

LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 9 February 2011.

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

OFFICERS: B Carr, A Gray, T Hodgkinson and R Pallister.

ALSO IN ATTENDANCE: P.C. F Helyer – Cleveland Police, Licensing Unit
V Lamballe – Legal Representative - Cleveland Police
R Gage – Enforcement Officer - Erimus Housing
B Eves – Project Worker – Barnardos
J Wells – Group Leader - Trading Standards
2 Witnesses – Ms Middleton & Miss Gaston

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

**LICENSING ACT 2003: REVIEW/VARIATION OF PREMISES LICENCE - M B & D LONGSTAFF –
130 BOROUGH ROAD, MIDDLESBROUGH - REF. NO. MBRO/PR0015/17994**

A report of the Head of Community Protection had been circulated outlining an application to Review the Premises Licence in relation to M B & D Longstaff, 130 Borough Road, Middlesbrough, Ref No. MBRO/PR0015 and an application to Vary the Premises Licence, as follows:-

Summary of Current Licensable Activities

Sale of Alcohol.

Summary of Current Hours of Licensable Activities

Sale of Alcohol Off Premises

Monday - Saturday	8.00am - 11.00pm
Sunday	10.00am - 10.30pm
Good Friday	8.00am - 10.30pm
Christmas Day	12 Noon - 3.00pm & 7.00pm - 10.30pm

A copy of the current Premises Licence was attached at Appendix 1 to the submitted report.

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

The current owner of the premises, Mr M B Longstaff was present at the meeting, accompanied by his daughter, Karen Bishop-Longstaff and confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Principal Licensing Officer advised that the premises consisted of a convenience store/off licence situated on Borough Road, close to residential properties.

Members were advised that on 17 December 2010, Cleveland Police had made an application for a Review of the above premises licence following concerns in relation to the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives. A copy of the application and the reasons for the request for a review was attached at Appendix 2 to the report.

The Principal Licensing Officer advised that further representations had been received from: -

- Middlehaven Community Council on 19 January 2011, on the grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm objectives (attached at Appendix 3 to the report);
- The Principal Trading Standards Officer on 20 January 2011, on the grounds of the prevention of crime and disorder and the protection of children from harm objectives (attached at Appendix 4 to the report):
- A further witness statement from Cleveland Police on 2 February 2011 in respect of the organisation, Barnardos.

Members were advised that on 12 January 2011, following a prosecution brought by Cleveland Police in relation to an underage sale, David Longstaff had his Personal Licence revoked by Teesside Magistrates Court, which meant he could no longer remain as the Designated Premises Supervisor for the premises. As a consequence, Mr Longstaff had submitted a request on 1 February 2011 to vary the Premises Licence to enable his daughter, Karen Bishop-Longstaff to become the new Designated Premises Supervisor for the premises with immediate effect.

It was clarified that where a request was made for a transfer with immediate effect, the applicant was allowed to carry out licensable activities at the premises as if they were the holder of the Premises Licence until the application was determined.

The Principal Licensing Officer explained that the Licensing Act 2003 allowed for the transfer of a Premises Licence between parties and also allowed for representations by the Police providing that they were satisfied that the exceptional circumstances of the case were such that the granting of the application would undermine the prevention of crime and disorder objective.

Members were advised that the Police had submitted a Notice of Objection, to the Transfer of the Premises Licence to Karen Bishop Longstaff on 2 February 2011 on the grounds that the Police were satisfied that the exceptional circumstances of this case were such that, granting the application would undermine the crime prevention objective.

Cleveland Police

The Legal Representative for Cleveland Police advised that they had requested a Review of the Premises Licence as it was a concern to the Police that 3 underage sales of alcohol had occurred within an 18 months period. It was particularly concerning that despite receiving a warning for the first underage sale in May 2010, a second offence had occurred in June 2010 and a third offence in Oct 2010.

The Committee was advised that the Police had further concerns regarding the allegation that alcohol was being sold on account, then people were paying double the amount for the alcohol. The Legal Representative advised that if the allegation was proved to be true, then the Committee had no choice but to revoke the licence. The Committee was also advised that the Police thought that the Application to Transfer the Licence should be rejected, given the circumstances regarding the underage sales and concerns regarding alcohol being sold on account.

The Legal representative for the Police then questioned the Police witnesses.

F Helyer

The Legal Representative referred to the 2nd page of PC Helyer's statement regarding the test purchase, which had taken place in May 2010. PC Helyer confirmed that she was the officer who was on duty on that date and was present when the sale was made. PC Helyer clarified that the age of the test purchaser was actually 15 and not 16 as listed in her statement.

PC Helyer confirmed that following the underage sale on 30 May 2010, an interview had taken place with Mr Bishop regarding the circumstances of the sale. A further visit to the premises had been made on 6 June 2010 prior to the Middlesbrough Live event on 7 June 2010 to make the

Premises Licence holder aware of the dangers of underage sales. A Think 21 pack was also left at the premises and discussions were held regarding the fact that regular training should be held with staff and all training should be recorded.

PC Helyer also advised that she had received information from Barnardos and Erimus Housing that alcohol was being sold on account and people were being made to pay double for the alcohol. The Committee was advised that Mr Bishop's name had been mentioned in connection with the above issue.

Mr Longstaff advised that he thought the allegations regarding the alcohol being sold on account were shocking and untrue.

Miss Eves – Barnardos

The Police Legal representative asked Miss Eves if the contents of her statement dated 3 February 2011 were true. Miss Eves confirmed that the statement was true. She advised that she had been a Project Worker for Barnardos for 7 years and that part of her work involved working with vulnerable ladies who suffered from substance misuse and sexual exploitation.

The Committee was advised that Miss Eves had received a statement from one of her clients who was alcohol dependant, who advised that alcohol was being sold on account and the client was required to pay back double the amount of the cost of the alcohol. Miss Eves advised that the information had been received from one individual. She first became aware of it in April 2010, then again in the summer of 2010.

Questions to Miss Eves

A Member queried that in Miss Eves' statement it stated that she did not believe that this was a one off event, but had stated to the Committee that the information was only received from one client. He asked Miss Eves if this was just supposition. Miss Eves confirmed that the information was only received from one particular female but she suspected that there were more people affected.

Miss Eves also clarified that the information contained within her statement regarding the black book allegedly kept by Mr Bishop in respect of the information regarding customers credit debts had been passed on to an agency which dealt with loan sharks.

Mr Gage - Erimus Housing

Mr Gage advised the Committee that he was an Enforcement Officer and had been employed by Erimus Housing for 5 years. He confirmed that he had been given information regarding the alcohol being sold on account from MB & D Longstaff's in June 2010, and on other occasions since that date.

The information received suggested that Mr Bishop had been supplying alcohol on account to vulnerable people with alcohol dependency problems. He advised that he had put various support mechanisms in place to assist the client who had notified him of the issue. He was aware of other people who had been affected but as they were not Erimus tenants, he had referred them to the appropriate agencies. Mr Gage stated that the name given in connection with the sale of alcohol on account had been that of Mr Bishop.

Middlehaven Community Council

The Principal Licensing Officer advised that the representative from Middlehaven Community Council was unable to attend the meeting but had requested that Members consider the Community Council's written representations.

Trading Standards

The Group Leader from the Council's Trading Standards Department advised that all Off-Licences had been visited in the area and had been given a Think 21 kit. They had also been advised about the requirement to see a person's identification. before making an alcohol sale.

The representative from Trading Standards also pointed out the requirement to obtain a Consumer Credit Licence from the Office of Fair Trading for any form of money lending. He advised that Mr Longstaff had made an application for a Consumer Credit Licence, however on the application form, Mr Longstaff had failed to reveal that he had any criminal convictions.

Mr Longstaff

Mr Longstaff referred to the claim that the shop on Borough Road was an attraction for alcoholics. He stated that he found this rather strange, as there hadn't been any incidents when Police had been called to the shop other than when his daughter had called them to remove a lady who had requested alcohol and his daughter had refused. The lady would not leave the shop and his daughter had subsequently telephoned the Police to have her removed. Mr Longstaff produced a petition, which contained over 100 signatures and a letter from a customer, which stated that customers did not believe that alcoholics congregated at the shop.

With regard to Mr Longstaff's application for a Credit Licence, he stated that he was 72 and it was always his intention that his daughter would take over the running of the shop. He had applied for the Credit Licence because he wanted to do something when he retired and he believed he could offer better rates than other loan companies.

Mr Longstaff advised that the application form had to be completed on line, and as he was not au fait with computers, he had requested his grandson to complete the form on his behalf. When his grandson asked if he had a criminal record, Mr Longstaff had said he didn't have a record as he didn't register that the offence he committed in respect of the under age sale was classed as a criminal offence.

Mr Longstaff advised the Committee regarding his current financial situation. He stated that when his daughter eventually assumed responsibility for the business, his only involvement would be in doing the VAT and the accounts.

In respect of the information regarding the activities of Mr Bishop, Mr Longstaff stated that they were all untrue. He stated that he himself regularly gave credit to a number of elderly and frail customers but he never made any additional charges in respect of that credit to any of his customers.

Mr Longstaff stated that two people had called at his shop to advise that they had been coerced into made statements in respect of the sale of alcohol on account and they had advised Mr Longstaff that they were seeking legal advice about the issue.

The Principal Licensing Officer advised that two people had arrived at the Town Hall and had stated that they had given incorrect information to the Police and Barnardos, and had requested to appear before the Committee.

The Council's Legal Representative advised that the Committee should go into Private Session to consider whether the witnesses' should be given the opportunity to present their evidence to the Committee. The applicant and his daughter, the Police, the witnesses, the press and officers of the Council, other than the Principal Licensing Officer and representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee considered the issue.

Subsequently all interested parties returned and the Chair announced that Members had decided that the two new witnesses should be given the opportunity to present their evidence to the Committee.

The Legal Representative for the Police advised that allegations had been made regarding the fact that Mr Gage and Miss Eves had fabricated evidence. She stated that the witnesses should be given the opportunity to respond to Mr Longstaff's allegations.

The Council's Legal Representative explained the process of making representations to Mr Longstaff and advised him that he should raise his concerns regarding the allegations of fabricated evidence with the Police.

Mr Longstaff advised that Mr Bishop would not be in charge of the shop. His daughter had attended a number of licensing meetings and had obtained her Personal Licence. He stated that she intended to work full time and resume responsibility for the premises.

Mr Longstaff stated that there was no truth in the allegations of giving credit for double the amount and he said there was no proof of this happening. He stated that Mr Bishop would be working in the shop and Mr Longstaff would be doing the paperwork, although he may be required to provide cover in the shop from time to time. He advised that both his daughter and son in law would be attending the licensing meetings.

Mr Longstaff explained the circumstances of the second underage sale. He advised that a young volunteer had been assisting at the shop when a young person came in and asked for alcohol. The young person had produced his identification and the sale took place. The same person came in the shop some time later and the young volunteer assumed that as he had already seen his identification earlier he did not need to see it again and that was the reason why the identification was not checked. Following on from this sale the Mr Longstaff had put in place the Think 21 procedures and had established a refusal book.

Mr Longstaff explained the circumstances of the underage sale he had made himself. He explained he had been distracted about a personal matter and after making the sale, he had been so concerned, he had made a decision to relinquish control of the shop to his daughter.

Questions to Mr Longstaff

The Police Legal Representative referred to the application form for a Consumer Credit Licence which; Mr Longstaff had completed and asked Mr Longstaff if he accepted that the sale of alcohol to minors was a criminal offence. Mr Longstaff responded by saying that it hadn't registered with him that it was a criminal offence.

Mr Longstaff was also asked how he recorded details of any credit transactions. Mr Longstaff advised that the credit details were recorded on a sheet kept next to the till. The Police Legal Representative also asked if it was correct that Mr Bishop regularly worked alone in the shop and if so how did Mr Longstaff know that Mr Bishop did not sell alcohol on account for double the cost. Mr Longstaff advised that Mr Bishop did sometimes work alone in the shop and if Mr Bishop told him he did not give credit as above then he believed him.

The Police Legal Representative referred to the underage sale of alcohol carried out by Mr Longstaff and he advised that he was embarrassed that he had made the sale and that was why he had decided to relinquish control of the premises to his daughter.

Mr Longstaff in response to a query from a Member advised that he had received the Think 21 kit and had displayed posters and information on the premises. He also advised that his daughter had been attending the off Licence Forum which was held on a quarterly basis.

The two witnesses were invited into the meeting to give evidence in respect of the case.

Miss Middleton

Miss Middleton advised that she was the witness referred to in Miss Helyer's and Miss Eves statements. She advised that she had been coerced into making false allegations about Mr Longstaff. The Committee was advised that Miss Middleton had been staying with two people whom had been barred from the shop by Mr Bishop, for swearing, and they had coerced her into making allegations regarding the operation of the premises. The Police Legal Representative

asked Miss Middleton why she thought the people had coerced her into making the allegations. Miss Middleton replied that she was easily led, and the two people wanted to get revenge on Mr Bishop.

The Police Legal Representative advised that Miss Middleton had repeated the same allegations to a number of different agencies, regarding the operation of the premises on a number of occasions, without any other person being present. Miss Middleton advised that she had invented the allegations and that there was no truth in the fact that she had to pay double the amount of money back for alcohol she had received on credit.

Miss Gaston

Miss Gaston advised that Miss Middleton had made things up in the past. She advised that she had accompanied her to the shop on a number of occasions and Mr Bishop often let Miss Middleton off with minor amounts of money.

SUMMING UP

Cleveland Police

The Police Legal Representative advised that the primary concern of the Police was the 3 under age sales within an 18 months period despite the warnings that had been given. It was also a concern that there had been no representations received from Mr Bishop. It was highlighted that Miss Middleton was not the person mentioned in Mr Gage's statement and Miss Middleton had not explained why she had lied to the various organisations.

The Police Legal Representative stated that the only option for the Committee was to revoke the licence, given the way Mr Bishop had irresponsibly ran the premises.

Mr Longstaff

Mr Longstaff did not have anything further to add however, Mrs Bishop Longstaff stated that she would like to be given the opportunity to prove that she could run the premises properly, even if it was for a trial period.

When Members determined the application: -

1. The application was considered on its own merits, taking into account the four licensing objectives of The Licensing Act 2003
2. Consideration was given to the Government Guidance of the Licensing Act 2003 issued by the Secretary of State, in particular: -
 - The guidance relating to reviews, commencing at paragraph 11.1
 - Protection of children from harm, commencing at paragraph 2.41 onwards
 - Prevention of crime and disorder, commencing at paragraph 2.1 onwards
3. Consideration was given to Middlesbrough Council's Licensing Policy, in particular: -
 - Off licences, pages 40 to 41
 - Protection of children from harm, pages 43 to 46
 - Prevention of crime and disorder, pages 32 to 40
4. Consideration was given to the case made by Cleveland Police
5. Consideration was given to the evidence presented by Erimus Housing, Middlesbrough Trading Standards and Barnardo's.
6. Consideration was given to the written representations from Middlehaven Community Council.

7. Consideration was given to the representations made by Mr. Longstaff and Mrs. Bishop.
8. Consideration was given to the representations made by Ms Middleton and Ms Gaston.

DECISION

ORDERED that the Premises Licence in respect of M B & D Longstaff, 130 Borough Road, Middlesbrough, Ref No MBRO/PR0015 be revoked and therefore the application to Transfer the Premises Licence to Karen Bishop Longstaff was rejected because there was clear evidence of three under-age sales of alcohol occurring at the premises within an 18 month period and to grant the licence would undermine the protection of children from harm objective.

The Chair advised the applicant that he would receive the decision in writing and reminded him of his right to appeal to the Magistrates Court within 21 days of the date of the decision.