

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 23 August 2016.

PRESENT: Councillors B E Taylor (Chair) and R Brady and J Goodchild.

PRESENT AS OBSERVERS: D Taylor - Legal Services, Middlesbrough Council.

ALSO IN ATTENDANCE: On behalf of the applicant:-
Mr M Kanagaisabapathi - Applicant.
D Nixon - Legal Representative.
B Hodgson - Licensing Consultant, D & B Licensing.

Making Representations:-
Sergeant Higgins - Cleveland Police.
S Upton - Trading Standards, Middlesbrough Council.
F Helyer - Public Health, Middlesbrough Council.
Councillor Lewis - Central Ward Councillor.

OFFICERS: C Cunningham, J Dixon and T Hodgkinson.

APOLOGIES FOR ABSENCE Councillor Uddin (Central Ward Councillor) - making representations..

DECLARATIONS OF INTERESTS

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

16/6 **APPLICATION FOR REVIEW OF PREMISES LICENCE - 199 BOROUGH ROAD, MIDDLESBROUGH TS4 2BN: REF: NO. OL/16/10**

DECISION

ORDERED that the application for a Premises License in respect of 199 Borough Road, Middlesbrough, Ref No: OL/16/10, for the supply of alcohol off the premises between 6.00am and 11.00pm daily, be refused for the following reasons:-

1. In January 2016 the Licensing Authority brought into force a renewed Statement of Licensing Policy. A new cumulative impact policy was introduced specifically in respect of off licence premises in various wards in Middlesbrough. The Premise in question was situated in Central Ward, close to the boundary with North Ormesby Ward, and both wards were subject to the cumulative impact policy.

2. The Policy stated that Central Ward, Newport, Park, Longlands, Beechwood and North Ormesby had the highest levels of crime and anti-social behaviour, the highest number of off licence premises and alcohol attributable hospital admissions. The Policy stated that the density of off licence premises in Central Ward and North Ormesby Ward was having a negative impact on crime and disorder. The Policy confirmed that the Licensing Authority was satisfied that crime and disorder or nuisance occurring in these wards was being caused by customers of off licence premises and the cumulative impact of off licence premises in the wards was evident.

3. The Committee also noted the Policy stated that Central Ward had the highest level of crime and anti-social behaviour out of 20 wards in Middlesbrough. From 1 January 2014 to 1 January 2015, 2,727 incidents of anti-social behaviour were reported and 3,823 incidents of crime were reported in Central Ward. It also noted that Middlesbrough was well above the national average for crimes associated with alcohol.

4. The cumulative impact policy created a rebuttable presumption that applications for a grant of a premises licence for the off sales of alcohol will normally be refused or have strict

limitations unless the applicant can demonstrate there will be no negative cumulative impact on one or more of the licensing objectives.

5. The Applicant was the Designated Premises Supervisor (DPS) at the Premises from 12 August 2015 until the Premises was reviewed and the Premises Licence revoked on 23 December 2015. The reasons given by the Committee for the revocation, in summary, were: lack of control, that the Premises Licence Holder and the DPS did not appear to recognise their responsibilities or appreciate the importance of complying with the licensing conditions, that there were numerous breaches of conditions, that it had concerns of the willingness and ability of the DPS to ensure that the premises were operating in accordance with the conditions to support the objectives and that the DPS had failed to implement robust systems to ensure adherence to the licensing conditions. Full details were set out in the appendices to the report.

6. The applicant claimed that the breaches were the fault of the business owner and his representatives informed the Committee that he was subservient to the owner. The applicant stated he was only the DPS for a short time and the systems were not in place when he took over that role. The Committee, however, did not accept this. The applicant had been a Premises Licence Holder, a DPS in other properties and he had held a personal licence. He must therefore have obtained a qualification and knowledge of the requirement to uphold the licensing objectives and comply with conditions. There were conditions on the licence which were not complied with. The Committee therefore attached significant weight to the reasons given for the revocation and the involvement of the Applicant.

The Applicant stated that as the other business owner has left, he will run the business and therefore ensure that conditions will be adhered to. That he had received detailed training and will continue to do so and an alcohol policy had been drawn up. However, the Committee consider that when questioned, the Applicant was vague about the actual previous breaches that occurred and vague about how he owns the business or whether he would obtain a formal lease of the premises in order to run the business. The Committee could not be satisfied that the rules and regulations relating to the sale of alcohol would be adhered to or whether he has the ability to ensure compliance as he failed to do so in December 2015 at the same premises despite his previous experience as a DPS and Premises Licence Holder.

The Applicant confirmed that in other premises which he ran there were no complaints or breaches and that he is of good character without previous convictions and passed a test purchase for cigarettes. However, it remains the case that breaches had occurred at the premises when he was the DPS, he did not take responsibility for his role, the Premises Licence was revoked and the premises are situated in an area saturated with licensed premises which have a negative cumulative impact on the already seriously high incidents of alcohol fuelled crime and nuisance. In addition the Applicant had been confused and mistaken as to his actual role at another Premises, namely, 9 Westbourne Road where he thought he was the Premises Licence Holder and DPS but this was not the case.

The Policy and government guidance advises that operating schedules should address how the operation will uphold the objectives and not add to the cumulative harm in the area. The policy states for off licences generally that consideration should be given to conditions excluding super strength beers lagers ciders and perrys and other matters that the Applicant did not appear to consider in his application even following a meeting with the police discussing these points in May 2016. It was noted that the Applicant would agree to such conditioning at the hearing but the Committee considered that this failure to consider this earlier shows the Applicant's lack of understanding and appreciation of the importance of the regulation of the sale of alcohol and the problems in the area. The other conditions proposed were no more than what would normally be expected for an off licence to operate within the objectives including CCTV reviews of the external area.

The evidence was clear in that there were serious alcohol fuelled problems in the area and that breaches of licensing requirements had previously occurred at the Premises. Evidence also appeared to suggest that there may have been a reduction of youths congregating since the licence was revoked.

For these reasons the Committee did not consider that the Applicant could ensure that alcohol sales at the Premises would be fully compliant nor would alcohol sales at the Premises not add to the negative cumulative impact to the objectives in that area.

The Committee considered that no conditions nor the curtailment of hours would be appropriate or would promote the objectives in this case for the reasons already given and decided to reject the application because on balance the Applicant could not show that his operation of the premises would not be likely to add to the negative cumulative impact present in that area.

The Chair informed the parties to the hearing of their right to appeal the decision within 21 days of receiving the notice and full details of the decision and reasons will be sent in writing to the parties within five working days.