pm. At 1.44am, Police were in attendance at the scene and 12 Officers were needed to take control of the incident. Shortly after the Police had arrived, a member of the door staff became involved but it was noted that he was not wearing a high visibility jacket.

PC Helyer was of the opinion that door staff were not operating the dispersal policy on the night of the incident as door staff should have been wearing high visibility jackets and present at the door when patrons were entering and exiting the premises. She added that there was also no evidence of a 'headcam' being used in relation to disorder. PC Helyer stated that this had been a serious incident and that whilst the Police would not expect door staff to endanger themselves, had they been present at the door when the incident had initially started they might have been able to take control of the situation before it got out of hand and assisted in moving on innocent members of the public.

PC Helyer explained the impact and logistics that this incident had on Police resources that evening and confirmed that four people had been arrested.

The Police legal representative asked what PC Helyer's response was to the application for an additional hour on Saturdays for a temporary period to prove that they could manage. PC Helyer expressed concern that there had been a slight rise in the number of incidents recently and considered that the reduction in hours and imposed conditions since the Review had had a massive impact on the premises and surrounding premises. From a public safety aspect, when visiting the premises, PC Helyer stated that the changes that had occurred were visible and it was a much safer and a more pleasant environment to visit. She concluded that granting an additional hour would have an adverse impact on the crime and disorder objective and did not feel that the suggested temporary period of 6 weeks (until the time of refurbishment) was adequate to monitor whether they could hold crime and disorder at bay. She confirmed that November 2006 to March 2007 had seen an improvement with regard to crime and disorder but since March that has started to rise again.

Questions from the Applicant

The applicant was afforded the opportunity to ask questions of the Police representatives and the following issues were raised:-

- In response to a query, PC Helyer advised that she had visited the premises on two or three occasions since the Review Hearing in November 2006 and confirmed that other than on the evening of 27 January 2007 she had not found the premises to be in breach of any of the conditions placed on its licence.
- PC Helyer confirmed that the Police held a 'top ten' of the worst licensed premises in the town centre and, whilst she did not have the information to hand, believed that Chicago Rock was not one of those premises at the present moment.
- In relation to a query regarding the conditions placed on the licence for Chicago Rock, PC Helyer confirmed that other premises in the vicinity had approached the Police for advice and regarded the conditions as good practice. The conditions had assisted in the improvements made at the premises.

Questions from Members

Members of the Committee were afforded the opportunity to ask questions of the Police representatives and the following issues were raised:-

- In response to a question asking how far outside the premises door staff were allowed to work/operate, PC Helyer stated that they would not be expected to operate too far away from the premises, however, the serious incident which was shown to Committee on video had started in the door way of the premises.
- A Member queried whether the reduction in incidents was solely attributed to the reduction in hours and the conditions or whether any credit had been given to the management. PC Helyer replied that Mr Page, the previous DPS, had done a good job but had been brought in as a 'trouble-shooter'.
- The Police had made reference to free drinking water being made available for those under the influence of alcohol or drugs and it was queried whether there was any evidence of drug misuse at the premises. PC Helyer informed that the premises had a 'drugs box' and that items had been found by staff in toilets and bar areas and placed inside the box. No-one had been arrested at the premises in possession of drugs.
- In response to a query regarding a 'Section 5 offence', Members were advised that an arrest would be made of anyone causing offence or distress to others.
- Clarification was provided in relation to the original proposals for Temporary Event Notices at the premises. An additional hour had been requested but the applicant's legal representative confirmed that the issue had been with regard to the capacity and also that the premises was due to be refurbished in six weeks time and the Police had wanted to monitor this for three months.
- A Member asked what had been the Police's thinking behind originally agreeing to the TENs after the late drinking hours had been reduced by Committee at the Review in November. PC Helyer stated that if people were drinking for a longer period of time there was an increased likelihood for crime and disorder and that a 12 month period from the time of the Review in November would be a more adequate time in which to assess performance and management.

Cleveland Police – DC Whiteley

DC Whiteley was in attendance at the meeting and confirmed the contents of his statement, dated 18 May 2007, attached as Appendix 2 to the Police representations.

DC Whiteley provided details of the events that had taken place outside the Chicago Rock premises on 28 April 2007. He confirmed that one person had been injured and had required an ambulance, and three males had been arrested in relation to the incident. All parties had been drinking alcohol inside the Chicago Rock premises.

Several minor points of clarification were provided to the Committee and applicant, however, it was noted that the incident was an ongoing criminal case and could not be fully discussed.

Summing Up

The Chair invited all parties to sum up.

Cleveland Police (making representations)

The Police legal representative summed up by stating that the Police were opposed to the application for a number of reasons, as follows:-

- The premises had been in breach of three conditions when inspected on 27 January 2007, just two months after its licence had been reviewed by Members.
- The serious incident which occurred outside the premises on 28 April 2007, which Members were shown video evidence of during the meeting, where the dispersal policy was breached.
- The Police considered if the application was granted it would have an impact on crime and disorder and the licensing objectives in the future with other premises.
- The impact on Police resources in attending incidents at the premises.

Reference was made to Temporary Event Notices which the Police had initially considered would be easier to manage as there would have been no more than four applied for and Police could have monitored performance during that time and would then have been able to object to future TENs applications if necessary. The applicant's legal representative had then considered that the limit on patron numbers might lead to increased crime and disorder.

The Police considered that whilst improvements had been made there had not been a sufficient period of time since the Review of the Premises Licence to judge whether a fall in the number of incidents and improved management of the premises could be maintained.

In conclusion the legal representative requested the Committee to refuse the request for an extension in hours and stated that the Police would have been more favourable if the application had been made 12 months after the Review with no breaches of conditions.

Applicant

The applicant's legal representative summed up by stating that the premises had traded well in the nine months since the Review Hearing and wanted the chance to prove that they could trade equally as well by opening an hour later on Saturdays on a trial basis. He added that the applicant would be willing to delay refurbishment of the premises for three months in order to measure performance and allow Police the opportunity to make an assessment over an adequate time period.

The legal representative stated that the Police had attended the incident on 28 April very quickly as they were already on duty in the town centre and, as the Police had confirmed the premises were not in the 'top ten' worst town centre pubs, he did not believe the premises was putting a drain on Police resources. He added that whilst the door staff had been in breach of conditions by not being at the door when the incident had started, nor had they been wearing high visibility clothing, there had been no other such breaches as the Police would have submitted evidence to the Committee.

The legal representative considered the premises to be setting good practice standards in a difficult town and that the applicant would like the opportunity to be on a level playing field with other premises in the vicinity which opened later.

The legal representative confirmed that if the application was granted, Mr Blackburn would be cited as the DPS in the Operating Schedule and, in response to a query, clarified that Phoenix Security were operating on the night of the incident on 28 April 2007.

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 for a Premises Licence at the Chicago Rock Café, Wilson Street, be granted as follows:-
 - i) That the licensable activities remain the same as the current licensable activities.
 - ii) That the hours of licensable activities be:-
 - 11.00am to 1.30am daily.
 - Premises to remain open for 30 minutes following the end of licensable activities (closing at 2.00am).
 - iii) The licence to include the conditions as stated at pages 12-13 of the submitted operating schedule.

In reaching the above decision Members had considered the following:-

1. The four Licensing Objectives of the Licensing Act 2003.
2. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Crime and Disorder, starting at paragraph 7.20, Annex D.
 - Prevention of Public Nuisance, starting at paragraph 7.38, Annex G.
 - Public Safety, starting at paragraph 7.31, Annex E.
 - Protection of Children from Harm, starting at paragraph 7.47, Annex H.
 - Proportionality – paragraph 7.19.
3. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Prevention of Crime and Disorder (pages 17 and 18).
 - Prevention of Public Nuisance, (pages 10 to 15 including 6.5/6.6 re hours of trading).
 - Public Safety (Pages 16 and 17).
 - Protection of Children from Harm (pages 19 to 21).
4. The case presented by the applicant.
5. The representations made by Cleveland Police.

Members had made their decision based on the following reasons:-

1. Whilst all parties agreed there had been a reduction in crime and disorder since the reduction in hours and additional conditions imposed at the review in November 2006, there had been three breaches of conditions since the Review and a further breach on 28 April 2007 when door staff did not comply with the dispersal policy.
2. The further serious incident which occurred on 28 April 2007.