

North Tyneside Council Report to Licensing Committee Date: 30 March 2017

ITEM 6
Title: Applications
determined by Members
without recourse to a
hearing

Report from Service Area: Law and Governance

Responsible Officer: Vivienne M Geary, Head of Law and Governance (Tel: (0191) 643 5339)

Wards affected: All

PART 1

1.1 Executive Summary:

The purpose of this report is to provide Committee with details of the applications which have been determined by Members after the applicant, persons making relevant representations and the Authority had agreed that a licensing hearing was unnecessary.

1.2 Recommendation:

It is recommended that the Licensing Committee note the report.

1.3 Information:

1.3.1 Background

1.3.2 Under the provisions of the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005 a Licensing Authority may dispense with holding a licensing hearing if the applicant, each person who has made a representation and the Authority itself, agree that a hearing is unnecessary.

1.3.3 Over the past year members have determined the following two applications after the parties and the Authority had agreed that a hearing was unnecessary:

- Application for the Variation of a Premises Licence – B & M Stores 238 Whitley Road, Whitley Bay, Tyne and Wear – 6 October 2016
- Application for the grant of a new Premises Licence – King Street Newsagents, 142 Tynewmouth Road, North Shields, Tyne and Wear – 14 March 2017

1.3.4 A copy of the decision in respect of each application is attached as an appendix to the report.

1.4 Appendices:

Appendix 1: Member Decision – B+M Stores

Appendix 2: Member Decision – King Street Newsagents

1.5 Contact officers:

Dave Parkin, Democratic Services Officer, Law and Governance, tel. (0191) 643 5316

1.6 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) North Tyneside Council Statement of Licensing Policy.

(2) The Licensing Act 2003

(3) The Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003(4) The Licensing Act 2003 (Hearings) Regulations 2005

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no financial implications arising from this report.

2.2 Legal

A Licensing Authority must carry out its licensing functions under the Licensing Act 2003 (the 2003 Act) with a view to promoting the licensing objectives which underpin the 2003 Act, namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. In doing so, the Authority must have regard to the Authority's Statement of Licensing Policy and the Guidance issued by the Secretary of State.

Where relevant representations are made in relation to an application for a Premises Licence or the variation of a Premises Licence, the Act states that the Authority must hold a licensing hearing to consider the application unless the applicant, each person making a representation and the Authority agree that a hearing is unnecessary.

When a relevant representation is made in relation to an application for a Premises Licence or a variation of a Premises Licence, Section 10(4) of the 2003 Act makes it clear that the consideration of the application can only be undertaken by Members and cannot be discharged by officers. Therefore, in accordance with the requirements of the Act, Members duly considered each of the applications referred to in the report and made a determination in relation to each matter in accordance with Member Decisions appended to the report.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

As part of the formal application process the Responsible Authorities are consulted on the application which includes the Authority itself as well as other departments within the Authority such as Director of Public Health, the Environmental Health Department, the Local Safeguarding Children Board, the Health and Safety Inspector and the Planning Department.

2.3.2 External Consultation/Engagement

As part of the formal process external responsible authorities are consulted on the application. Notices are displayed at the premises and on the Authority's website inviting representations in respect of the application.

2.4 Human rights

The economic interests connected to the use of a licence may be considered to be a possession belonging to existing licensees and as such are afforded protection under Article 1 of Protocol 1 of the European Convention on Human Rights. Any decisions therefore made in relation to a licence application need to be fully considered. An individual also has the right to a fair hearing under Article 6 of the European Convention of Human Rights.

2.5 Equalities and diversity

There are no equalities and diversity issues as a direct result of this report

2.6 Risk management

There are no risk management issues for the Authority arising directly from this report.

2.7 Crime and disorder

It is not considered that there are any crime and disorder implications arising from this report. The police receive copies of applications made under the Licensing Act 2003 so that they can consider the application and make representations if they so wish.

2.8 Environment and sustainability

There are no Environment and Sustainability issues arising directly from this report.