

**GATESHEAD METROPOLITAN BOROUGH COUNCIL**

**LICENSING SUB COMMITTEE MEETING**

**Wednesday, 16 August 2017**

**PRESENT:** Councillor K Dodds (Chair)  
Councillor(s): J Green and M Ord

**LSC1 APPLICATION FOR A NEW PREMISES LICENSE - 33 PENSHAW VIEW**

RESOLVED - That the decision of the Committee as per the attached notice be noted.

**GATESHEAD COUNCIL  
LICENSING AUTHORITY**

**SUMMARY OF DECISION OF LICENSING SUB-COMMITTEE**

**Address :** 33 Penshaw View Birtley DH3 2JL  
**Applicant :** Ms Haseena Mahmood  
**Date of Hearing :** 16 August 2017  
**Type of Hearing :** Application for the grant of a premises licence

**The Sub Committee has decided as follows:**

To grant the premises licence subject to the mandatory conditions set out in the Licensing Act 2003 and the conditions proposed by the Applicant as part of her operating schedule, as set out in the Licensing Officer's report.

**Reasons**

The Sub Committee had regard to the Licensing Officer's report dated 8 August 2017 and the verbal representations made at the hearing by –

- Ms Haseena Mahmood (Applicant); and
- Mr John Bradley (Licensing Authority).

At the outset Ms Mahmood confirmed that her application was for off-sales only, and not for on-sale activity as indicated on the application form. The licensing officer Ms Rebecca Sparrow confirmed that the application had been advertised on the basis of off-sales.

The Sub Committee heard that the hearing had been triggered by a representation having been received from an interested party, Ms Margaret Bond, who raised concerns that the proposed licensable activities were likely to undermine the licensing objectives.

Ms Bond was not in attendance at the hearing, however her written representation was duly considered by the Sub Committee.

The Sub Committee heard from Ms Mahmood that the premises have been open to the public for approximately two weeks (without the sale of alcohol). The Sub Committee heard that it is Ms Mahmood's intention to operate the premises in a manner that supports the local community. The Sub Committee heard that Ms Mahmood has experience of working in similar licensed premises (although this is the first business she has operated herself), and that she will be supported by her mother as the Designated Premises Supervisor, who has experience of the role. The Sub Committee heard that Ms Mahmood will also seek to obtain a personal licence. The Sub Committee heard that the premises also sell cigarettes, so she has an age verification policy for age-restricted products and already displays age challenge posters in the premises. With regard to the concerns raised by the interested party, Ms Mahmood stated that there is parking available to the side of the premises as well as on the main street; and that she will take action to prevent and

report anti-social behaviour where this arises. Ms Mahmood also confirmed that she will keep a refusals register, install and monitor CCTV inside the premises and outside, and will report incidents that occur.

The Sub Committee heard from Mr Bradley that whilst there was concern from the interested party that allowing licensable activities to take place at the premises may increase the level of anti-social behaviour in the vicinity of other premises, there were in fact no recent reported incidents.

The Sub Committee received legal advice from the Council's legal officer in open session so that all parties were aware of the content of that advice.

The Sub Committee heard that in choosing which course of action to take, they should have regard to the Act, the Home Office Guidance, the Licensing Authority's own Statement of Licensing Policy and the individual facts.

The Sub Committee were reminded of the Judgment in the case of R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates' Court & Ors [2011] EWCA Civ 31 in which Lord Toulson stated, "Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on... They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location."

The Sub Committee were reminded of their duty under the Act is to carry out the Licensing Authority's functions with a view to promoting the Licensing Objectives; and that the Home Office Guidance states that they should do so with regard to the overall interests of the local community.

The Sub Committee were reminded of the Judgment of Mr Justice Jay in the case of East Lindsey District Council v Hanif (t/a Zara's) (2016) EWHC 1265 (Admin) with regard to the approach to be taken to determining the appropriate and proportionate action in light of the salient Licensing Objectives; and in particular their approach should involve –

- consideration of the antecedent facts; and
- a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

The Sub Committee also had regard to paragraph 6.2 of the Council's Statement of Licensing Policy which states that the Licensing Authority considers –

- the effective and responsible management of premises
- instruction, training and supervision of staff; and

- the adoption of best practice

to be the most important control measures for the achievement of all of the licensing objectives.

The Sub Committee determined to grant the application as sought, i.e. with the imposition of the mandatory conditions imposed under the Act and the conditions volunteered by the applicant. The Sub Committee considered that adhering to the conditions should ensure that the licensing objectives are duly promoted, and were satisfied that the applicant should be in a position to ensure that this occurs.

### **Right of appeal**

Should Ms Bond or the Licensing Authority be aggrieved by the Sub Committee's decision to grant the premises licence, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(3)(a) of Schedule 5 of the Act.

Should Ms Bond or the Licensing Authority be aggrieved by the Sub Committee's decision to impose conditions on the premises licence, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(3)(b) of Schedule 5 of the Act.

Should the applicant be aggrieved by the Sub Committee's decision to impose conditions on the premises licence, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(2)(a) of Schedule 5 of the Act.

Any appeal is to be brought before Gateshead Magistrates' Court within 21 days of the date of the decision.

*In reaching this decision the Sub Committee has been persuaded by the individual circumstances of this Application and does not intend to create a general exception to its Policy or to create a precedent.*

**Dated : 22 August 2017**

**Chair.....**