

**LICENSING SUB-COMMITTEE C**

A meeting of the Licensing Sub-Committee C was held on 2 March 2015.

**PRESENT:** Councillors B E Taylor (Chair), R Arundale and S Biswas (substitute for Williams)

**ALSO IN ATTENDANCE:** B Brunskill – Accounts Manager, Purple Pig - on behalf of the applicant.  
Sergeant P Higgins - Cleveland Police - making representations.

**OFFICERS:** C Cunningham, J Dixon and J Hodgson.

**DECLARATIONS OF INTERESTS**

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

14/9 **APPLICATION TO VARY PREMISES LICENCE - SLAM, EXCHANGE PLACE ST HILDAS MIDDLESBROUGH TS1 1DR - REF: MBRO/0318**

A report of the Assistant Director of Improving Public Health had been circulated outlining an application to vary the Premises Licence in relation to Slam, Exchange Place, Middlesbrough, TS1 1DR, Ref No. MBRO/0318.

A representation was received from Cleveland Police on 27 January 2015, on the grounds of the prevention of crime and disorder and public safety. The representation was subsequently withdrawn following an agreement reached with the applicant in relation to the proposed conditions on the licence and the applicant withdrawing the application in respect of the extension of hours of operation at the premises.

The Senior Licensing Officer advised that, following negotiations with Cleveland Police, the applicant had withdrawn the application in respect of extending the hours of operation at the premises with the remaining conditions being agreed, resulting in Cleveland Police withdrawing its objections to the application. There was, therefore, no further role for the Licensing Sub Committee in respect of the application.

The Senior Licensing Officer clarified that the application had not been for a lap-dancing bar and had been for a variation of the premises licence and that any such application would need to be submitted separately as an application for a Sexual Entertainment Venue licence.

**NOTED**

14/10 **APPLICATION FOR TEMPORARY EVENT NOTICE: THE PURPLE PIG, 156-158 LINTHORPE ROAD, MIDDLESBROUGH TS1 3RB: REF: TEN/475**

A report of the Assistant Director of Improving Public Health had been circulated outlining an application for a Temporary Event Notice in relation to The Purple Pig, 156-158 Linthorpe Road, Middlesbrough, Ref No. TEN/475, as follows:-

Summary of Proposed Event, Date and Time

Function with live DJ, pay at bar service  
Saturday, 14 March 2015, 12.00 midnight – 4.00am.

Full details of the application 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, Mr Som Emadi, was represented by Mr Blake Brunskill, Accounts Manager for the Purple Pig, and confirmed that copies of the report and Regulation 6 Notice had been received.

### Details of the Application

The Senior Licensing Officer presented the report in relation to an application, received on 17 February 2015, for a Temporary Event Notice in relation to The Purple Pig, 156-158 Linthorpe Road, Middlesbrough, as outlined above. A copy of the Notice was served on Cleveland Police on 17 February 2015.

The report provided details of the legislation in relation to Temporary Event Notices (TENs) which permitted licensable activities on a temporary basis without the need for a premises licence. It was highlighted that there were a number of limitations imposed by the Licensing Act 2003 on the use of Temporary Event Notices, including:-

- Limiting the maximum number of people who may attend such an event to 499.
- Restricting the duration of an individual event to seven days.
- Restricting the number of events for an individual premises to 12 per year.

It was noted that the premises consisted of a bar/restaurant located close to other commercial premises on Linthorpe Road in Middlesbrough. The premises currently operated with the benefit of a premises licence and a copy was attached at Appendix 2.

On 18 February 2015, an objection notice was received from Cleveland Police under Section 104 of the Licensing Act 2003, objecting to the Temporary Event Notice on the grounds of the prevention of crime and disorder and public nuisance. This was attached at Appendix 3.

Additional information, in the form of a Witness Statement from PC J Bryan, had been circulated to all parties on Friday, 27 February 2015 and was circulated to Members of the Licensing Sub Committee at the Hearing. The Witness Statement provided supporting information in relation to additional information contained within the report, which referred to a visit that was made to the premises on 30 January 2015 when it was discovered that a number of conditions on the premises licence were not being complied with at that time. By virtue of Section 136 (1) of the Licensing Act 2003, a person was committing an offence if they carried on licensable activities other than in accordance with the licensable conditions. Upon conviction, this offence could carry a fine up to £20,000 and/or six months imprisonment.

### Applicant in Attendance

Mr Brunskill, Accounts Manager for The Purple Pig, was in attendance at the Hearing on behalf of the applicant, Mr Som Emadi.

The applicant's representative advised that the application, as submitted, still stood with the exception of the terminal hour being reduced from 4.00am to 3.00am, however, he indicated that he understood that Cleveland Police would still be objecting on the same grounds.

The applicant's representative presented the case in support of the application.

The Committee was advised that the applicant had applied for a Temporary Event Notice in order to host a live DJ event at The Purple Pig's Middlesbrough premises between the hours of 12.00 midnight to 3.00am on 14 March 2015. A celebrity DJ had confirmed his availability and was also due to play at an event in the Harrogate premises.

Patrons would be charged a £10.00 entry fee to the event and there would be a 'pay at the bar' service. It was the applicant's intention to donate the first £500 to the Zoe's Place charity and the aim of the event was to generate publicity around the restaurant and to raise the profile of the premises.

### Questions to the Applicant from those Making Representations - Cleveland Police

Sergeant Higgins, Cleveland Police, was present at the meeting to make representations in relation to the application and was afforded the opportunity to ask questions of the applicant. The following issues were raised:

- Sergeant Higgins referred to PC Bryan's statement which outlined incidents at all three of The Purple Pig premises - in Middlesbrough, Yarm and Harrogate - and issues of non-compliance with the licensing conditions, including a reference to 'stopy backs' at the premises and it was queried why such instances kept happening. The applicant's representative explained that there had been an incident where the premises in Yarm had held an annual staff party until 4.00am. He stated that the party had gone on longer than anticipated and that staff had not realised the time and had not thought about the implications. He added that no money had exchanged hands and that drinks had been available on a 'help yourself' basis. The applicant's representative accepted that there had been some naivety in relation to the running of the premises and stated that it had been more difficult to manage as he and the applicant were not able to be at the premises all of the time. In order to address this, the applicant's representative advised that they had employed a Company named 'Shield Yourself' to take on the responsibility for staff training, food hygiene, etc and that the Company would ensure that the restaurants were operating correctly.
- Sergeant Higgins pointed out that residents had objected to the initial application in respect of the Yarm premises and queried whether it had been appropriate to hold a party there until 4.00am. The applicant's representative responded that there had been no intention to continue the party so late and that they had since apologised to residents.
- Sergeant Higgins highlighted that the Harrogate premises was currently under investigation and asked the applicant's representative whether he was aware of this. The applicant's representative stated that he was not present at the premises and did not know the reasons for the investigations and felt it was inappropriate for him to comment.
- Sergeant Higgins stated that The Purple Pig premises were operated primarily as restaurants and queried what experience the applicant and his representative had in relation to running DJ events until the early hours. The applicant's representative stated that he was not aware of the applicant's past experience in this field, however, his family had experience of running restaurants.
- Sergeant Higgins submitted that running licensed premises until 3.00am was very difficult, more so than running a restaurant. He referred to recent incidents in Middlesbrough where a late-night gig had led to overcrowding resulting in the Fire Service being called, another incident had occurred at another venue relating to the misuse of drugs and patrons being taken to hospital. Sergeant Higgins queried what experience the Purple Pig could offer in relation to running the proposed event given that they were unable to run their current restaurants correctly. The applicant's representative accepted the concerns and stated that they were prepared to employ door staff for the event in order to maintain safety.

#### Questions to the Applicant from Members

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

- In response to a query regarding the layout of the premises, the applicant's representative advised that the premises consisted of a restaurant on the ground floor and open space on the first floor which was generally used as an overflow area for larger bookings for more than eight people. The first floor could hold a maximum of around 150 people, seated but would be cramped.
- In terms of meeting fire safety regulations, it was queried how many people were allowed on the premises. The applicant's representative stated that he was not sure of the exact number and the Senior Licensing Officer confirmed that the Fire Safety Certificate in respect of the premises would identify the maximum number of patrons allowed on the premises and that the applicant had a legal obligation not to exceed that limit.
- A Member of the Panel highlighted that a lot of the problems at all of the premises appeared to be connected to management issues. The applicant's representative responded that he and the applicant had accepted that it was difficult to run the premises themselves and had employed the external Company to monitor the

- management of the premises.
- In response to a question, the applicant's representative confirmed that he was aware of the area designated as a Cumulative Impact Zone, as identified in the Council's Licensing Policy, and that he understood the increased potential for crime and disorder in the zone.
- In response to a query, it was confirmed that The Purple Pig in Middlesbrough had not had any previous Temporary Event Notices.
- It was noted that the premises was primarily a restaurant and it was queried whether there was a condition on the Premises Licence that stipulated whether there was a limit on the 'non-table' customers permitted on the premises. The Senior Licensing Officer confirmed that there was no condition on the current premises licence in relation to limiting the number of patrons drinking only at the premises.
- The applicant's representative had indicated that they would consider employing door staff for the event and it was queried how much control door staff would have over what happened inside the premises. The applicant's representative stated that he considered people were generally better behaved when door staff were present and that they acted as a deterrent although they would not get involved in anything that happened inside the premises.
- Reference was made to the CCTV system which was discovered not to be retaining data for 31 days as required by condition of the licence. It was highlighted that this was a very basic condition and queried why it had not been complied with. The applicant's representative advised that the problem had now been rectified, however, they had been unable to provide evidence of this due to timescales. He added that the CCTV system had been upgraded and that this had been discussed with the Police. The new system should record for around 34 days on a continuous loop.
- The Council's legal representative asked, in accordance with the Council's policy, what provisions the applicant had made to ensure that patrons left the premises quietly without causing disturbance. The applicant's representative stated that signs were now in place at the premises asking patrons to leave quietly and that they had asked staff to remind patrons to leave quietly.

### **Relevant Representations**

#### **Cleveland Police - Sergeant Higgins**

Sergeant Higgins, Cleveland Police, was in attendance at the meeting to present the Police representations in relation to the application for the Temporary Event Notice.

Sergeant Higgins recapped that the application for a Temporary Event Notice had been submitted by the applicant for an event on 14 March 2015. The original application had a terminal hour of 4.00am but this had now been modified to 3.00am. The proposed event was a 'live DJ' event for up to 150 people.

Sergeant Higgins stated that the applicant operated Purple Pig premises in Middlesbrough, Yarm and Harrogate and that recent events had led the Police to believe that the applicant could not satisfy the licensing objectives in relation to the temporary event.

Sergeant Higgins referred to the statement submitted by PC Bryan and highlighted that the applicant's Yarm premise was granted a premises licence in February 2014, following a Licensing Committee Hearing due to opposition from local residents. It was agreed by the Police that no more than 10% of customers were permitted to consume alcohol on the premises without a table meal. PC Bryan visited the premise on 28 March 2014 and noted that approximately 30 people were not eating at the premise but were drinking. Sergeant Higgins attended a subsequent meeting with the applicant, Mr Emadi, on 30 June 2014 in relation to a breach of his licensing conditions. It became apparent that the kitchen at the premises was being closed at 10.00pm making it impossible to comply with the condition. The applicant submitted an application to amend the 10% rule to 20 people to make the condition more workable. Following objections from local residents, the applicant also agreed to reduce the hours for the sale of alcohol to 11.00pm with a closing time of 12.00 midnight.

On 12 September 2014, a joint visit with Cleveland Police and Stockton Council was made to

the premises following a complaint relating to drinking after hours at the Yarm premises. The applicant had stated that the premises had been open until 4.00am on 7 September 2014 for a staff party and maintained that drinks at the premises were free. Police requested CCTV footage from the date in question, however, the applicant had not been able to comply as CCTV had not been installed - despite the licence for the premises being granted in February 2014. The matter was investigated and the applicant was interviewed, under caution, on 10 October 2014 regarding his failure to install CCTV at the premises. The applicant accepted he was in breach of the licence conditions and stated he would rectify the problem as soon as possible. The applicant received a verbal warning from the Police.

In relation to the Harrogate premises, the Committee was informed that the applicant was granted the licence in January 2015 and on 24 January 2015, Cleveland Police Licensing Unit was contacted by North Yorkshire Police in relation to a complaint involving drinking and smoking inside the premises after hours. The matter was investigated by North Yorkshire Police and CCTV footage was viewed at the premises. The applicant was found to have dispensed alcohol directly into a person's mouth and alcohol was served after hours. In addition, the applicant had allowed smoking inside the premises. A copy of the CCTV footage was requested by North Yorkshire Police and when a copy was provided, it was blank. A further request was made and the applicant advised that he was unable to produce a copy of the footage and needed to call an engineer to the venue to rectify the problem.

In relation to the Middlesbrough premise, Middlesbrough Council Licensing Officers visited to carry out a licensing check on 30 January 2015. Several conditions on the premises licence were not being adhered to, including the lack of Challenge 25 posters on display, notices asking patrons to leave quietly, no incident book was present and the CCTV system was found only to be recording for 14 days.

Furthermore, on 7 February 2015, Stockton Council Officers visited the Purple Pig in Yarm when they noticed it was open and trading after hours at 12.45am, despite the licence stipulating it must be closed by 12.00 midnight. Stockton Council had indicated it would interview the applicant in relation to the incident which was currently being investigated.

Sergeant Higgins stated that, given the information provided, the applicant's latest application for a Temporary Event Notice gave rise to a number of concerns. It was highlighted that no other premises in close proximity to the Purple Pig opened beyond 2.00am and that it was the experience of the Police that the later a venue opened, the more disorder it attracted. Violence and misuse of drugs were also an issue. It was highlighted that five members of the public were recently admitted to hospital following the misuse of drugs at one premise in Middlesbrough and a live music event at another Middlesbrough venue had resulted in overcrowding with members of the public being injured.

Sergeant Higgins considered that operating an event such as the one being proposed by the applicant, required operators with the highest standards who would uphold the licensing objectives and run the event safely. Sergeant Higgins felt that the applicant had some way to go to reach such a standard and felt that the crime and disorder and public nuisance objectives would be undermined if the Temporary Event Notice was granted.

#### Questions to those making Representations - from the Applicant

The applicant's representative was afforded the opportunity to ask questions of Cleveland Police, and the following issues were raised:-

- The applicant's representative wished to highlight that in relation to the incident described at the Yarm premises on 7 February 2015, Sergeant Higgins had stated that the venue had been open and trading at 12.45am, however, he stated that the Police had viewed CCTV footage and that those persons present at the premises were finishing off drinks and were not being served at that time.

#### Questions to those making Representations - from Members

Members were afforded the opportunity to ask questions of Cleveland Police, and the

following issues were raised:-

- Clarification was sought in relation to the closing time of other establishments in close proximity to the Purple Pig in Middlesbrough and it was confirmed that there were two late night premises in close proximity that closed at 2.00am. Sergeant Higgins highlighted that by closing later and due to the type of event being proposed at the premises, given that the applicant had no experience in operating such an event and that the premises was primarily a restaurant, there was an increased risk of crime and disorder and nuisance occurring at the premises.
- It was queried whether anyone would be prosecuted in relation to the incident of smoking being allowed inside the Harrogate premises. Sergeant Higgins advised that North Yorkshire Police were investigating the matter, predominantly in relation to the Section 136 offence of trading outside of permitted hours, however, the other offences of smoking inside the premises and alcohol being dispensed directly into a person's mouth would also be investigated.

### **Summing Up**

#### **Those Making Representations - Cleveland Police**

Sergeant Higgins, on behalf of Cleveland Police, summed up by stating that it was very rare for the Police to object to applications for Temporary Event Notices and that usually negotiations could be made with the applicant to negate concerns. On this occasion the concerns of the Police were such that it was considered necessary to oppose the application due to the way in which the premises were being operated by the applicant.

#### **Applicant**

The applicant's representative summed up by stating that, in relation to the issues at the Yarm premises, residents had objected to the original application but had not attended the Committee Hearing. The applicant's representative advised that the Purple Pig in Yarm had held temporary events throughout December and that these had been successful. The opening hours had been extended at weekends near to Christmas and there had been no issues.

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.

### **DECISION**

**ORDERED** that the application for a Temporary Event Notice in respect of The Purple Pig, 156-158 Linthorpe, Middlesbrough, Ref No: TEN/475, be refused and that the Licensing Authority issue a counter-notice in respect of the Temporary Event Notice, for the following reasons:-

1. The applicant's history of not complying with licensing conditions at all three of his premises.
2. There was a lack of management skills in running the premises and the applicant had not been able to demonstrate how he would manage up to 200 people on the premises, until 3.00am, in relation to the proposed event, in order to uphold the Licensing Objectives.
3. CCTV had not been working in all three of the applicant's premises and the Committee was concerned that, on one occasion when it had not been working at one of the premises, the premises had been open beyond its trading hours serving alcohol and smoking had been allowed inside the premises.
4. In accordance with 9.12 of the Government Guidance, the Committee accepted the representation submitted by the Police.
5. Police evidence showed that the sale of alcohol up to 3.00am for up to 200 people

- would be likely to have an adverse impact on crime and disorder and public nuisance in the area.
6. The premises were situated within an area deemed a Cumulative Impact Zone by the Council.

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

1. The case was considered on its own merits taking into account the four licensing objectives of The Licensing Act 2003.
2. The Licensing Act 2003 (and Amended Government Guidance issued under Section 182 of the Act).
3. Middlesbrough Council's Licensing Policy.
4. The case presented by the applicant.
5. The representations made, in writing, and verbally at the Hearing by Cleveland Police.

The Chair advised the applicant of the Right of Appeal to the Magistrates Court within 21 days of the decision.