

MIDDLESBROUGH COUNCIL

AGENDA ITEM 3

COMMITTEE REPORT

LICENSING SUB COMMITTEE C

11 MAY 2012

REPORT OF THE ASSISTANT DIRECTOR OF COMMUNITY PROTECTION

APPLICATION FOR PREMISES LICENCE

Applicant: Sohail Anjum Khan

Ref.No. PR 0294

Premises: Mario's 205 Linthorpe Road Middlesbrough TS1 4AG

Application received: 19 March 2012

Summary of proposed Licensable Activities:

Provision of Late Night Refreshment 11.00pm – 4.00am daily

Full details of the application and accompanying operating schedule have been reproduced at Appendix 1.

1. Notification to Responsible Authorities:

The following Responsible Authorities have all received notification of the application:

Chief Constable	Planning Manager
Chief Fire Officer	Trading Standards Manager
Area Child Protection Group	Environmental Health Manager (Public Safety and Public Nuisance)

2. Application advertised by the applicant: Evening Gazette 23 March 2012

3. Legislation

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State.

4. Background

The premises consist of a hot food take away situated on Linthorpe Road within an area designated by the Council as a cumulative impact zone. A premises licence was initially granted in respect of the premises on 9 March 2007. This licence allowed the sale of hot food to take away between the hours of 11pm to 3am Sunday to Thursday and 11pm to 4am Friday and Saturday. On 19 January 2011 an application for a review of the premises licence was submitted by Cleveland Police. This review application was considered by Members on 11 March 2011. On that date Members chose to revoke the premises licence. The following are the grounds for the revocation given at that time:

1. There have been 4 premises licence holders since 2005 and two further applications to transfer which were refused by the Council. To date there is no evidence and it is unclear as to who is actually running the premises.
2. The premises licence holder failed to check if any employees are 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 have been and would be unlikely to report any incident to the Police or the Licensing Authority.
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 have been put in place to ensure the licensing objectives have been or will be fulfilled.
5. It is clear that the problems and potential problems at the premises are caused by the management and lack of control over the premises and no conditions on the licence will solve this.
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.

Following the revocation of the premises licence, the licence holder submitted an appeal against the Committee's decision; however, this appeal was subsequently withdrawn prior to the matter being considered by magistrates. As a result the premises reverted to being required to close at 11pm. On 17 November 2011 a letter was hand delivered to the home address of the licence holder and to the premises advising that the provision of late night refreshment was no longer permitted at the premises. On 27 November 2011 the Principal Licensing Officer was carrying out routine licensing enforcement duties. At 12.15am he noticed that these premises appeared to be open. Full details of this incident are provided in a statement from the Principal Licensing Officer attached at Appendix 2. Investigations are ongoing into this incident and it is likely that these investigations will result in legal action being undertaken.

5. The Representations

On 13 April 2012, a representation was received from Cleveland Police objecting to the application on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. This representation is attached at Appendix 3.

6. The Licensing Policy

Members are referred to the following relevant sections of the Council's Licensing Policy.

Prevention of Crime and Disorder	Pages 32 to 42
Protection of Children from Harm	Pages 43 to 46
Public Safety	Pages 30 to 31
Cumulative Impact	Pages 34 to 35

And any other sections of the Policy which Members consider to be relevant.

7. Guidance to the Licensing Act 2003

Members are referred to the following relevant sections of the Guidance.

Protection of Children from Harm	Starting at para 2.41 Annex D (Pool of Conditions)
Prevention of Crime and Disorder	Starting at para 2.1 Annex D (Pool of Conditions)
Public Safety	Starting at para 2.19 Annex D (Pool of Conditions)

And any other sections of the Policy which Members consider to be relevant.

8. Members' Options

Members may consider the following options:

1. Grant the application subject to conditions consistent with the operating schedule and mandatory conditions if applicable.
2. Grant the application subject to the addition of new conditions.
3. Refuse to specify a person in the licence as the premises supervisor.
4. Reject the whole or part of the application.

Members are reminded that any aggrieved party (i.e. Applicant, Responsible Authority, Interested Party) may appeal any decision of the Licensing Committee to the Magistrates' Court.

Contact Officer: John Hodgson
Senior Licensing Officer
Tel. 728719

For admin use only:

Decision:

Reasons: