

LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 27 April 2011.

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

OFFICERS: B Carr, S Vickers and T Hodgkinson.

ALSO IN ATTENDANCE: Joan Smith – Cleveland Police Legal Representative
Sgt P Higgins – Cleveland Police
Inspector Vickers – Cleveland Police
David Lucas – Applicant's Legal Representative
Laura Spalding – Operations Manager
Colin Crawshaw – CCTV Technician
Derek Hetherington – Designated 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 - THE BROADWAY – DEVONPORT ROAD, MIDDLESBROUGH - REF. NO. MBRO/PR0297

A report of the Head of Community Protection had been circulated outlining an application to Review the Premises Licence in relation to The Broadway, Devonport Road, Middlesbrough, Ref No. MBRO/PR0297, as follows:-

Summary of Current Licensable Activities

Sale of Alcohol, Live and Recorded Music, Indoor Sporting, Dancing, Late Night Refreshment.

Summary of Current Hours of Licensable Activities

Sale of Alcohol	10.00am - 11.30pm	Monday to Sunday.
All other Licensable Activities	10.00am - 12 midnight	Monday to Sunday.
Opening hours of Premises	10.00am - 12 midnight	Monday to Sunday

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 25 February 2011, to Review the Premises Licence in relation to The Broadway, Devonport Road, as outlined above on the grounds of the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. A copy of the representation was attached at Appendix 2 to the report. Copies of the application for Review had been served on the responsible authorities on 24 February 2011.

Cleveland Police had highlighted concerns regarding incidents of crime and disorder at the premises and complaints regarding disturbances to residents. The Police also had concerns regarding the premises selling alcohol after hours and a history of non compliance with licensing conditions, in particular in relation to the provision and retention of CCTV footage.

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.

On 13 June 2008, Licensing Officers carried out a routine inspection at the Premises and spoke to the Designated Premises Supervisor, Susan Simpson, who had been un-cooperative with Officers. A number of instances of non compliance with licensing conditions had been found including the provision and retention of CCTV footage. Further visits had been carried out in August and November 2008 which had revealed further instances of non compliance with licensing conditions and as a consequence, the DPS and a representative from Harmony Pub Company Trading Limited had been interviewed under caution and prosecuted for the offences.

Harmony Pub Company Trading Limited had pleaded guilty at Teesside Magistrates Court on 8 September 2009, to two offences of failing to ensure that CCTV footage was retained in accordance with the licence conditions and as a consequence had been fined a total of £8,000 and ordered to pay £287 costs.

On 8 December 2009, the DPS had pleaded guilty to five breaches of licence conditions including offences in relation to CCTV, the retention of an incident book and drugs register and the provision of a drugs box. The DPS had subsequently been fined £375 and ordered to pay £50 costs. The DPS had also had her Personal Licence revoked by the Courts.

On 22 October 2010, the Police had carried out a routine licensing inspection at the Premises and identified a non compliance with the Premises Licence in respect of the licence condition in relation to the retention of CCTV. Kelly Berry, the new DPS and Archie Little the tenant of the Premises were interviewed under caution and a file was currently being prepared for consideration for the instigation of legal proceedings.

Other problems identified as part of the inspection included the fact that various mandatory signage was missing in relation to the availability of drinking water and availability of smaller measures. The part A of the licence was not displayed as required by the licensing conditions. The incident book had not been kept up to date and an incident which occurred at the premises on 13 August 2010 had not been reported to the Police. Mr Hetherington had also been unable to operate the CCTV system properly.

In September 2010, Middlesbrough Council's Neighbourhood Victim Liaison Officer had advised the Police that she had received several complaints from residents regarding the integral management and running of the premises. The Police's Legal Representative advised that the review had been made on the grounds of all four of the licensing objectives.

The complaints from residents included concerns regarding broken glass around the premises, noisy juveniles loitering and urinating outside the premises and a racist incident which had occurred at the premises on 14 November 2010. Residents had also expressed concern regarding possible drug dealing at the premises and after hours drinking.

The Police Legal Representative had also highlighted that on 1 November 2010, they had requested access to CCTV footage from the premises to assist in an investigation into the whereabouts of a missing person. The DPS was not at the premises and none of the staff who had been on duty were able to operate the CCTV system. The Police had returned to the premises the following day and the DPS had advised that the downloading of the footage would take a long time as the system was very slow and as a consequence, the Police had seized the system to enable their Technical Support Unit to download the footage more efficiently.

The Committee was advised that since Mr Little had become involved in the running of the premises, there had been a decline in standards and the Police experienced difficulty in speaking to and dealing with Mr Little about their concerns with regard to the operation and management of the premises.

The Committee was advised that a meeting had been held with the Operations Manager, Miss Spalding in January 2011 to discuss the problems with the operation of the CCTV system and the overall management of the premises.

On 10 March 2011, the Police and Licensing Officers attended the premises to carry out a routine licensing inspection and identified a non compliance with a licensing condition in relation

to the provision of a secure drugs box. As a result the Police served the current DPS, Derek Hetherington with a notice under Section 19 of the Criminal Justice and Police Act 2001 to cease licensable activities until the matter was resolved. The matter was resolved on 14 March 2011.

The Police Legal Representative advised the Committee that the conditions on the licence were outdated, repetitive and needed to be revised. The Police were willing to work with the premises to alleviate the problems at the premises and as a consequence, they had proposed a number of conditions to deliver tighter constraints which were tailored to the premises to address the issues that had been raised.

A copy of the conditions proposed by the Police was distributed to Members of the Committee for consideration.

A Member queried what had changed since the Police had submitted their initial request for a review and why the Police were now prepared to work with the premises to make them work. The Police advised that it was apparent that there had been a change in the DPS and the integral management of the premises. Members were advised that the purpose of the guidance was to work together to make the premises work.

Members queried whether residents had been consulted regarding the revised conditions. The Police advised that a number of residents had indicated that they did not want the premises to close however they had indicated that they would like a reduction in operating hours.

Legal Representative for The Broadway

The Legal Representative for the Broadway advised that the Operations Manager for the company had assumed responsibility for the premises in February 2010 when the premises had been closed. Mr Little had been appointed as the DPS in June 2010.

The Committee was advised that issues regarding the operation of the premises had occurred between September 2010 and February 2011. The Legal Representative advised that there was a CCTV system operational at the premises but problems had been experienced with regard to the period of time the system recorded footage.

The issues regarding the operation of the premises had been brought to the Operations Manager's attention in January and a meeting had been held with the Police to discuss these concerns on 22 January 2011. It was highlighted that Mr Little had vacated the premises at the beginning of April and Mr Hetherington was now the tenant.

The Committee was advised that Mr Hetherington had been a Relief Manager at four other premises previously and he held a Personal Licence. It was highlighted that he lived at the back of the premises and as a consequence he had personal knowledge of the premises and had a good rapport with residents in the area. It was confirmed that the premises CCTV system had been cleaned up and checked and it was now compliant with the conditions on the Premises Licence.

The Legal Representative advised that the company wanted to operate the premises to the satisfaction of the local authority, the Police and local residents. He requested that the Committee consider the conditions suggested by the Police and allow the premises to retain the licence subject to those conditions.

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.

The Chair advised that the Committee were concerned regarding Mr Hetherington's lack of experience in respect of the operation of licensed premises. He advised that he hoped Mr Hetherington would receive the appropriate support from the Premises Licence Holder and the Police to ensure that the premises were operated in an orderly manner to the satisfaction of the

local authority, the Police and nearby residents. The Committee confirmed that there would be no change to the opening hours currently specified on the licence in respect of New Years Eve.

In reaching its decision, the Committee considered the application, representations from the police and the Premises Licence holder and the agreement between them.

The Committee had also considered Government Guidance, the Council's policy and the licensing objectives.

DECISION

ORDERED that the Premises Licence in relation to The Broadway, Devonport Road, Middlesbrough, Ref No: MBRO/PR0297 be retained subject to the following conditions to be imposed on the licence:-

1. That the Premises Licence be amended to reflect the following : -

Sale of Alcohol	10.00am - 11.00pm	Monday to Sunday.
All other Licensable Activities	10.00am – 11.30pm	Monday to Sunday.
Opening hours of Premises	10.00am – 11.30pm	Monday to Sunday

2. That no person shall be permitted to consume any drink in any exterior drinking area after 10.00pm on any evening.
3. That a representative of the Premises Licence Holder shall make a visit to the premises each calendar month to ensure that all of the premises licence conditions are being complied with. This visit shall be recorded in the premises incident book, recording the name of the person conducting the check, their role and job title as representative of the premises licence holder, the time and date of the visit and the compliance of the premises with the licence conditions. The representative of the Premises Licence Holder shall also liaise with the Police on a monthly basis regarding the operation of the premises.
4. That signs be placed around the premises advising customers of the availability of free drinking water.
5. That signage be placed near the bar advertising the availability of drinks in the measures stated in the mandatory conditions.
6. That colour digital CCTV be fitted to the premises. Cameras must be sufficient in number to cover all internal areas with at least one dedicated to each entrance of the premises. There should be at least one camera to cover the external area outside the door on Devonport Road. A further camera must be installed in the lobby area. Footage must be recording at all times the premises are open for licensable activities and for one hour after closing time in respect of the external areas. CCTV footage must be retained for a period of 31 days.
7. That the recording unit shall have a CD/DVD re-writer for evidence recovery and be able to produce copied footage on a disc to be made available to members of the police and other responsible authorities.
8. That there shall be at least one member of staff trained in the operation of the CCTV system on duty during the hours the premises are open for licensable activities to be able to download evidence at the request of the Police or other responsible authorities.
9. That all CCTV equipment shall have constant time/date generation.
10. That an incident book in which to record any incidents of crime and disorder to be maintained and kept on the premises at all times.

11. That all curtains, blinds or other window screening materials shall be left open at all times.
12. That all glassware shall be made from toughened glass.
13. That the premises shall have a drugs register and an approved drugs box in which to store any prohibited drug substances found.
14. That no person shall be allowed to leave the licensed area with any glass, open bottle or other container. For the purpose of this condition any exterior drinking area is included as a licensed area.
15. That the noise level from the premises whilst being used for amplified musical entertainment shall not cause nuisance to noise sensitive dwellings in the vicinity.
16. That customers to be encouraged to leave the premises in a quiet and orderly manner; this will be done by means of signage attached to each exit which shall request customers to leave the premises quietly. The signage shall be larger than A4.
17. That a Challenge 21 style proof of age scheme to be used at the premises, in compliance with the mandatory condition on proof of age. Visible signs of this to be placed in public areas near to the bar.
18. That any changes to the DPS or to the tenancy of the premises to be notified to the appropriate authorities including the local authority and the Police.