

**THE MINUTES OF THE MEETING**  
**OF THE LICENSING SUB-COMMITTEE**  
**HELD ON TUESDAY 13 SEPTEMBER 2005**

Present: Councillor B Joyce (Chair)  
Councillors A Collinson and  
C Walker

Also Present: C Ridley – District of Easington  
D Hannon – District of Easington  
Mr Catleugh – Applicant  
Mr Kemp – Counsel for Mr Catleugh  
P Bell – Legal Advisor for District of Easington

**1 APPLICATION FOR PREMISES LICENCE UNDER THE LICENSING ACT 2003 –  
GEORGE CHARLES CATLEUGH IN RESPECT OF PROSPECT BUILDINGS, WARREN  
SQUARE, HORDEN, COUNTY DURHAM**

Consideration was given to the report of the Environmental Health and Licensing Manager for an application for a premises licence under Section 17 of the Licensing Act 2003, a copy of which had been circulated to each Member.

The Principal Environmental Health Officer (Licensing) explained that the application was for the granting of a premises licence in respect of the provision of late night refreshment from the premises known as Geordie's Pizzeria. Hours of operation were Monday – Thursday 1600 – 0000, Friday – Saturday 1600 – 0030, Sunday 1700 – 0030.

Mr Catleugh had been informed prior to submitting his application that current restrictions on his planning consent limiting his opening hours would have to be removed by the authority's Planning Section prior to an application for a premises licence being made. The application to the Planning and Building Control Services for removal of the conditions was refused.

The applicant's solicitor had stated that Mr Catleugh was informed his premises were not on a list of properties with known conditions on their planning consent. This was correct, however, it was Mr Catleugh who offered the information as to his restrictions and details of a previous prosecution for their breach. The conditions were then confirmed with the Planning Department.

Relevant representations were received from the Planning Department. The objection in relation to the probability of disturbance to residents in the area and amenity impact. This accorded with the licensing objective of prevention of public nuisance.

The relevant extracts of the authority's Licensing Policy and Guidance of the Secretary of State were attached to the report.

A letter was received from Mr Catleugh's solicitor stating that there were compelling circumstances in view of the statement by his client that his premises had been operating at extended hours for the last 15 years. A copy of the solicitor's letter was attached at Appendix 3.

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The Principal Planning Services Officer explained that a planning application had been submitted to the local planning authority on 13 May 2005. The application was to vary conditions relating to operating hours under the original 1986 planning permission. Planning permission was then refused for the extension of opening hours because of amenity impact and disturbance to the adjacent residential dwellings.

The 1986 planning permission had conditions restricting part of the premises operating as a coffee bar not to be opened to the public between the hours of 9.00 pm and 9.00 am weekdays nor between 6.00 pm Sunday and 9.00 am Monday. The other condition related to the other part of the premises operating as a kebab house and that it should not be used for the preparation of takeaway food between the hours of 11.00 pm and 9.00 am.

It was explained that the 2005 planning permission that was refused consent was to extend the operating hours so the business could be open to the public between the hours of 9.00 am to midnight Monday – Thursday and 9.00 am to 1.00 am Friday – Sunday. Therefore, the premises should accord with the 1986 planning permission.

The Principal Planning Services Officer explained that a letter received from the applicant's solicitor had stated that the conditions were unenforceable. If the premises had been operating the hours stated then there would have been no need for the applicant to have made an application in 2005. The submission of the 2005 application brought into doubt what was being alleged in the letter by the applicant's solicitor which incidentally was dated after planning permission was refused on 22 July 2005.

The only way to clarify the situation would be for the applicants to apply for a certificate of lawful development where the applicant would need to demonstrate on the balance of probabilities that they had been operating the hours they claimed for more than 10 years.

Mr Kemp referred to the 1986 planning permission and queried that if planning conditions were broken for a period of more than 10 years they would become null and void. D Hannon confirmed that the conditions would become null and void if Mr Catleugh had been operating in excess of 10 years. It was explained that enforcement action was pending on Mr Catleugh.

Mr Kemp queried if there were other commercial premises nearby and if Mrs Hannon was aware of any planning conditions that were attached to other establishments in the area. The Principal Environmental Health Officer explained that the adjacent premises had planning conditions attached to them.

Mr Kemp explained that planning law was inherently difficult. Mr Catleugh had been more than honest with the Council and if it was proven that Mr Catleugh had been trading for more than 10 years, the Planning Department did not have a reason to object. There had been no objections from the Police, Environmental Health or the public and he felt that the licence should be granted as requested.

At this point Members of the Sub-Committee retired from the meeting to deliberate the application in private in accordance with 14(2) of the Licensing Hearing Regulations.

The Sub-Committee returned and advised that having considered the application and the representation, it had been demonstrated that there were no objections

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from the public, police and environmental health and in the interests of fairness there were compelling reasons to approve the application.

**RESOLVED** that the application be granted as requested.

JC/MA/com.lic/050901  
16 September 2005