

## LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 11 March 2011.

**PRESENT:** Councillor Taylor (Chair); Councillors Lancaster and G Rogers.

**OFFICERS:** B Carr, C Cunningham and T Hodgkinson.

**ALSO IN ATTENDANCE:** L O'Brien – Legal Representative - Cleveland Police  
Sgt P Higgins – Cleveland Police  
A Chamadiya – Premises Licence Holder

### **\*\* DECLARATIONS OF MEMBERS' INTERESTS**

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

### **LICENSING ACT 2003: REVIEW OF PREMISES LICENCE - MARIO'S – 205 LINTHORPE ROAD, MIDDLESBROUGH - REF. NO. MBRO/PR0435/020502**

A report of the Head of Community Protection had been circulated outlining an application to Review the Premises Licence in relation to Mario's, 205 Linthorpe Road, Middlesbrough, Ref No. MBRO/PR0435, as follows:-

#### Summary of Current Licensable Activities

Late Night Refreshment.

#### Summary of Current Hours of Licensable Activities

11.00pm - 3.00am Sunday to Thursday.  
11.00pm – 4.00am Friday and Saturday.

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

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

#### Details of the Application

The Principal Licensing Officer presented the report in relation to an application from Cleveland Police, received on 19 January 2011, to Review the Premises Licence in relation to Mario's, 205 Linthorpe Road, as outlined above on the grounds of the prevention of crime and disorder and public safety. A copy of the representation was attached at Appendix 2 to the report.

The premises consisted of a late night takeaway situated in Middlesbrough town centre. The Principal Licensing Officer outlined the significant history of transfers in relation to the premises:-

21 December 2005	Transfer	Miss K Love	Granted
9 March 2007	Transfer	Miss H Biddar	Granted
14 January 2009	Transfer	A Hashemi	Refused
9 October 2009	Transfer	I Mohammed	Granted
5 August 2010	Transfer	A Chamadiya	Granted
18 November 2010	Transfer	I Butt	Refused

The Committee was advised that the Premises Licence was currently held by A Chamadiya.

#### Relevant Representations

##### Cleveland Police

The Police Legal Representative referred to the evidence contained in their application to review the licence attached at Appendix 2 of the report.

In January 2009, the Police had objected to the transfer of the Premises Licence on the grounds that they had serious concerns regarding the proposed applicant, Mr Hashemi who was on bail for 3 sexual offences involving young women. In addition to the above offence, Mr Hashemi had been charged with falsely displaying a food hygiene award which had not been awarded. The application had subsequently been refused.

The Police legal representative advised that a visit to the premises had been conducted by Police Officers on 8 October 2010 as part of a routine licensing check. Staff had advised officers that Mr Butt was the Manager of the premises however he was not present during the visit.

Following information received regarding the fact that illegal immigrants were working at the premises, a joint operation was carried out by Cleveland Police and the UK Border Agency Police. The premises were visited on 12 November 2010 and two illegal workers were found to be working at the premises. One of the workers was issued with a notification of potential liability because although he had been granted asylum, he had not been granted permission to work in the country and the other worker who had not been granted asylum, had been arrested by the UK Border Police.

In December 2010, an application to transfer the Premises Licence to Imran Butt was refused by the Committee following representations against the transfer of the licence by Cleveland Police.

Sgt Higgins from Cleveland Police advised that every time an inspection had been conducted, staff had appeared evasive and nobody seemed to be aware of who was in charge of the premises. The staff had a poor working knowledge of the CCTV system and working practices in general.

On 18 March 2010, a routine licensing visit had been carried out at the premises and the licensing officers had been advised by the staff on duty that there had been a change of ownership and the premises had been transferred to a person called Asif. It was highlighted that none of the staff working at the premises on the day of the visit were able to assist the Police and the Licensing officers in carrying out the inspection.

It was highlighted by the Police that premises that sold hot food were a magnet for crime. The Committee was advised that 2 calls had been made to the premises in October and December respectively in respects of disorder at the premises. On both occasions, the fights had dispersed by the time the Police arrived at the premises, however it was pointed out that neither of the fights had been reported by the staff at the premises.

On 25 March an application form to Transfer the Premises Licence was sent to the premises. On 28 April a member of the licensing team telephoned the premises and had a conversation with a person named Asif, who had advised that he was waiting for the lease agreement to be finalised and he expected it to be completed within a two week period.

On 24 June a further telephone call was made to the premises and a message was left with staff regarding the proposed transfer of the Premises Licence. On 7 July 2010, a further letter was sent to the premises advising that the licence must be transferred within fourteen days.

In summing up the Police legal representative advised Members that the applicant was not a fit and proper person to hold the Premises Licence. He advised that Mr Chamadiya's non-attendance at the premises, the employment of illegal immigrants, the non-payment of tax and national insurance in respect of the employment of illegal immigrants and his attempt to transfer the Premises Licence to a person he had never met intimated that the inclusion of stringent conditions on the licence would be unlikely to prevent a further occurrence of the problems associated with the premises. He requested that Members revoke the Premises Licence, as the Police were of the opinion that if the licence was not revoked, it would seriously undermine the crime and disorder objective, the protection of children from harm and the promotion of public safety objectives.

#### Mr Chamadiya

Mr Chamadiya advised that when he applied to take over as Premises Licence Holder he was

not aware of the background to the premises. He advised that he still did not have the lease of the premises and that he paid rent to the landlord.

The Committee was advised that Mr Chamidiya had a 50% stake in the business and his brother Imran Chamidiya had the remaining 50%. He advised that he had another family business in London and that was the reason why he had opted to have a friend to run the business in his absence.

In response to a query regarding whether he was in charge of the premises in March, Mr Chamidiya advised that the licence was transferred to his name in August 2010.

Mr Chamidiya acknowledged that there had been a number of problems with the running of the business but stated that he wanted to co-operate with the Police and licensing authority to sort the business out. In response to a query from a Member, Mr Chamidiya confirmed that he had appointed Mr Hidayat Qahar as the Manager of the premises, and it was Mr Qahar who had appointed Mr Butt as Manager.

When questioned about the circumstances regarding the appointment of Mr Butt, Mr Chamidiya advised that he was a friend of Mr Qahar and that he had never met him before. In response to a query regarding how often he had visited the premises, Mr Chamidiya advised that he visited the premises on a monthly basis.

When questioned regarding whether Mr Hidayat Qahar had a national insurance number, Mr Chamidiya advised that he did not think that he did have a national insurance number.

Mr Chamidiya advised the Committee that he did not gain any profit from the business. The Principal Licensing Officer asked Mr Chamidiya why he was concerned about the licence remaining in force if he did not gain any profit from the business. He advised Mr Chamidiya that one of the options available to him was to surrender the licence.

In response to a query from a Member, Mr Chamidiya advised that he had taken over the payment of wages to staff in January.

When questioned regarding what he thought the problems were with the business, Mr Chamidiya responded that he thought the problems had been caused by the lack of management of the premises on a day to day basis.

In summing up Mr Chamidiya advised that he wanted the opportunity to prove that he could make the premises work. He stated that if the lease had been in his name then none of the problems would have occurred.

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 Council's Legal Representative announced the Committee's decision.

### **DECISION**

**ORDERED** that the Premises Licence in relation to Marios's, 205 Linthorpe Road, Middlesbrough, Ref No: MBRO/PR0435 be revoked for the following reasons:-

The Committee considered the evidence by the police and the representations made by the Premises Licence holder, the area where the premises was situated and the guidance and policy and decided to revoke the Premises Licence on the following grounds:-

1. There had been 4 premises licence holders since 2005 and two further applications to transfer which were refused by the Council. To date there was no evidence and it was unclear as to who was actually running the premises.

2. Asif Chamadiya was the premises licence holder when illegal immigrants were working at the premises. The Premises Licence Holder failed to check if any employees were allowed to work in the UK and had no control over the premises or the staff.
3. As a consequence of having illegal workers at the premises and not having any control over them, staff had been and would be unlikely to report any incident to the police or the licensing authority at the premises.
4. The Premises Licence Holder did not know who was actually running the premises or if any of the conditions on the licence were being complied with and no systems had been put in place to ensure that the licensing objectives had been or were being fulfilled.
5. It was clear that the problems and potential problems at the premises were caused by the management and lack of control over the premises and no conditions on the licence would resolve this situation.
6. The Committee therefore had no option but to revoke the licence in order to prevent crime and disorder, protect children from harm and promote public safety.

The Chair advised the Premises Licence holder 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.