

**LICENSING SUB COMMITTEE A**

A meeting of the Licensing Sub Committee A was held on Tuesday 5 October 2021.

**PRESENT:** Councillors: R Arundale (Chair), S Dean and T Higgins.

**ALSO IN ATTENDANCE:** On Behalf of the Applicant  
C Holland – Legal Representative (Counsel)  
T Hodgkinson – Licensing Manager  
M Kearns – Environmental Health Officer

On Behalf of the Premises Licence Holder  
U Khan – Legal Representative (Counsel)  
M Hussain – Premises Licence Holder  
A Hussain – Premises Licence Holder's son

**OFFICERS:** J Dixon, C Cunningham, T Hodgkinson, Kearns and S Morris

21/5 **DECLARATIONS OF INTEREST**

There were no declarations of interest made by Members at this point in the meeting.

21/6 **LICENSING ACT 2003 - APPLICATION FOR REVIEW OF PREMISES LICENCE: WATERLOO NEWS, 110-114 WATERLOO ROAD, MIDDLESBROUGH, TS1 3HZ. REF: OL/21/03**

A report of the Director of Public Health and Public Protection was circulated outlining the application for a Review of the Premises Licence in respect of Waterloo News, 110-114 Waterloo Road, Middlesbrough, TS1 3HZ, Ref No: OL/21/03.

Summary of Current Licensable Activities

Sale of Alcohol (Off Sales) - Monday to Sunday: 7.00am – 11.00pm

A copy of the current Premises Licence was attached at Appendix 1.

The Chair introduced those present and explained the procedure to be followed at the meeting. It was confirmed that all parties had received a copy of the Regulation 6 Notice and copy of the report and accompanying documents, in accordance with the Licensing (Hearings) Regulations 2005.

Details of the Application

It was highlighted that documentation had been provided by the Premises Licence Holder prior to the meeting and, when asked, the Legal Representative on behalf of the responsible authorities confirmed that no additional time was required by them to consider the documentation.

The Principal Licensing Officer presented the report outlining the application for a Review of the Premises Licence in respect of Waterloo News, 110-114 Waterloo Road, Middlesbrough, TS1 3HZ.

The premise was situated in Middlesbrough town centre amongst residential properties. It operated as a convenience store with the provision for the 'off sale' of alcohol, having benefitted from a Premises Licence since 2005.

Mr Majid had been the Premises Licence Holder and Designated Premises Supervisor since that time. Whilst the premises currently had the benefit of a Premises Licence it was understood

the licence holder was not currently selling alcohol from the premises.

The application for review was submitted by the Licensing Manager on 29 January 2021, on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance following concerns in relation to the licence holder's unwillingness to implement Covid-19 safety measures at the premises for both staff and customers.

A copy of the application and additional evidence was attached at **Appendix 2**.

It was highlighted that the matter had been due for consideration by the Licensing Sub Committee on several occasions, and subsequently adjourned, as follows:-

- 25 March 2021 – The Head of Legal Services and the Chair of the Licensing Sub Committee made a decision to adjourn the hearing - under Regulation 12 and extend time under Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005 as it was necessary in the public interest and to fully hear and consider representations from all parties - as the meeting was inquorate due to unforeseen circumstances.
- 21 April 2021 - Request from the Premises Licence Holder to adjourn as this date fell during the religious month of Ramadan. All parties agreed that the Hearing be adjourned until after the end of Ramadan.
- 8 June 2021 - Request from the applicant's legal representative to adjourn following a request for the provision of additional information.
- 23 July 2021 – Adjourned due to illness of the Premises Licence Holder's legal representative.
- 20 September 2021 – Adjourned at the request of the Premises Licence Holder due to family funeral and close family member in hospital.

#### Consultation on the Review

During the consultation period for the Review application, submitted by the Licensing Authority, the Premises Licence Holder, any Responsible Authority, or any other person was permitted to make representations in respect of the review application following publication of a notice.

In response to the consultation, a representation was received on 26 February 2021 from the Council's Environmental Health Officer, as a Responsible Authority. A copy of the representation and accompanying statement from the Environmental Health Officer was attached at Appendix 3 and was made on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance.

A statement and photographs provided by the Premises Licence Holder on 25 March 2021 were attached at Appendix 4.

On 20 May 2021, a further statement was received from the Environmental Health Officer and this was attached at Appendix 5.

On 1 June 2021 the applicant's legal representative requested the provision of additional information. This information was attached at Appendix 6.

On 19 July 2021 the Premises Licence Holder's response to the application for review was received and this was attached at Appendix 7.

On 22 July 2021 the skeleton argument of the applicant and those making representations was received. These documents were attached at Appendix 8.

#### Applicant in Attendance

The Legal Representative acting on behalf of the applicant, Middlesbrough Council's Licensing Manager, and Environmental Health Officer (supporting the application to review), presented the case on behalf of the applicant.

The Legal Representative led the Licensing Manager through his statement and supporting evidence and asked questions which were responded to accordingly.

In turn, the Premises Licence Holder's Legal Representative asked questions of the applicant which were responded to.

At this point in the meeting, 11.30am, the Premises Licence Holder's Legal Representative requested a comfort break. The request was granted by the Chair and all parties were asked to return after 10 minutes.

After a period of 10 minutes, the Premises Licence Holder's Legal Representative requested that the Committee retire into closed session to consider a proposal to be put forward on behalf of the Premises Licence Holder.

Subsequently, the request was granted and all parties other than Members of the Committee and the Council's legal and democratic services withdrew from the meeting.

All parties subsequently returned and the Chair announced the Committee's decision.

### **DECISION**

**ORDERED** that the Premises Licence in respect of Waterloo News, 110-114 Waterloo Road, Middlesbrough, be retained but that the Premises Licence Holder be issued with a formal warning due to his conduct, as follows:-

#### Authority to Act

1. The Committee considered an application to Review a Premises Licence in the name of Matloob Hussain Majid in relation to the premises known as Waterloo News at 110 – 114 Waterloo Road Middlesbrough (“the Premises”) which authorised the off sales of alcohol between 7.00 am and 11.00pm, Monday to Sunday.
2. Under Section 4 of the Licensing Act 2003 (“the Act”) the Committee must carry out its functions with a view to promoting the licensing objectives. The Committee must also have regard to guidance issued by the Government under Section 182 of the Act (“the Guidance”) and Middlesbrough Council's Statement of Licensing Policy (“the Policy”). Under Section 52 of the Act the Committee, following hearing a review of a Premises licence, must, having regard to the application and any relevant representations, take such steps as it considered appropriate for the promotion of the licensing objectives.
3. The Committee noted that the steps were:-
  - a) to modify the conditions of the licence.
  - b) to exclude a licensable activity from the scope of the licence.
  - c) to remove the designated premises supervisor.
  - d) to suspend the licence for a period not exceeding three months.
  - e) to revoke the licence.

It also noted it could take no action or issue a warning.

4. The Committee carefully considered the application, the report and appendices. It carefully considered the representations made by the applicant, Responsible Authorities, Premises Licence Holder (“the PLH”) and his representative. It carefully considered the Act, Guidance, Policy and licensing objectives.

#### Decision

5. The Committee decided to issue the Premises Licence Holder with a formal warning.
6. The warning was given on the basis that:-
  - a) the Premises Licence Holder accepted his behavior towards the Council's officers in January and February 2021 was unacceptable.
  - b) the Premises Licence Holder accepted he should have taken steps to comply with the officers' advice more rapidly than he did.

- c) the Premises Licence Holder will in the future treat officers with respect and seek to comply with their proper advice.
- d) the warning will be taken into account in the event of any future misconduct by the Premises Licence Holder.

Reasons for the Decision

- 7. During the hearing the representative for the applicant and the Responsible Authorities put forward a proposal that was agreed by the Premises Licence Holder and his representative for the Committee at that point of the hearing to consider issuing a warning which would be acceptable to the Premises Licence Holder.
- 8. The representatives explained, and it was confirmed by the Premises Licence Holder's representative, that the Premises Licence Holder had now accepted his behavior was unacceptable and agreed to the terms of the warning set out above. It was explained that, as the hearing had commenced, the application to review could not be withdrawn in order for officers to grant a warning and the decision remained with the Committee.
- 9. It was also explained during the hearing that a warning was the original action officers considered appropriate for this matter, however, as the Premises Licence Holder would not accept his behavior was unacceptable it resulted in a review and hearing being necessary. In view that the Premises Licence Holder was now compliant, the Responsible Authorities were satisfied that a warning would be an appropriate action and deterrent on the terms specified. It was explained that the Regulators Code encouraged regulators to work with businesses to encourage compliance and a warning would align with the code.
- 10. The Committee noted it remained the decision of the Committee what action to take. The Committee had considered the written representations and documentation provided and the submissions by the applicant and representatives at the hearing. Although it was considered that the Premises Licence Holder's actions were unacceptable, it acknowledged that he had held a licence over a long period, did ultimately comply with the requests of officers, had acknowledged his behavior towards officers was unacceptable and made assurances that he would continue to be compliant. It, therefore, considered a warning would be a proportionate response and would be a sufficient deterrent to ensure the Premises Licence Holder upheld the licensing objectives.
- 11. If a party was aggrieved by the decision of the Committee they may apply to a magistrates' court within 21 days of receiving the decision.