

LICENSING SUB COMMITTEE C

A meeting of Licensing Sub Committee C was held on 6 July 2011.

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

OFFICERS: J Dixon, A Gray and T Hodgkinson.

ALSO IN ATTENDANCE: B Faulkner Snr, B Faulkner Jr – Applicants.
Sergeant Higgins; PC Pryce – Cleveland Police,
J Smith – Police Legal Representatives.

**** DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members.

LICENSING ACT 2003: VARIATION OF PREMISES LICENCE: LA PHARMACIE/MEDICINE BAR, CORPORATION ROAD, MIDDLESBROUGH - REF. NO. MBRO/PRO311

A report of the Assistant Director - Community Protection had been circulated outlining an application to vary the Premises Licence in relation to La Pharmacie/Medicine Bar, Corporation Road, Middlesbrough, Ref No. MBRO/PRO311, as follows:-

Summary of Current Licensable Activities

Supply by retail of alcohol for consumption on the premises.
Live/recorded music, dancing, late night refreshment.

Summary of Current Hours for Licensable Activities

| | | |
|-----------------------------|------------------|--------------------|
| Late Night Refreshment | Monday to Sunday | 11.00pm to 3.00am. |
| Other Licensable Activities | Monday to Sunday | 11.00am to 3.00am. |

Summary of Proposed Variation

To vary the hours of the licensable activities as follows:-

Live/Recorded Music, Sale of Alcohol and Dancing:-

Thursday and Friday 11.00am to 4.00am.

Saturday 11.00am to 5.00am.

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, accompanied by his father, was present at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Principal Licensing Officer presented the report in relation to an application, received on 16 May 2011, to vary the Premises Licence in relation to La Pharmacie/Medicine Bar, Corporation Road, as outlined above. The applicant had advertised the application, as required by the Licensing Act 2003, in the Evening Gazette on 18 May 2011, which was confirmed as being an accurate reflection of the facts by the applicant.

It was highlighted that the premises consisted of a restaurant/bar/nightclub with a late licence situated in the town centre.

A representation was received from Cleveland Police on 13 June 2011 objecting to the application to vary on the grounds of the prevention of public nuisance, public safety and the prevention of crime and disorder. A copy of the representation was attached at Appendix 2.

The applicant responded to the representation from Cleveland Police, in writing, on 15 June 2011 and a copy of that letter was attached at Appendix 3.

Applicant in Attendance

The applicant, Mr Faulkner Jr, accompanied by his father, Mr Faulkner Snr, was in attendance at the meeting and presented the case in support of the application to vary the premises licence.

The applicant explained that they wished to extend the hours at the premises as the drinking culture in the town had changed and people were not arriving at the premises until 12.30/1.00am on Fridays and Saturdays as people tended not to go out until later in the evening. The applicant stated that over 25 members of staff were employed on Fridays and Saturdays and by the time the premises had filled up, it was almost closing time.

The applicant advised that whilst the variation in hours was to extend until 5.00am on Saturdays, he did not intend to open until 5.00am every Saturday, however, the number of Saturdays he did wish to open until 5.00am would exceed the 12 permitted Temporary Event Notices per year that he could apply for. It was clarified that the extended hours would only apply to the bar and basement of the premises and not the restaurant.

The applicant and his father stated that they had been in the licensed trade in Middlesbrough for more than 30 years and had made a significant financial investment in the premises. The applicant considered the premises to be self-contained – having a secure smoking area at the rear of the premises, cash-back facilities and a wristband system – thus reducing the numbers of patrons hanging around outside the premises. The applicant stated that they had never encountered any problems with residents and suggested that, should the variation in hours be granted, a curfew be introduced in relation to admission. It was suggested that no-one be allowed entry to the venue after 1.30am on Thursdays and Fridays and no-one be allowed entry after 2.00am on Saturdays. The applicants also stated that they were willing to provide additional security staff on these nights and wished to work alongside the Police and would be happy to operate the new hours on a six-month trial period.

Questions to the Applicant

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

- The Police legal representative asked whether the applicant accepted that the premises were situated within a saturation zone and that Middlesbrough Council had adopted a saturation zone policy. The applicant responded that he did not consider his premises to be on the 'pub circuit' as it did not attract a great deal of passing trade and was located only in close proximity to one other licensed premises which closed at 11.00pm.
- The applicant was asked whether he accepted that problems had occurred at the premises when it had Temporary Events Notices (TENs) in place. The applicant stated that the venue had operated approximately 16 TENs and was only aware of one problem that had occurred.
- It was queried whether introducing an admission curfew would cause additional problems with people trying to gain entry to the venue. The applicant stated he did not believe this would be the case and did not envisage problems and that he wanted to create a well-run, 'select' venue. The applicant added that any advertising for specific events at the venue would clearly state that no entry would be gained after a specified time.
- The Police legal representative suggested that longer hours would lead to people consuming more alcohol and causing more trouble. The applicant responded that all staff at the premises were well trained and would refuse to serve anyone heavily under the influence of

alcohol. Extra security staff would be employed, based on the numbers of patrons at the premises.

- The Police legal representative suggested that the application to vary the hours was financially driven and queried whether the applicant had considered an additional half hour to the current hours to monitor how things went. The applicant stated that the premises had the capacity to hold 450 patrons and regularly invested large sums of money in securing niche entertainment. He added that they had been at the premises for two years and were yet to make any profit.

Questions from Members

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

- The applicant was asked whether he considered the 'drinking culture' to have changed in a positive or negative way in recent years. He responded that he considered it to have changed in a negative way since the introduction of the Licensing Act 2003 in terms of trade as so many bars now opened until 2.00am as opposed to the previous closing hours of 11.00pm and people could spread out the drinking times. However the applicant stated that he considered there to be fewer incidents compared with 10 years ago.
- Reference was made to the premises wishing to become a 'select' venue and it was acknowledged that the applicant wished to cater for a niche market. It was queried whether patrons of the venue tended to be better behaved as they were specifically going to the premises for specific entertainment. The applicant considered that this was the case and that patrons were more cosmopolitan and also recognised that the Police were doing a good job.
- Clarification was sought in relation to the capacity of the premises. It was confirmed that the total capacity was 480 – with a capacity of 180 in the basement area, 200 in the upstairs bar and 100 in the restaurant.
- The applicant was asked whether he considered he would attract more patrons by opening for an additional hour. The applicant replied that they had consulted patrons and outside promoters and general opinion seemed to be that they would like the premises to open later. He added that he was only allowed to apply for 12 TENs per year and had never had an application refused.

Relevant Representations

Cleveland Police

Sergeant Higgins and PC Pryce, Cleveland Police, were in attendance at the meeting. The Police legal representative advised that Cleveland Police was opposed to the application to vary on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance.

In response to questions from the Police legal representative, PC Pryce stated that the Police's primary concern was that an extension in hours at the premises would allow patrons more time to consume alcohol, increasing the potential for crime and disorder during that time.

PC Pryce provided details of four incidents, of a serious nature, that had occurred at the premises during the last six months. The incidents had resulted in patrons requiring medical treatment for various injuries including a broken nose and facial injuries. PC Pryce advised that all but one of the incidents had occurred whilst Temporary Event Notices were in place. In addition to these incidents, there were also several reports of disorder occurring within the vicinity of the premises which had resulted in arrests of persons for disorder, namely a group of approximately 16 males and females fighting outside the premises.

PC Pryce expressed concern that the premises were in close proximity to a residential area and that an extension of hours would have a negative impact upon residents as there was a potential for increased disturbance and violent incidents.

The applicant responded to the above information by stating that the only incident of which he had been aware was in relation to a patron sustaining a broken nose and that this had been addressed by employing additional security staff on the premises at night time. In relation to the large group of males and females fighting outside the premises, the applicant highlighted that his security staff were not permitted to deal with incidents outside the premises and he had, therefore, telephoned the Police for assistance. The incident had escalated whilst Police attendance was awaited.

In response to a query from the Police legal representative, PC Pryce confirmed that there had never been any issue with the numbers of door staff at the premises.

Questions to those making Representations

The applicant confirmed that he had no questions to ask the Police.

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

- A Member questioned whether the incidents at the premises had occurred at closing time. PC Pryce responded that the incidents that had been highlighted occurred at various times but not necessarily at closing time.
- In response to a query, PC Pryce confirmed that the view of the Police was that an extension in hours would result in patrons having a longer period of time in which to consume alcohol with the potential to lead to an increased number of incidents.
- It was queried what the impact would be on Cleveland Police should the application to extend the hours be granted. PC Pryce responded that an increase in hours at the premises would increase pressure on Police resources and the potential for large-scale disorder.

Summing Up

Cleveland Police

The Police legal representative summed up by stating that when considering the matter, the Committee should have regard to the cumulative impact of granting such an application. The applicant had demonstrated that an extension in hours, through TENS, had already caused some problems and that a permanent extension in hours would impact on crime and disorder and public nuisance.

The Police legal representative made reference to various paragraphs within the Government Guidance in relation to the Licensing Act 2003 and considered that the four licensing objectives would be undermined should the application to vary be granted.

Applicant

The applicant summed up by stating that he accepted there would always be some 'teething' problems but stated that he wished to work with the Police and residents in making the business a success. He highlighted that there had previously been a 2,000 capacity nightclub situated in close proximity to his premises and that this had now gone. He added that he had not received any complaints from local residents.

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.

ORDERED that the application to vary the Premises License in respect of La Pharmacie/ Medicine Bar, 72-80 Corporation Road, Middlesbrough, Ref No: MBRO/PR0311, be refused, for the following reasons:-

1. The Committee did not consider that the applicant had demonstrated that the increased licensing hours would not add to the cumulative impact of crime and disorder in the area.
2. The Committee considered the application to be a material variation to the hours and had taken into consideration the incidents that had taken place at the premises, many of which had occurred in the early hours of the morning and in the last six months.

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

1. The application, on its own merits.
2. The case presented by the applicant.
3. The representations made by Cleveland Police, both in writing and verbally at the meeting.
4. The four Licensing Objectives of the Licensing Act 2003.
5. Relevant Government Guidance, particularly in relation to:-
 - Prevention of Crime and Disorder, starting at paragraph 2.1, Annex D.
 - Prevention of Public Nuisance, starting at paragraph 2.32, Annex D.
 - Public Safety, starting at paragraph 2.19, Annex D.
 - Also paragraphs 2.4, 8.67 and 8.68.
6. Middlesbrough Council's Licensing Policy particularly in relation to:-
 - Crime and Disorder, Pages 32 to 42.
 - Prevention of Public Nuisance, Pages 23 to 29.
 - Public Safety, Pages 30 and 31.
 - Paragraph 9.13 in relation to cumulative impact.

The applicant was reminded of the right to appeal to the Magistrates Court within 21 days of the date of the decision.

LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE: SAVERS, 99-101 LINTHORPE ROAD, MIDDLESBROUGH - REF. NO. MBRO/PRO263

A report of the Assistant Director - Community Protection had been circulated outlining an application for a Premises Licence in relation to Savers, 99-101 Linthorpe Road, Middlesbrough, Ref No. MBRO/PRO263.

An objection to the application had been received from Cleveland Police on 3 June 2011, on the grounds of the prevention of crime and disorder, the prevention of public nuisance and protection of children from harm. The representation was subsequently withdrawn following an agreement reached with the application in relation to proposed conditions on the licence and a reduction in hours for the sale of alcohol.

A representation had been received from Middlehaven Community Council on 24 May 2011 on the grounds of the prevention of crime and disorder, prevention of public nuisance and public safety.

A representation had been received from St Aiden's Residents Association on 24 May 2011 on the grounds of the prevention of public nuisance and the prevention of crime and disorder.

Prior to the Hearing, the applicant withdrew the application and the Hearing was subsequently cancelled.

NOTED