

# Licensing Act Sub Committee Hearing

Date 9 October 2012

Members of the Panel:	Councillors S Griffin (Ch), K Dawkins and J Ainslie (as substitute for Councillor P Jackson)
Application Premises:	69-72 Church Street, Hartlepool
Officers present:	Ian Harrison, Principal Trading Standards & Licensing Officer Sylvia Pinkney, Public Protection Manager  Tony Macnab, Solicitor David Cosgrove, Principal Democratic Services Officer
Applicant:	Mr M Cuthbert and Mr S Singh
Respondent:	PC A Thorpe, Cleveland Police.
Decision:	
<p>The Licensing Sub-Committee considered an application for the variation of the premises licence for the provision of late night refreshment at 69-72 Church Street, Hartlepool.</p> <p>The applicant's premises is currently licensed for the provision of late night refreshment until 2.00 a.m. seven days a week and the applicant has applied for a variation of the premises current hours until 4.30 a.m. on Friday to Saturday and Sundays preceding Bank Holiday Mondays and until 4.00 a.m. on Sunday to Thursday.</p> <p>The applicant stated that the applicant had successfully operated the current take away at 15 Church Street for a number of years and those premises are currently licensed until 4.30 a.m.. He stated that the it was the applicant's intention to expand into the new premises 69-72 Church Street and to close 15 Church Street</p> <p>The representative for the licensing authority had objected to the application as it fell outside of paragraph 4.25 and paragraphs 5.12 and 5.13 of the council's licensing policy which reads as follows: -</p> <p><i>4.25 'The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident &amp; Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by revellers returning home during the early hours.'</i></p>	

*In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.*

*In addition, specifically referring to issues of crime and disorder, paragraphs 5.12 and 5.13 state: -*

*The licensing authority does not accept that longer opening hours are a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure and law enforcement agencies and creates a nuisance for those residents who are affected by revellers returning home during the early hours.*

*For this reason applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.'*

The representative stated that if the proposed variation was granted that it would lead to an increase in nuisance and crime and disorder.

The Police objected to the application and stated that they had understood that the applicant intended to keep his current premises open. The Police stated that there are currently seven take away restaurants on Church Street with three having a 4.30 a.m. licence and one a 4.00 a.m. license. The Police stated that late night take-aways are a 'honey-pot' for persons fuelled with alcohol to congregate and often cause disorder.

The Police stated that if the application were to be granted it would encourage people to stay in the area after pubs and clubs had closed.

The Police stated that one of their concerns with the applicant's premises is that as they have a licence to supply alcohol, a mixture of take-away and the sale of alcohol will provide a flash point for crime and disorder.

The Police did, however, state that whenever they had had problems with the applicants current take away premises that the applicant has been very helpful in assisting the Police but that there is no accounting for how alcohol affects people.

The Licensing Sub Committee received written evidence from a member of the public who had objected on public nuisance grounds. The objector lives in the flats next door to the applicant's premises and stated that the noise from revellers and Church Street is already terrible and by extending the opening hours of these premises would only make things worse.

The Licensing Sub Committee received a written objection from the Planning Authority which stated that the applicant's premises only have approval to open to the public until 2.00 a.m. but that an application had been made to change the hours but the period for determination had not yet expired.

The applicant in response to the objections stated that his current premises are directly opposite the 69-72 Church Street and has a licence to 4.30 a.m. and that there have never been any major issues with the Police. He has spent a

lot of money on the new premises and intends to close down the current take-away once the new premises were open. He stated that noise nuisance is a general problem in Church Street and not specific to his premises.

The Licensing Sub Committee considered all the evidence presented to it but considered that there were no exceptional reasons for deviating from the paragraph 4.25 and paragraphs 5.12 and 5.13 of the licensing policy. In addition, the Licensing Sub Committee took into account the fact that the premises did not have a current planning consent to allow it to open beyond 2.00 a.m.. The Licensing Sub Committee did not consider that there was an exceptional reason for deviating from paragraph 5.26 of the licensing policy which reads as follows: -

*‘The licensing authority will not normally entertain an application for a licence unless the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should not be refused and the planning status of the premises has not yet been finalised.’*

The Licensing Sub Committee considered that the licensing objectives relating to the prevention of crime and disorder, public safety and the prevention of public nuisance would not be promoted by granting the application. The Licensing Sub Committee therefore decided it is appropriate for the promotion of the licensing objectives to reject the whole of the application.

CHAIR