

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Tuesday, 1st February, 2011.

Present: Cllr Mrs Ann McCoy, Cllr Maurice Perry and Cllr Bill Woodhead.

Officers: S Landles, M Vaines (DNS); J Nertney (LD).

Also in attendance: Mr F Kouider (Applicant for Francos, 2 Harland Place, Norton); Mr R Majid, Mrs J Wilcox (Representing Mr Yousef - Applicant for Big Mamas, 5 Harland Place, Norton); PC Johnson, PC Kirk - Represented by Mrs Nevison, Solicitor.

Apologies: None.

L Appointment of Chairman

51/10

RESOLVED that Councillor Woodhead be appointed Chairman for this meeting only.

L Declarations of Interest

52/10

There were no interests declared.

L 42 Norton Road, Stockton on Tees - Application for Grant of a Licence under the Licensing Act 2003

53/10

Consideration was given to a report that detailed an application for the grant of a premise licence under the Licensing Act 2003 to which there had been representation from an interested party.

The application had been received from Mr Ibrahim Mohamad, in relation to 42 Norton Road, Stockton on Tees. The applicant had applied for a grant of a licence for the following:-

- Supply of Alcohol - Monday to Sunday - 08.00 hours until 22.00 hours

Representation had been received from Environmental Health and Cleveland Police however, these were withdrawn as the applicant had agreed to their suggested conditions. A copy was attached for Members information.

One Representation had been received from an interested party. This representation related to the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives. The objector was in attendance at the meeting and was given the opportunity to state his representation.

The applicant (Mr Ibrahim Mohammed) was not in attendance at the meeting and Members were of the opinion that they needed the applicant in attendance as they had questions for him. Members agreed to defer the item in order for the applicant to attend.

RESOLVED that the application be deferred.

L Francos, 2 Harland Place, Norton, Stockton on Tees - Application for Grant

54/10 of a Licence under the Licensing Act 2003

Members gave consideration to the report, the application and the representations which had been received. Members noted that no representations had been received from persons "living within the vicinity of the premises". A representation had been made by Cleveland Police and the Environmental Health Officer.

The Environmental Health Officer had submitted a representation as they had concerns over public nuisance. The Officer had attempted to contact the applicant to discuss conditions but had been unable to do so. The Officer informed Members that she had received an unsigned letter from the applicant confirming that he would not open outside his permitted hours. This had been received prior to the observations carried out by Cleveland Police when the premise had opened after 23:00 hours. The Officer informed Members that the conditions had been discussed with the applicant prior to the meeting and he had indicated that he was in agreement with these been attached to the licence should the licence be granted:-

1. Use appropriate management controls to reduce the likelihood of customers causing noise disturbance to local residents when using the premises. This should include the provision of self closing mechanisms to all external doors to reduce noise emanating from the premises.
2. There shall be no music played at the premises.
3. The ventilation and extraction system shall be operated and maintained in accordance with the manufacturers recommendations including the frequency of replacement of any filters. Any odours created from cooking on the premises shall be adequately vented and/or provided with odour control so that they do not cause a nuisance to nearby premises. Any odours created from cooking on the premises shall be adequately vented and/or provided with odour control so that they do not cause a nuisance to nearby premises.
4. Install and maintain a grease filter to the drainage system
5. There shall be provided at the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained, and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.
6. Where the premises provide food to the public for consumption on or off the premises, there shall be provided at or near the exits, sufficient waste bins to enable the disposal of waste food, food containers, wrappings etc.
7. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods which shall be constructed, maintained and located so that access to it by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

8. Have appropriate systems in place to control pest infestations, such as a pest control contract.

9. No light from or on the premises and any other light under the control of the premises shall be provided where the light causes a nuisance to any nearby premises.

Mrs Nevison drew the Committee's attention to the Police representation and the witness statements attached from PC's Johnson, Kirk and Weston. Live evidence was called from PC's Johnson and Kirk.

The evidence called showed that the owner of the business had operated the premise outside the permitted hours. This had occurred on more than one occasion and they he had continued to operate even after receiving a written warning from Mr Barnes, Licensing Officer. In the opinion of Cleveland Police this showed the operator of the premise had a complete disregard for the law as he had written to the Environmental health Officer confirming that he would not open past his permitted terminal hour of 23:00.

The Police had concerns over the ability of the owner of the premise to fulfill their legal obligations and ensure that the licensing objectives were not undermined. In addition the Police also submitted that the location of the premise acted as a magnet to youths in the area who were responsible for anti social behaviour. In the opinion of Cleveland Police if the hours for this premise were extended this would attract the youths later and lead to a further drain on Police resources.

The applicant stated that he had been operating the premise as a takeaway since 2009 and had been unaware that he had a planning restriction and that if he wished to serve hot food after 23:00 hours he required a licence under the Licensing Act 2003.

The applicant stated that he could not make a living if he could not trade after 23:00 hours as he relied on trade from customers leaving the licensed premises (pubs) in the area. There were other takeaways that trade in the High Street and they open till 24:00 or 01:00 hours.

The applicant stated that he had never had any problems with the gangs of youths who hang around the High Street and that he had never had to call the Police.

The applicant stated that he was on holiday between 15 November and 13 December 2010 and that he had left Mr Majid in charge of the premises and had told him that he should not open after 23:00 hours.

Members noted that the application before them was for the provision of Late Night Refreshment for the following hours:-

- Monday to Thursday: from 23:00 to 24:00 and Sunday

Friday and Saturday: from 23:00 to 01:00

With premises been open to the public for the following hours:-

- Monday to Thursday: from 16:00 to 24:00 and Sunday
- Friday and Saturday: from 16:00 to 01:00

After giving consideration to all of the evidence and representations made both in writing and orally Members agreed to refuse the application for the hours requested. Members were satisfied that although the conditions requested by the Environmental Health Officer would address some of their concerns they were satisfied from the Polices evidence that the licensing objectives would be undermined if the application was granted.

Members noted that the applicant had shown either a negligent or wilful disregard for his legal responsibilities in operating the premise. The premise had operated on a number of occasions in breach of planning condition and the law. Members were of the view that the applicant should be able to demonstrate that he can operate the premise legally before they could be satisfied that he would not undermine the licensing objectives.

RESOLVED that the application for grant of a Licence under the Licensing Act 2003 at Francos, 2 Harland Place, Norton, Stockton on Tees be refused.

L 55/10 Big Mamas, 5 Harland Place, Norton, Stockton on Tees - Application for Grant of a Licence under the Licensing Act 2003

Members gave consideration to the report, the application and the representations which had been received. Members noted that no representations had been received from persons "living within the vicinity of the premises". A representation had been made by Cleveland Police and the Environmental Health Officer.

The Environmental Health Officer had submitted a representation as they had concerns over public nuisance however the representation was withdrawn as the applicant had agreed to their suggested conditions. A copy of the agreed conditions was attached for information.

Mrs Nevison drew Members attention to the Police representation and the witness statements attached from PC's Johnson, Kirk and Weston. Live evidence was called from PC Johnson and PC Kirk.

The evidence called showed that the owner of the business had operated the premise outside the permitted hours. This had occurred on more than one occasion and they he had continued to operate even after receiving a written warning from Mr Barnes, Licensing Officer. In the opinion of Cleveland Police this showed the operator of the premise had a complete disregard for the law as he had written to the Environmental health Officer confirming that he would not open past his permitted terminal hour of 23:00.

The Police had concerns over the ability of the owner of the premise to fulfill their legal obligations and ensure that the licensing objectives were not

undermined. In addition the Police also submitted that the location of this premise acted as a magnet to youths in the area who were responsible for anti social behaviour. In the opinion of Cleveland Police if the hours for this premise were extended this would attract the youths later and lead to a further drain on Police resources.

Mrs Wilcox stated that Mr Yousef (applicant) apologised for not been able to attend the Committee meeting. Mr Yousef worked at a factory in Richmond and had been unable to get the time off work.

Mr Majid stated that Mr Yousef held a lease for the premise and believed that he could not make a living if he could not trade after 23:00 hours as he relied on trade from customers leaving the licensed premises (pubs) in the area. There were other takeaways that traded in the High Street and they opened till 24:00 or 01:00 hours. Since the premise had been closing at 23:00 hours Mr Yousef had struggled to pay his rent.

Mr Majid stated that he believed if the application was not granted the youths who congregated near to the premise would simply move to another location in the High Street. Mr Majid stated that he had never had any problems with the gangs of youths who hang around the High Street and that he had never had to call the Police.

Members noted that the application before them was for the provision of Late Night Refreshment for the following hours:-

- Monday to Thursday: from 23:00 to 24:00 and Sunday
- Friday and Saturday: from 23:00 to 01:00

With premises been open to the public for the following hours:-

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After giving consideration to all of the evidence and representations made both in writing and orally Members agreed to refuse the application for the hours requested. Members were satisfied that although the conditions requested by the Environmental Health Officer would address some of their concerns they were satisfied from the Polices evidence that the licensing objectives would be undermined if the application was granted.

Members noted that the applicant had shown either a negligent or wilful disregard for his legal responsibilities in operating the premise. The premise had operated on a number of occasions in breach of the law. Members were of the view that the applicant should be able to demonstrate that he can operate the premise legally before they could be satisfied that he would not undermine the licensing objectives.

RESOLVED that the application for grant of a Licence under the Licensing Act 2003 at Big Mamas, 5 Harland Place, Norton, Stockton on Tees be refused.

