

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 11 August 2016.

PRESENT: Councillors B E Taylor (Chair); R Arundale and J Rathmell

ALSO IN ATTENDANCE: For the applicant:

S Panchal - Licensing Consultant
Mr H Singh and Mrs Singh - Applicant

For Cleveland Police:

Sgt P Higgins and PC E Price

Objector: Councillor L Lewis

OFFICERS: B Carr, F Helyer, D Hill, A Symon and S Upton.

APOLOGIES FOR ABSENCE Councillor Z Uddin.

DECLARATIONS OF INTERESTS

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

16/5 **APPLICATION FOR PREMISES LICENCE – 125 LINTHORPE ROAD, MIDDLESBROUGH:
REF: NO. MBRO/PR0494/088210**

A report of the Principal Licensing Officer, Improving Public Health, had been circulated outlining an application for a Premises Licence in relation to 125 Linthorpe Road, Middlesbrough, Ref No. MBRO/PRO494/088210.

Full details of the application and accompanying operating schedule were attached at Appendix 1 to the submitted report.

Summary of Proposed Licensable Activities:

Sale of Alcohol (Off Sales) - 7.00am - midnight - Daily

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

The Principal Trading Standards Officer advised that she would like to request that the application be heard in private as the premises were subject to an on-going investigation. The Licensing Consultant acting on behalf of the applicant confirmed that he had no objections to the hearing being heard in private.

The Chair requested that the Sub Committee go into private session whilst Members determined whether the hearing would be heard in private.

All of the interested parties including officers of the Council, other than representatives of the Council's Legal Services and Democratic Services department, withdrew whilst the Sub Committee determined whether the hearing should be heard in private.

Subsequently all interested parties returned and the Chair announced the Sub Committee's decision.

Following consultation with Members of the Sub Committee, the Chair announced, that in accordance with paragraph 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the Sub Committee had decided that it was in the public interest that the Sub Committee would be heard in private.

EXCLUSION OF PRESS AND PUBLIC

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of confidential information and the public interest in hearing the confidential information outweighed the public interest in disclosing the information in the hearing being held in public under Paragraph 14 (2), of the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair outlined the procedure to be followed at the meeting and invited the Principal Licensing Officer to present the report in relation to an application for a Premises Licence in respect of 125 Linthorpe Road, Middlesbrough as outlined above.

The Principal Licensing Officer checked with all of the interested parties whether they had all received the additional information that had been received and circulated following distribution of the agenda. All of the interested parties confirmed that they had received the additional information. The Principal Licensing Officer presented the report in relation to the above application.

The Licensing Consultant acting on behalf of the applicant confirmed that the applicant wished to amend the hours of the Proposed Licensable Activities to the following:

Sale of Alcohol (Off Sales) - 7.00am - 10.30pm - Daily

The Licensing Consultant provided the Sub Committee with a brief history of the applicant and his experience of operating licensed premises. The Sub Committee was advised that the applicant had held three temporary events notices over a three week period and the Police had not objected to any of those notices. There had been no issues with regard to under-age drinking. The Police had visited the premises in between the period when the temporary event notice was not in operation and all the alcohol had been removed.

The Licensing Consultant advised that he had noted the substance of the objections and he asked the applicant to name the four licensing objectives and explain to the Sub Committee how he would promote the objectives.

The applicant named the four licensing objectives and he stated that he would prevent crime and disorder through the installation of CCTV cameras at the premises and he would remove money from the till. In terms of the protection of children from harm, he stated that he would not sell them cigarettes and he would ask them for ID such as a driving licence, or a passport and he would not serve them if they were unable to provide the required ID documentation.

The Licensing Consultant asked the applicant which policy he would be operating at the premises. The applicant, prompted by his wife, advised that he would be using the Challenge 25 policy. The applicant confirmed that his wife would also be working at the premises. The applicant advised that he would be displaying posters warning that CCTV was in operation at the premises in addition to posters requesting that customers leave the premises quietly. The applicant also confirmed that he would have a refusals book and incidents book and training manual in operation. Any training would be documented and would be aimed at promoting the licensing objectives.

The Licensing Consultant advised that the applicant had noted the concerns of the objectors with regard to the premises being located in a Cumulative Impact zone but he was happy to put a condition on his licence with regard to not permitting the sales of minatures. The applicant had also amended his application to revise the closing time of the premises.

The applicant had held three separate temporary event notices and the police had not objected to any of them. The Licensing Consultant noted the concerns with regard to the meeting that the applicant had attended with the responsible authorities regarding his knowledge of the licensing objectives but he had been nervous at that meeting but he had passed the exam for his personal licence and his personal licence had been granted. NCES had confirmed that the personal licence had been issued correctly.

The applicant responded to questions from Sergeant Higgins from the Police regarding concerns re the sale of high strength alcoholic products and cannabis grinders at the premises.

The applicant responded to questions from the representative from Trading Standards regarding the operation of licensing policies at the premises and the lack of appropriate licensing policies/procedures at the premises. Members were advised that there was an ongoing investigation in respect of the sale of certain products at the premises.

The applicant provided an explanation in respect of his "obstructive behaviour" in relation to the responsible authorities during a licensing visit to the premises. The applicant's legal representative advised that the applicant apologised for his behaviour and he stated that the applicant would be willing to work with the police with regard to the operation of the premises.

The applicant's legal representative advised that the applicant was upset because his stock had been removed from the premises.

In response to questions from the Police, the applicant confirmed that a robbery had taken place at the premises but that it had taken place in May, prior to the applicant selling alcohol. The applicant confirmed that CCTV was in place at the time of the incident.

A representative from Public Health questioned the applicant with regard to his knowledge of dependant drinkers and alcohol related crime and she queried why the applicant had not offered to put a condition on his licence with regard to the sale of high strength alcohol. The applicant advised that he had agreed to all of the statutory conditions and he advised that he would be happy to comply with any conditions suggested from the responsible authorities.

A member advised that he was concerned about the fact that the applicant had been selling cannabis grinders. The applicant advised that the previous owner had sold them so they were already part of the stock when he bought the premises.

The representative from the Police put forward the following representations from the police authority:

- concerns regarding the large amount of alcohol related crime in the area which was saturated by off licence premises;
- onus was on the applicant to prove that the licensing objectives would not be undermined by the grant of his licence;
- the applicant had held three Temporary Events and had stocked high strength alcohol at each;
- the applicant had sold cannabis grinders, blow torch lighters and ordinary lighters.

The Police representative referred to the content of the statement of PC Price in particular the details of the crimes and incidents that had occurred in the perimeter of the store. PC Price outlined some of the more serious incidents. PC Price provided the Committee with information with regard to a visit to the store regarding the sale of lighters and cannabis grinders. The Committee was advised that the officer was concerned about the high levels of high strength alcohol on sale in the store and the attitude of the applicant when questioned by the Police.

The applicant's legal representative advised that the Police had not submitted any objections to the three Temporary Event Notices. The Police advised that they did not object to the Temporary Event Notices because they wanted to see how the premises would be operated and it was a test that the applicant had failed. The applicant had sold high strength alcohol. The Police advised that they had not suggested that any conditions be placed on the licence as they did not think that the applicant was capable of operating the store in a responsible manner despite the imposition of licensing conditions.

The Chair requested that the Police outline the incident that had occurred at the premises where the applicant had appeared aggressive. The Chair also requested further information with regard to the items on sale at the premises.

An objector requested permission to submit photographic evidence with regard to the items on sale at the premises. The Principal Licensing Officer advised that all parties had to agree to accept any additional evidence that had not been circulated prior to the meeting. The applicant's legal representative objected to the submission of the additional evidence. The Chair advised that the Committee would go into private session to determine whether the additional evidence would be accepted. All interested parties, with the exception of Members of the Committee, the Council's legal representative and the Democratic Services officer left the room at this point.

All interested parties returned to the room and the Chair announced that the Committee had decided not to accept the additional evidence as it had not been circulated prior to the Committee.

An objector on behalf of Central Community Council stated that in June, a resident had approached her to indicate that the applicant was selling alcohol and on 1 July there was no Temporary Event Notice in place at that time. The Police representative advised that the police visited on 7 July and a Temporary Event Notice was in place on that date.

The representative from Trading Standards advised that the premises were situated in a Cumulative Zone and there was no evidence to show how the grant of the application would not add to the existing problems in the area. Trading Standards had major concerns regarding a visit carried out on 7 July when it was discovered that various novelty and trade marked lighters were on sale at the premises. Items were seized on that day as they did not comply with the legislation. Concern was also expressed with regard to the applicant's attitude towards the officers.

When questioned by officers, the applicant had difficulty in responding to questions with regard to the licensing objectives and/or appropriate systems or procedures to address potential issues arising from the cumulative impact of alcohol sales within the CIP area. The applicant had also displayed a lack of knowledge with regard to the area surrounding his premises particularly with regard to alcohol related crime and disorder and anti-social behaviour which could affect his premises.

The representatives from Public Health produced statistical information and facts in relation to Central Ward with regard to alcohol attributable admissions to James Cook University Hospital, information with regard to deprivation, alcohol related crime and anti-social behaviour incidents, street drinking and begging within the CIP area.

All the parties were provided with the opportunity to sum up.

All interested parties other than the officers of Legal Services and Members Office, withdrew whilst the Committee determined the application.

The Committee **ORDERED** that in respect of the Application for a Premises Licence in respect of 125 Linthorpe Road, Middlesbrough: Ref.No: PR0494/088210 that the application be refused.

1. In reaching the decision Members considered the following:-

- (a) The Licensing Act 2003 and amended Government Guidance issued under Section 182 of the Act;
- (b) Middlesbrough Council's Licensing Policy, including its Cumulative Impact Policy;
- (c) The case presented by the Applicant and his licensing consultant;
- (d) The representations made by Councillor Lewis;
- (e) The representations made by Cleveland Police, as Responsible Authority;
- (f) The representations made by Trading Standards, as Responsible Authority;
- (g) The representations made by Public Health, as Responsible Authority.

2. In January 2016, Middlesbrough Council, as Licensing Authority, had brought into force a renewed Statement of Licensing Policy in relation to the Licensing Act 2003. A new

Cumulative Impact Policy (CIP) was introduced to tackle the adverse effect of an over-saturation of licensed premises within certain parts of the town. The premises subject to the application were subject to the CIP, being based in Central Ward.

3. When forming its Cumulative Impact Policy, the Licensing Authority had considered:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental health complaints, particularly in relation to litter and noise;
- evidence obtained through local consultation

4. Members considered the application in the context of the CIP, and in the evidence offered by the various Responsible Authorities in relation to the CIP. In making their representations, both the Police and Public Health had produced statistical information and facts in relation to Central Ward with regard to alcohol attributable admissions to James Cook University Hospital, information with regard to deprivation, alcohol related crime and anti-social behaviour incidents, street drinking and begging within the CIP area. The Police provided a map and copies of incident reports illustrating the location of a number of incidents in the area that had occurred over the last 12 months. The Committee accepted that, while the incidents had not taken place in the premises, the number and nature of incidents supported the application of the CIP in the area.

5. The Statement of Licensing Policy stated that applicant's should give consideration to potential cumulative issues when setting out the steps they will take to promote the licensing objectives in their application. The applicant, when questioned by Members and representatives of the Responsible Authorities with regard to this issue, did not appear to fully understand what a Cumulative Impact Area was; the applicant's licensing consultant also confirmed to the Committee that his client could not explain either what the CIP was. In addition, the applicant had failed to demonstrate sufficient knowledge/awareness of the wider issues around the CIP (i.e. the issues that had given rise to the CIP and the steps that a licensee would be expected to take to address those issues). This caused Members concern. The applicant's licensing consultant put forward some proposals for conditions, were the application to be granted. However, the Committee considered the proposed conditions were unlikely to prevent the negative cumulative impact of another outlet selling alcohol in Central Ward/within the CIP area. In addition, the Committee did not consider that the applicant had displayed sufficient knowledge of the Licensing Objectives and/or appropriate systems or procedures to address potential issues arising from the cumulative impact of alcohol sales within the CIP area.

6. The Committee was concerned that, according to the evidence provided by the representatives from Trading Standards, Cleveland Police and Public Health, at a meeting held on 12 July 2016, the applicant had displayed a lack of knowledge with regard to the four licensing objectives; how the proposed premises, if granted a licence, would not negatively impact on the licensing objectives and a lack of knowledge with regard to the area surrounding his premises particularly with regard to alcohol related crime and disorder and anti-social behaviour which could affect his premises. Both the applicant and his licensing consultant conceded that at that meeting in July, the applicant had not been able to recall the four licensing objectives.

7. Having explored this further with the applicant at the hearing, the Committee concluded that the applicant still did not fully understand the Licensing Objectives and how to ensure compliance with them, despite having completed a Personal Licence Holder's course; the Committee was, therefore, concerned that he would not uphold the Licensing Objectives.

8. The Committee was concerned about the applicant's aggressive attitude to the representatives of the Responsible Authorities when they visited his premises on 7 July 2016 (during a period when the premises were subject to a Temporary Event Notice, and alcohol was on sale). While the applicant and his advisor sought to offer an explanation for that

behaviour, both apologised for that behaviour, thereby acknowledging that the applicant had not been fully cooperative during that visit. The Committee found this to be totally unacceptable, given the Responsible Authorities' statutory duty to uphold the law around the supply of alcohol, and the need for premises licence holders to cooperate with those representatives.

9. When questioned by the Committee about various aspects of the Licensing Act 2003, the applicant had failed to provide adequate responses to the questions.

The applicant was advised that he would receive a copy of the decision in writing within 5 working days.