

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 22 April 2015.

PRESENT: Councillors B E Taylor (Chair) and Councillors M Hudson and G Purvis
A Ali and H Mahmood - Cumberland Road Convenience Store
Representing A Ali and H Mahmood - Mr Nixon
Police Representatives - PC Arbuckle, I Cookson and J Langley
Trading Standards Representative - J McCluskey

OFFICERS: C Cunningham, P Duffy and T Hodgkinson

DECLARATIONS OF INTERESTS

There were no declarations at this point in the meeting.

14/11 **APPLICATION FOR REVIEW OF PREMISES LICENCE - 57 - 59 CUMBERLAND ROAD - REF: OL/15/1**

A report of the Assistant Director of Improving Public Health had been circulated which outlined an application for the review of the Premises Licence in relation to 57-59 Cumberland Road, Linthorpe, Middlesbrough, TS5 6PN. Ref No. OL/15/1

Summary of Current Licensable Activities

Sale of alcohol off premises:

Monday to Saturday 8.00 a.m. until 11.00 p.m.

Sunday 10.00 a.m. until 10.30 p.m.

A copy of the current premises licence was attached at Appendix 1 to the submitted report.

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

The Premises Licence Holder, Arshad Ali, and the owner of the premises, Hassan Mahmood, accompanied by their Solicitor, confirmed that copies of the report had been received.

The Solicitor representing the Premises Licence Holder and the owner of the premises requested that the Committee consider the application for the licence to be transferred first because, if the application for a review of the premises licence was considered first, and the decision was to revoke the licence, that would damage the business.

The legal representative from Cleveland Police and the representative from Trading Standards objected to this request, as their reason for seeking a review was due to what they felt was impropriety.

All parties, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee considered the request.

On returning, the Chair confirmed to all parties that the Committee felt that, in the public interest and to promote the prevention of crime and disorder, it was appropriate to consider the application from Cleveland Police for a review of the licence, in the light of the allegations made by Cleveland Police. The Chair added that this would not preclude the Solicitor from representing the Premises Licence Holder and the owner, or from presenting their case to the Committee, which could include any information he wished to submit.

Details of the Application

The Principal Licensing Officer presented the report in relation to an application for a review of

the Premises Licence in respect of 57-59 Cumberland Road, Linthorpe, Middlesbrough.

On 2 March 2015, an application for review of the Premises Licence was received from Cleveland Police on the grounds of the prevention of crime and disorder and public safety. A copy of the application was attached at Appendix 2.

The report confirmed that Cleveland Police had served copies of the application on the applicant and all Responsible Authorities on 2 March 2015 and Licensing Officers had posted notices in the vicinity of the premises and in the Council offices, which advised of the review application.

A representation had been received from the Principal Trading Standards Officer, which supported the application for a review of the premises licence on the grounds of the prevention of crime and disorder and the protection of children from harm. A copy of this was attached at Appendix 3 to the report.

The report confirmed that the Licensing Act 2003 required the Licensing Authority to carry out its functions with a view to promoting the four licensing objectives, namely:-

- 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 Guidance issued by the Secretary of State. Members were referred to the relevant sections of the Policy and Guidance. The report also outlined the options available to the Committee.

The applicant - Cleveland Police

The Police legal representative presented the case in support of the application for a review of the Premises Licence. It was confirmed that all parties had received the Police documents attached to the submitted report.

He confirmed that the premises comprised a shop with an off-licence and that Arshad Ali was the Premises Licence Holder.

In 2011 an application for a new premises licence had been received after the previous licence had been surrendered by another tenant of Arshad Ali. The proposed Premises Licence Holder was Arshad Ali and the proposed Designated Premises Supervisor was Mourzzam Ali. The police believed that these individuals were acting as front men and that Azhar Ali would be in control of the premises on a day to day basis. As a result of representations by the Police, Arshad Ali agreed to have various conditions placed onto the premises licence. These included that the business should not be sub-let without the approval of the Police being sought and that Azhar Ali should have no involvement in the business.

In May 2011, Azhar Ali was arrested for money laundering and said that he owned the premises and worked there.

On 25 July 2014, the Police had searched the premises after an investigation by the National Crime Agency. A large amount of cash and controlled drugs had been found. A number of people had been arrested, including Azhar Ali. A company had been set up for the premises. Azhar Ali was the sole Director. The Police had not been aware of this.

On 3 November 2014, Azhar Ali was convicted of conspiracy and supplying controlled drugs and sentenced to 80 months imprisonment.

On 6 November 2014, a licensing check was carried out. There was only one staff member present and he could not operate the CCTV system or produce relevant documentation.

On 10 November 2014, as a result of the above check, a meeting was held, at which Arshad Ali introduced Hassan Mahmood and said that Hassan Mahmood was now the lease holder

and had rented/leased the premises since 2012. Hassan Mahmood had confirmed this. Cleveland Police had not previously been notified of this change by Arshad Ali. At the same meeting, Hassan Mahmood said that his uncle, Azhar Ali, was already working at the premises when he had taken over.

On 28 November 2014, a further licensing check discovered problems with training records; Perry products being sold (in contravention of the licence) and CCTV not retaining footage for the time prescribed in the licence - 31 days. Hassan Mahmood telephoned the Police later that day to say that he would rectify these issues.

On 8 January 2015, when a follow up check was made, the training records could still not be produced and the CCTV was still not retaining footage for the period it should have. No contact had been received from Hassan Mahmood since his telephone call on 28 November 2014, when he had said that he would rectify the issues.

Because of the issues around the premises and continued breaches of licensing conditions, the Police had no alternative but to apply for the premises licence to be reviewed.

PC Arbuckle then went through his statement. One of the aspects he referred to was that, during the investigation by the National Crime Agency, they had evidence that there had been four other deliveries to the premises. These were suspected to be drugs. The deliveries had not been intercepted so it was not possible to say for sure what these deliveries were but, as they were conducted in exactly the same way as the delivery on 25th July 2014, which contained heroin, it could be assumed that they also consisted of heroin.

The representative from Trading Standards stated that they supported the application from the Police for the licence to be revoked. There were concerns that the business was not taking adequate steps to prevent sales of alcohol to under 18s. The premises were in an area that the service concentrated on, due to its proximity to Albert Park and incidents of nuisance/anti-social behaviour, caused by underage drinking.

On 29 August 2014, a test purchase was undertaken and a 16 year old volunteer had been able to purchase WKD vodka and had not been asked for their age or any identification. Therefore, it appeared that "Think 21" procedures had not been followed.

It was claimed that training had been given to staff but no records were available. A refusals book was not used frequently.

In response to questions by the Solicitor representing the Premises Licence Holder and the owner, it was confirmed that the premises had not been subject to any complaints previously.

PC Arbuckle was asked if it was accepted that neither Arshad Ali or Hassan Mahmood had any knowledge of a drugs operation. PC Arbuckle responded that the operation was going on whilst Hassan Mahmood had been in charge of the premises and that the Police had not been informed about Hassan Mahmood taking charge.

The Solicitor representing the Premises Licence Holder and the owner suggested that it was speculation as to whether there had been previous visits to the premises to deliver drugs. PC Arbuckle said this was not the case. On the day of the arrest, there had been one consignment of drugs and four other deliveries were made under similar circumstances.

The Trading Standards representative confirmed that another refusals book was held and there had been no problems with that.

The Solicitor representing the Premises Licence Holder and the owner asked if Hassan Mahmood had ever been advised about CCTV issues. PC Arbuckle responded that he had been contacted by Hassan Mahmood on 28 November and that Hassan Mahmood had assured him that the problem would be rectified.

The Solicitor representing the Premises Licence Holder and the owner said that the CCTV had worked well since 2011 but that, following the raid by the National Crime Agency, the

supplier of the system had not informed Hassan Mahmood that footage would only be retained for 14 days. He had been advised that CCTV systems recorded for more than 31 days.

Hassan Mahmood said that he had asked Maplins and, subsequently, a CCTV Consultant to configure the system for him.

The Premises Licence Holder and the Owner

In response to questions from the Solicitor representing the Premises Licence Holder and the owner, Arshad Ali confirmed that he had been the owner of the business and had no knowledge of what had occurred. He had alerted Police to criminal activity elsewhere previously.

The Solicitor representing the Premises Licence Holder and the owner, presented their case.

The Committee was advised that Arshad Ali did not appreciate the seriousness of the situation - he had kept the premises in his name as he had wanted to protect the equity of the property. It would have cost over £1,000 to change the name on the licence. He had not leased the premises to Azhar Ali, but to his nephew, Hassan Mahmood, who had wanted to give his uncle, Azhar Ali, a second chance.

Hassan Mahmood had purchased the business and entered into a lease agreement with Arshad Ali. In response to a question from the Principal Licensing Officer, Arshad Ali said this had been in 2011.

Hassan Mahmood stated he had done security work for the Ministry of Justice for two years and had held a taxi licence. He had taken the lease to give his uncle a second chance to run the store for him and had not been aware of any concerns

He was not aware that Perry products were on sale and these were removed when he became aware that they were.

Hassan Mahmood said that the member of staff who had sold alcohol to a 16 year old had emotional problems at that time and had apologised for her mistake and said it would never happen again.

Hassan Mahmood added that the previous CCTV equipment had been seized, following the raid by the National Crime Agency and he had not realised that the replacement CCTV was not recording 31 days footage.

The Solicitor for the Premises Licence Holder and the owner said that he had discussed formal training with Hassan Mahmood and a training provider would arrange to deliver this. Hassan Mahmood confirmed he was agreeable to this and that the premises would operate Challenge 25, not Challenge 21.

The Police legal representative stated that the fact they had not been informed that Hassan Mahmood had become the owner of the premises could appear underhand. The Police had made it clear that no transfer should occur without their prior approval. Hassan Mahmood needed to engage with the Police. There had been number of breaches whilst he had been in charge of the premises and he should have ensured that the CCTV was recording for 31 days, as required - particularly as the Police had given him the benefit of the doubt and the opportunity to put it right between the visits on 28 November 2014 and 8 January 2015.

Hassan Mahmood said he had contacted PC Arbuckle after 8 January 2015, but had been informed that it was too late and that he would have to wait for the review of the licence. PC Arbuckle said that he disputed this.

In response to questions from the Police legal representative, Hassan Mahmood said that he had not previously had much experience of business. That is why he had offered his uncle a chance to work at the premises. He accepted that administration was a weakness.

In response to a further question from the Police legal representative, Hassan Mahmood was unable to say what the 4 licensing objectives were.

The Solicitor representing the Premises Licence Holder and the owner stated that Hassan Mahmood was aware of the licensing objectives and went through these with him. He considered it unfair that the Police legal representative had put Hassan Mahmood on the spot. At first, Hassan Mahmood did not have much business knowledge, which is why he asked his uncle to help.

In response to a question from the Council's legal representative, Hassan Mahmood said that he could not remember at what point in 2011 he had taken over the premises.

Summing up - Premises Licence Holder and Owner

The Solicitor representing the Premises Licence Holder and the owner, said that Azhar Ali had betrayed the trust put in him by Hassan Mahmood, by performing unlawful activities and that neither Hassan Mahmood or Arshad Ali had knowledge of these activities.

Five instances of deliveries to the premises had been referred to, but four of these were speculative, because a particular registration plate had been identified in the area.

Following Azhar Ali's arrest, Hassan Mahmood had become more involved in the business.

The premises were under scrutiny because of the raid by the National Crime Agency.

Any ignorance by Hassan Mahmood of the licensing conditions was largely irrelevant, as it was the responsibility of the Designated Premises Supervisor to run the premises. Hassan Mahmood was now making an application to be the Designated Premises Supervisor and he was aware of the licensing conditions.

Arshad Ali was of good character

Prior to 2014 there had been no criticism or concerns expressed about the premises.

Hassan Mahmood wished to be the Designated Premises Supervisor. He now wished to put himself in a position to run the business. He was of good character and happy to comply with any conditions.

The importance of the CCTV had been exaggerated. It had operated fine prior to the raid by the National Crime Agency, when it was removed. Hassan Mahmood was not at the premises when the Police originally did a check. He then asked for the system to be reconfigured and was not aware that there was still an issue.

Hassan Mahmood was a young man in business who had been let down by his uncle and the fact that the CCTV was not operating correctly was not his fault. Taken as a free standing issue, this would never amount to revocation of a licence.

He urged Members to approve the application, as there were no concerns that could cause the Committee to believe that the licensing conditions would not be met.

Summing up - Cleveland Police

The Force's legal representative said that this came down to suitability and competence.

Azhar Ali had been sentenced to 80 months for handling drugs with a value of £200,000.

The Solicitor representing the Premises Licence Holder and the owner had said there had been no issues with the premises up until 2014. However, prior to that period, information was being gathered and that had led to the raid by the National Crime Agency.

The raid had brought the premises to the attention of the Police. A number of conditions had been applied. There had been a transfer without the knowledge of the Police and this had been to a convicted felon. It was accepted that Mr. Mahmood had offered a second chance to

his uncle, but this had resulted in non-compliance with the licensing conditions.

He reminded the Committee of the evidence from PC Arbuckle concerning the lack of training records; contravention of CCTV requirements; the sale of Perry products; and the lack of contact from Hassan Mahmood, who had said he would rectify the issues identified.

At the meeting on 10th November 2014 it was stated that Mr. Mahmood was the Premises Licence Holder and that his uncle, Azhar Ali, was working at the premises. The Police were not aware of this and should have been informed.

CCTV is an information gathering tool and it is crucial that it can record 31 days footage. It seemed very convenient that it was not working. Hassan Mahmood had time to rectify this.

In premises that had been linked to heroin, alcohol had been purchased by a 16 year old.

The Solicitor for the Premises Licence Holder and the owner, asked the Police legal representative if he would be agreeable to the licence being transferred to Hassan Mahmood, but then suspended whilst training was delivered. The Police legal representative responded that this would be a matter for the Committee to decide.

It was confirmed that there were no further questions and all parties, other than representatives of the Council's Legal Services and Members Office, withdrew whilst the Committee determined the matter.

Subsequently all parties returned and the Chair stated that in view of the amount of evidence that the Committee had to consider, it had not yet reached its decision. It would continue with its deliberations and inform all parties of its decision in writing. The applications for a transfer of the licence and to vary the licence would be deferred, pending the decision.

The Chair thanked parties for attending.

The Committee then continued with its deliberations and its decision is set out below:-

DECISION

The Application for a review was considered on its own merits and consideration was given to:-

- The Licensing Act 2003 and amended Government Guidance issued under Section 182 of the Act
- Middlesbrough Council's Licensing Policy
- The case presented by Police and Trading Standards
- The relevant representations made by the Premises Licence Holder, Mr Hassan Mahmood and their legal representative.

ORDERED that the Premises Licence in respect of 57 - 59 Cumberland Road, Middlesbrough, be revoked for the following reasons:

1. The Committee had no confidence in the Premises Licence Holder or Hassan Mahmood, who allegedly took over the business at some point in 2011, to uphold the Licensing Objectives.
2. The police advised the Committee that in June 2011 when the Premises Licence was granted, the Premises Licence Holder told the police Azhar Ali would not be involved in the running of the shop. The Premises Licence Holder agreed he would run the business and the business would not be let to any subsequent tenant without the consent of the police. The police required such undertakings and conditions when the Licence was granted because Azhar Ali had previously been convicted of conspiring to supply Class A drugs in 2005 and was arrested in May 2011 for money laundering when he advised the police he ran the Premises.
3. However, the Committee was advised that shortly after the grant of the Licence the

Premises Licence Holder, in breach of the condition, transferred the business to Hassan Mahmood without the consent of the police and that Azhar Ali was in charge of running the shop.

4. The Committee considered that the Premises Licence Holder and Hassan Mahmood were not credible and were inconsistent as neither party could inform the Committee what date or even what month in 2011 Hassan Mahmood took over the business. At a meeting with the police and licensing on the 10 November 2014, the police stated that Hassan Mahmood told them Azhar Ali, who was his uncle, was already working at the Premises when he took over. However, at the hearing the Premises Licence Holder denied employing Azhar Ali and Hassan Mohammed said he employed him when he took over.

5. The Committee was informed that on the 15 July 2014, when Arshad Ali was the Premises Licence Holder and Hassan Mahmood was in charge of the business, the National Crime Agency, following a long standing investigation of the Premises, recovered a large quantity of heroin with an estimated value of £200,000 and a large quantity of cash from the Premises. Azhar Ali was convicted and imprisoned for a drugs offence. At the hearing, the legal representative advised another person who travelled from Rotherham was also arrested for the offence at the Premises and the police confirmed they suspected the Premises had been used on other occasions for this purpose.

6. The Premises Licence Holder and Hassan Mahmood claimed they knew nothing about the links with drugs at the Premises, however, the Committee considered they knew and allowed the risk when they employed a convicted drug supplier to run the Premises despite the Police's concerns and undertakings given when the Licence was granted.

7. The Committee noted that on the 29 August 2014 a bottle of WKD original iron brew vodka was sold to a 16 year old and no proof of age was requested under a test purchase exercise. The Committee noted that Hassan Mahmood told the Committee that the seller had emotional problems when the alcohol was sold, however, the Committee considered that the Premises Licence Holder and Hassan Mahmood failed to exercise control to ensure under age sales were not made and the prevention of crime and disorder and protection of children from harm objectives were being upheld. The Committee noted this took place shortly after the raid by National Crime Agency and that at that time conditions were being breached. It also was concerned that the shop is in a known catchment area for underage drinking and that Council's policy states that Middlesbrough has one of the highest levels of alcohol related problems among the under 19s in the Country.

8. The Committee were also concerned of the number of ongoing breaches of the conditions on the premises licence, which continued to occur after Hassan Mahmood's meeting with Trading Standards following the underage sale and after a meeting between the Police, Licensing, the Premises Licence Holder and Hassan Mahmood on the 10 November 2014. The breaches included failure to comply with staff training, sale of Perry based products and failure of the CCTV footage to record over a period of 31 days. The CCTV condition was still breached on a visit on the 28 November 2014 and again on the 8 January 2015. Hassan Mahmood informed the Committee he arranged for Maplin to reconfigure the CCTV and later a CCTV consultant, however, the Committee considered in light of the incidents that had occurred the Premises Licence Holder and the person running the business should have ensured the condition was being met and it would be reasonable to keep checking the CCTV was recording for the required period.

9. The Committee considered that serious offences had occurred at the Premises relating to drugs and an underage sale whilst Arshad Ali was the Premises Licence Holder and Hassan Mahmood has allegedly been in charge of the business. The Committee also considered that serious breaches of conditions had continued to occur despite the serious offences, meetings with responsible authorities and inspections of the Premises. The Committee considered that the Premises Licence Holder and Hassan Mahmood have both, through their actions or lack thereof, undermined the Licensing Objectives.

10. The Committee therefore, in accordance with the Guidance and the Council's Policy, decided that it was appropriate to revoke the Licence in order to promote the prevention of

crime and disorder and the protection of children from harm. The Committee strongly considered that it would undermine the objectives if the Licence was transferred to Hassan Mahmood and then suspended until he received training, as suggested by his legal representative, in view of all the incidents and issues that have taken place since he allegedly had taken over the business.

The Committee therefore have not considered the Application to Transfer or to vary the Designated Premises Supervisor as the Premises Licence is revoked.

14/12 **APPLICATION FOR TRANSFER OF PREMISES LICENCE - 57 - 59 CUMBERLAND ROAD
- REF: OL/15/2**

The Committee did not consider the application for a transfer of Premises Licence, as a result of the decision to revoke the Licence.

14/13 **APPLICATION TO VARY PREMISES LICENCE - 57 - 59 CUMBERLAND ROAD - REF:
OL/15/3**

The Committee did not consider the application to vary the Premises Licence, as a result of the decision to revoke the Licence.