

LICENSING SUB COMMITTEE C

A meeting of the Licensing Sub Committee C was held on 16 November 2007.

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

OFFICIALS: M Cooper, C Cunningham, T Hodgkinson and S Morris.

ALSO IN ATTENDANCE:

D Lucas, Fraser Brown Solicitors, Legal Representative for Admiral Taverns (Pyramid) Limited.
N Barnes, Admiral Taverns (Pyramid) Limited – Applicant.

Ms J Smith – Legal Representative – Cleveland Police.
Sergeant P Higgins – Cleveland Police – Licensing.
PC 1788 – P Addison – Cleveland Police – Community Policing.
PC D Walker – Cleveland Police – Licensing.

Residents:

Councillor D Budd – Ward Councillor for Ladgate Ward.
Mrs J Goodchild MBE – Easterside Community Council.
Mrs M Goodings – Resident – Easterside.
Mr S Marshall – ex resident of Easterside.

DECLARATIONS OF INTEREST

No Declarations of interest were made at this point of the meeting.

LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE – THE GROVE INN, 95 BROADWELL ROAD, EASTERSIDE, MIDDLESBROUGH – REF: MBRO/PRO468

The Chair opened the meeting and introductions were made. It was confirmed that the applicant and his legal representative had received a copy of the report and the Regulation 6 Notice of Hearing.

The Principal Licensing Officer presented the report of the Head of Community Protection which outlined an application for a Premises Licence that had been made on 24 September 2007 by Admiral Taverns (Pyramid) Limited for the Grove Inn at 95 Broadwell Road, Easterside, Middlesbrough, a former public house in close proximity to residential premises.

The application was for the sale of alcohol (on and off sales), recorded music, making music, indoor sporting events and late night refreshments between the hours of 10.00 am and 12 midnight Monday to Sunday. The premises were to remain open to the public for an additional 30 minutes following the end of licensable activities and all activities were to be extended from the start of licensable activities on 31 December to the start of licensable activities on 1 January.

Full details of the application and the operating schedule were attached at appendix 1 of the report.

The report also provided background information on the application for a review of the premises that had been made by Cleveland Police on 26 April 2006 . This application had been heard by Licensing Sub Committee C on 19 June 2006 when Members had considered representations from Cleveland Police, local residents and the Neighbourhood Housing Manager in relation to incidents of crime and disorder and public nuisance at the premises. At that time Members had also considered representations from Admiral Taverns (Pyramid) Limited before deciding to revoke the premises licence. A copy of the minutes of this meeting were attached at Appendix 3. Since then the premises had remained closed.

The report and appendices were confirmed to be an accurate representation of the facts.

The Committee was advised that in addition to the information circulated in advance of the meeting two statements had been received just prior to the hearing from Police Sergeant 944 Higgins and PC 1788 Addison in support of the submitted police representation together with a press cutting documenting various incidents and the history of the premises and details of the previous revocation of the licence.

The Principal Licensing Officer also confirmed that a letter providing additional supporting information had also been received from Fraser Brown Solicitors representing Admiral Taverns.

The solicitor explained that the applicant wished to circulate a list of fifteen additional operating conditions. These included a reduction in the supply of alcohol each day to 23.00 hours and a condition that the sale of alcohol would be restricted only to persons supplied with a meal or persons attending a private function.

At this point discussion ensued between the legal representatives for the applicant and the police relating to the additional information which had been produced by the police. Issues were raised relating to page 3 of Sergeant Higgins statement which referred to a further 11 premises owned by Admiral Taverns and the legal representative for the police responded that this was not new information but an amplification of information already submitted by the police. The police considered that the Committee should be advised of the previous background and management of the applicant company. The legal representative for Admiral Taverns explained that this application was being made by a new company and therefore this police statement was not relevant to this application.

The Chair pointed out that it was necessary for everyone to be well informed. The legal representative for the Council suggested that the Committee should therefore determine whether this late information should be considered. At this point all interested parties, other than the officers from Legal Services and Members' Office, withdrew whilst the Committee determined this issue.

Subsequently all returned and the Chair announced that the application for the premises licence for the Grove Hotel would be considered purely on its merits. As no additional evidence had been provided by the police in connection with the eleven additional premises referred to then the Committee would place appropriate weighting on the additional statements that had been submitted. The applicant's legal representative was also advised that if so required there would be an opportunity for the applicant to question the police regarding these eleven additional premises referred to.

The meeting then proceeded.

Admiral Taverns (Pyramid) Limited

Mr D Lucas, the Solicitor representing Admiral Taverns (Pyramid) Limited, the owners of the lease on the premises, was invited to present his case.

Background information was provided on the ownership of the premises. The freehold of the building was owned by Middlesbrough Borough Council and a 99 years lease had been granted to Camerons Brewery in 1961. This lease had ultimately been assigned to Admiral Taverns (Pyramid) Limited who had run the premises until a review had led to the licence being revoked in June 2006 since when the premises had remained closed.

Consequently Middlesbrough Council had recently served a notice of forfeiture of the lease to Admiral Taverns on the grounds that a condition of the lease required that the premises remained open and operated as licensed premises. Therefore, on 24 September 2007 due to this notice of forfeiture and in order to retain the lease of the premises, Admiral Taverns had submitted this application for a new premises licence for the Grove Hotel.

The Committee was provided with some background information on the management company, Admiral Taverns (Pyramid) Limited, a new public company which had acquired 2,700 licensed premises in England and Wales in March 2006 and had not previously operated the Grove Hotel when the licence had been revoked. The company had now substantially increased its

personnel and commitment and had secured finance of £700 million to support the operation of their premises. £50 million of capital expenditure had already been made to improve their existing licensed premises.

The Committee was advised that the Company had considered the concerns of local residents and in order to address these was prepared to amend their style of operation. Since the application had been submitted the Company now proposed a different style of operation, the hours had been amended to 11.00 am to 11.30 pm daily and the premises were to operate as a food outlet and restaurant only with shorter hours rather than a public house. Alcohol would only be served to customers purchasing food at the premises. A list of 18 proposed operating conditions had been prepared by the applicant to address the issues of the past and these were circulated at the meeting.

This submitted list of conditions were discussed in detail.

The solicitor for the applicant suggested that the behaviour of patrons leaving a restaurant was different to that of customers leaving a public house. Consequently the applicant did not anticipate that the use of door supervisors would be necessary but this would be assessed by the Designated Premises Supervisor when the premises were operating and if required then an adequate number would be employed.

In conclusion the solicitor for the applicant suggested that the representations that had been made related to the operation of a public house and that it was necessary for the Committee to consider what was being proposed for the premises and that it was unlikely that this new style of operation would undermine the four licensing objectives. It would be necessary for the Committee to consider the impact of a food outlet as opposed to a drinking establishment.

The legal representative for the applicant confirmed that he had concluded his case.

The Chair invited questions from interested parties.

The Police Legal representative suggested that the application for the premises licence had changed and was now for a restaurant rather than a public house. This had not been made clear to the police prior to the meeting, had not been consulted upon and was in fact a different application to that now being considered by the Committee. Therefore the police considered that a new application should be made and a further hearing held. The applicant's legal representative explained that they were seeking a premises licence with the condition to operate as a food establishment which was an attempt to reassure residents that past issues would be dealt with by the proposed conditions. There was no change to their actual application for a premises licence merely the future method of operation of the premises as a restaurant.

At this point having taken advice from the Council's legal representative the Committee adjourned to consider whether to proceed with the current application for a premises licence. After a short adjournment the Chair announced to all interested parties that the Licensing Sub Committee had agreed to deal with the current application as submitted for a premises licence.

The Chair invited interested parties to submit questions to the applicant.

In response to a query by the police the applicant confirmed that a new company had been formed when the Grove Hotel had been purchased by the new owners, the Admiral Group. The purchase had been completed on 6 March 2006. The police referred to recorded incidents at the premises on 19 and 31 March 2006 and 8, 10 and 12 April 2006. The applicant's solicitor did not dispute these incidents but had no record of them.

The police legal representative enquired whether the management of the new company had remained the same and was advised that some managers had remained and some had not been retained. The two companies were completely different, the new Admiral Tavern Group was much larger than Pyramid the previous company

The legal representative for the Police referred to the problems experienced by the previous designated premises supervisor at the Grove Hotel, Janice James. Ms James had requested

help from the Area Manager, Ms D Higgins and had received no support. The applicant stated that there was only so much support that the company could give to their tenant and it was confirmed that in future the premises would again be run by a tenant. However Admiral Taverns would fund the refurbishment of the premises and the installation of CCTV.

The police legal representative referred to the proposal to run the premises as a restaurant and that the police had receive no prior notification of this change. The applicant replied that this was not an amendment merely a proposed operating condition and also that if there was an issue regarding the proposed licensable activity of indoor sporting events Admiral Taverns were happy to take this activity off the application.

In response to the Police query as to what consultation had been carried out with the local community that a restaurant was required the applicant confirmed that none had actually been undertaken. It was also confirmed that no improvements had been carried out by the applicant at the premises prior to the hearing as it had been considered that this would be too presumptuous.

The Chair invited questions from the local residents.

The applicant was asked how the company would select a tenant to run the premises which were extremely run down and what guarantee there would be that the tenant would stay.

The Members of the Committee were also afforded the opportunity to ask questions and raised the following issues which were clarified by the applicant's solicitor:

- That alcohol would only be served with food.
- Staff would regularly check the state of the toilets.
- Staff would be trained to deal with the situation if drugs were discovered on patrons within the premises.
- Under 21's would be allowed in the restaurant.

POLICE REPRESENTATION

POLICE CONSTABLE 1788 PETER ADDISON

PC Addison confirmed his written statement which related to problems of anti social behaviour and crime and disorder that had surrounded the Grove Hotel prior to its closure.

PC Addison explained to the Committee that the criminals of the area had previously used the Grove Hotel as a bolt hole, that they had taken over the premises by using drugs and taking their own alcohol in to the premises. His opinion was that the condition that alcohol would only be served with a meal would not deter such clientele from visiting and ultimately taking over the premises and causing the same problems as there had been in the past.

The problems had been massive and had occurred both inside and outside the premises. This had been a significant drain on police resources but there had been a big improvement and less calls since the premises had closed. If the premises re-opened PC Addison confirmed that he believed that after a couple of months the problems would re-appear and the premises would revert back to having the same problems.

PC Addison then responded to questions from the applicant's solicitor and Members of the Sub Committee.

Sergeant 944 Higgins

Sergeant Higgins from the Police Licensing Unit confirmed the contents of his statement which had been circulated prior to the meeting and which provided an overview of the previous situation with the Grove Hotel and the vast improvement to the area since the closure of the premises. Evidence had also been provided of the decreased levels of incidents reported in the area surrounding the Grove since the closure of the premises. Sergeant Higgins also confirmed at the meeting that he had been taken aback at the proposal for a restaurant and that to his

knowledge no local consultation had been undertaken. He wondered where the customer base would come from and whether it would be a commercial success with strict conditions attached to the licence. Sergeant Higgins was also of the opinion that the premises would return to its old ways with problems of anti social behaviour and crime and disorder.

Relevant Representations

Mrs J Goodchild MBE – Chair – Ladgate Community Council

Mrs Goodchild, as a resident and Chair of Ladgate Community Council, spoke strongly in support of the representation from Ladgate Community Council who objected to the application on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

She considered that because there were already two restaurants in the vicinity of the premises and that the Grove Hotel was right in the middle of the estate that it would not work commercially. If it re-opened the premises would once again attract idiots and the car park would become a drug dealers' den. The residents of the area had worked hard and spent a lot of time to bring the estate up to standard and they did not want anything to spoil these efforts.

Mr S Marshall – Ex Resident of Easterside

Mr Marshall spoke in support of the representation he had made on behalf of his parents and other residents of the Easterside estate based on grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. He also confirmed that until four years ago he had himself been a resident of the area and for years had been very involved with the community. Recently he had written many letters regarding the problems associated with the Grove Hotel to the Police, the Mayor and officers of the Council.

Mr Marshall provided background information to the problems that had been associated with the Grove Hotel and he considered that if it reopened that these problems would re-occur. His view was that the Grove Hotel should remain shut in order to let the estate continue to improve. He considered that the best option for the premises was to demolish them and rebuild some facility for the use of the community.

Councillor Budd - Ward Councillor for Ladgate Ward

Councillor Budd, as Ward Councillor, was in attendance to speak in support of the residents of Ladgate Ward. He confirmed that to his knowledge nothing had united an area more than this issue. He considered that the restaurant was a ploy merely to obtain a premises licence and would not succeed. If the premises reopened all the previous problems of anti social behaviour and crime and disorder would re-occur.

Mrs M Goodings - Resident

Mrs Goodings, who earlier in the meeting had been overwhelmed and had withdrawn, was invited by the Chair to present her views if she felt sufficiently recovered. She returned to the meeting and confirmed that she was feeling stronger and just wanted the Committee to know that she lived the closest to the premises of all the residents and had done so for ten years. She did not want the Grove Hotel to re-open because since it had closed the area had become a different area - quiet and peaceful. She added that recently she had not slept with the worry that the premises might reopen and she now lived in constant fear that all the troubles would return. She added that even the young parents in the area did not want it to reopen and were afraid for their children. Mrs Goodings confirmed that prior to the meeting she had had no idea that the premises was to operate as a restaurant and to her knowledge nor did any other residents.

The Solicitor for the applicant was provided with the opportunity to address the concerns of the police and the residents.

He confirmed that the company had no plans to sell the premises if the licence was not granted. He agreed that the company would be prepared to restrict the number of functions per year.

With reference to the CCTV system he agreed that this could be approved by the police. The solicitor also referred to future actions such as a closure order and an accelerated review procedure that could be taken by the police if the licence was granted and problems reoccurred at the premises.

In response to a query by the Chair regarding the security of the building since closure the residents confirmed that there had been a large hole in the roof for the last three weeks and people had broken in. Children missing from home had been found by the police hiding in the roof space. The building was an eyesore - the grass had not been cut for the last two years and glass littered the car park.

In response to a member of the Licensing Sub Committee the police confirmed that when previously operating the Grove Hotel had been at the core of all criminal activity in the area and was at the route of the problems. The residents also confirmed that since the premises had closed there was not as much loitering or associated anti social behaviour at the shops due the presence of CCTV cameras in this area.

In response to a query by the Council's legal representative the applicant's solicitor confirmed that Mr Barnes had only been named on the in the application (Appendix 1) as the premises supervisor for the purpose of the application and that if a licence were to be granted then there would be a change of Designated Premises Supervisor. At this stage this person had not been appointed.

All parties present were invited to summarise their cases and viewpoints.

The Chair confirmed that there were no further questions. Accordingly those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee determined the application. The list of the applicant's eighteen proposed conditions were left with the Committee for further consideration.

DECISION

ORDERED that the application for a Premises Licence for The Grove Inn, 95 Broadwell Road, Easterside, Middlesbrough – Ref No. MBRO/PRO468 be refused.

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

1. The four Licensing Objective of the Licensing Act 2003.
2. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Crime and Disorder, starting at paragraph 2.1
 - Prevention of Public Nuisance, starting at paragraph 2.32
 - Public Safety, starting at paragraph 2.19
 - Protection of Children from Harm, starting at paragraph 2.41, Annex D
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 in particular para 38)
 - Protection of Children from Harm (pages 19 to 22)
4. The case presented by the applicant
5. The representation made by Cleveland Police.
6. The representations made by local residents present at the hearing.
7. The written representations received.

The Committee had decided to refuse the application for the following reasons: -

- The Committee considered that due to the lack of control and type of customer attracted to the premises that the granting of the licence would have a negative impact on the licensing objectives and be detrimental to the community.
- The Committee considered that the applicant would not be able to prevent crime and disorder, public nuisance or ensure that children were protected from harm at the premises.
- The Committee had considered the applicant's proposed conditions and believed that they would not meet the licensing objectives in this case. The panel was very concerned about the day to day control of the running of the premises, as this would be transferred to a tenant unknown at present.