

Licensing Sub-Committee

16 March 2016

Present: Councillor M A Green (Chair)
Councillors D Drummond and T Mulvenna

LSQ25/01/16 Appointment of Chair

Resolved that Councillor M A Green be appointed Chair for this meeting.

LSQ26/01/16 Declarations of Interest and Dispensations

There were no Declarations of Interest or Dispensations reported.

LSQ27/01/16 Application for a Premises Licence – 56 Victoria Terrace, Whitley Bay (Whitley Bay Ward)

The Sub-Committee met to consider an application for a Premises Licence in relation to 56 Victoria Terrace, Whitley Bay. The applicant, Hassam Madni, sought permission to supply alcohol (off the premises) on Monday to Saturday between 08:00hrs and 23:00hrs and on Sunday between 10:00hrs and 22:30hrs. The Council had received representations from Northumbria Police and eighteen other persons, most of who lived or worked in the vicinity surrounding the premises.

Following introductions, the Sub-Committee's legal advisor, set out the procedure to be followed during the course of the hearing.

The Council's Licensing Officer then presented details of the application, the representations received and the options available to the Sub-Committee. During this presentation it was established that whilst the premises were located within the Whitley Bay Cumulative impact policy area, the policy did not apply to this application as the premises were not alcohol led.

The applicant, H Madni was present at the hearing. He was represented by G Jamieson, Solicitor. Northumbria Police were represented by Sergeant D Foy and N Kirkpatrick, Licensing Officer. J Wade and D Spiess, who had made representations were present together with Councillor J O'Shea, Councillor S Graham and N Douglass who were acting on behalf of P Dennis, A Bianchi and S Douglass respectively.

Sergeant Foy explained that the premises were situated within the Whitley Bay Cumulative impact policy area. Whilst he noted that the policy did not apply to off licences, its adoption had demonstrated that the number of licensed premises in the area did have a direct negative impact on the local community. Given the location of the premises he considered that should a licence be granted there was likely to be an increase in crime and disorder. Sergeant Foy referred to the geography of Victoria Terrace in terms of its predominantly residential make up, its use as one of the main thoroughfares to Whitley Bay metro station and its close proximity to the other licensed premises.

The Police had arranged a meeting with H Madni to be held on 16 February 2016 to discuss the application but H Madni had failed to attend. Consequently the Police had been unable to discuss and assess the proposed operation of the premises with H Madni. In

these circumstances the proposed conditions set out in the Police representation were considered by the Police to be the minimum standards required and a starting point to discussions with the applicant. Sergeant Foy expressed the view that a Premises Licence should not be granted given the context in which the application has been made and the community concerns that had been raised by residents.

During questioning the Sub-Committee discussed with Sergeant Foy that his view that the application should be refused appeared to be different to the position set out in the written representation which did not amount to an outright opposition to the application.

Councillor O'Shea addressed the Sub-Committee on behalf of P Dennis. He referred to the problems caused by a vagrant living in the area and individuals who congregated around this person and the area, quite often drinking alcohol and exhibiting disorderly behaviour. P Dennis believed that this type of behaviour was related to the large number of off licences in this area and if another licence were granted this would have a negative impact in terms of crime and disorder, public safety and public nuisance.

Councillor Graham addressed the Sub-Committee on behalf of A Bianchi. Her representation referred to recorded crime statistics to reinforce why there was a cumulative impact policy in Whitley Bay. With reference to the number of youths who congregate in the area and how alcohol had contributed to the death of Lee Devlin, she believed that if another licensed premises were permitted this would only exacerbate the problems in relation to public nuisance and crime and disorder.

J Ward stated that she was strongly opposed to the granting of a licence on the grounds that there was already trouble throughout the length of Victoria Terrace, including cars being damaged and youths swearing and shouting, there was traffic and parking congestion which would be made worse by customers visiting the premises and there were already enough off licenses and supermarkets selling alcohol in the vicinity. J Ward stated that the plan of the premises accompanying the application was not accurate.

D Spiess commented that another off licence was not needed as there were already enough outlets in Whitley Bay.

In response G Jamieson, on behalf of H Madni, said that the Police had changed their stance since submitting their written representation. If H Madni had been aware that the Police were objecting outright to the application they would have brought more evidence to rebut the objection now being made by the Police. G Jamieson therefore invited the Sub-Committee to ignore the Police stance and the fact that they now objected outright to a licence being granted.

G Jamieson had prepared to address the Sub-Committee on the basis that the Police had no objection to the application being granted if the applicant was prepared to accept the conditions proposed by them. Mr Jamieson presented details of how the applicant proposed to comply with each of the conditions proposed by the Police, including the installation of CCTV system, training for staff, the use of a Challenge 25 policy and the operation of a refusals register.

G Jamieson stated that there was no evidence that should a licence be granted this would have a negative impact in the cumulative impact policy area in terms of contributing to more crime and disorder. If all those conditions put forward by the Police, designed to address and promote the licensing objectives, were adhered to by H Madni there should be no problems in relation to the premises.

During questioning H Madni confirmed that he had not been aware that the premises were located within a cumulative impact policy area, he outlined details of the proposed staffing in the premises and he stated that the premises would initially be open until 21:00 hours. The Designated Premises Supervisor (DPS) would be Mr Ali who also had responsibility for 2 other shops. H Madni intended to obtain a Personal Licence and eventually act as the DPS. H Madni and G Jamieson accepted that the plan accompanying the application was not an accurate reflection of the premises.

All parties were given the opportunity to sum up their respective submissions.

The Sub-Committee withdrew from the meeting to make its decision in private. The Sub-Committee returned and the Chair announced its decision.

Resolved that the application for a Premises Licence in relation to 56 Victoria Terrace, Whitley Bay be refused.

Reasons for Decision:

Having heard the oral representations, having taken into account the written representations, and having had regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, North Tyneside Council's Statement of Licensing Policy and the licensing objectives which underpin the Licensing Act 2003, the Sub-Committee concluded that:-

- a) the written representation from Northumbria Police was a request to the Sub-Committee that when determining the application, it should modify the conditions of the licence to take account of the fact that the premises is situated in a cumulative impact policy area;
- b) the oral representations made by Sergeant Foy at the hearing did not reflect the written representation as Sergeant Foy gave his own opinion as to why the application should be refused outright. Sergeant Foy's representation went far beyond merely expanding on the written representation;
- c) in these circumstances, the determination of the application must be based on the written representation made by Northumbria Police on 16 February 2016;
- d) in view of H Madni's failure to consider the risks associated with operating premises within the cumulative impact policy area, the shortcomings identified in relation to the application and plan of the premises and H Madni's proposed management and supervision of the premises, H Madni did not instil any confidence that should a licence be granted that he would be able to properly manage the premises;
- e) there was evidence of problems in relation to crime and disorder and public nuisance in relation to this area of Whitley Bay. This was supported by the fact there is a cumulative impact policy in the area, local residents have provided evidence of repeated criminal damage in relation to vehicles and general anti-social behaviour, which they say is linked to alcohol consumption, and this belief is supported by the Police and is backed up by crime statistics; and
- f) given the sensitive location of the premises and the fact H Madni has not satisfied the Sub-Committee that he is sufficiently experienced or capable of managing the premises in such a sensitive location, it was appropriate to refuse the application for a Premises Licence.