

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 30 July 2009

Present:

Councillors	S Clarke	J Salter
	IO Coates	R Wilkins

1 APPOINTMENT OF CHAIR

Resolved -

(1) That Councillor Bob Wilkins be appointed Chair for the morning session to consider the applications regarding Hoylake General Stores and J & P Off Licence.

(2) That Councillor John Salter be appointed Chair for the afternoon session to consider the application regarding the Farmers Arms.

2 DECLARATIONS OF INTEREST

Members were requested to consider whether they had any personal or prejudicial interests in connection with any items on the agenda and, if so, to declare them and state what they were.

No such declarations were made.

3 NAME OF PREMISES: HOYLAKЕ GENERAL STORES, HOYLAKЕ ROAD, BIRKENHEAD

The Director of Regeneration reported upon an application that had been received from Trading Standards to review a Premises Licence in respect of Hoylake General Stores, Hoylake Road, Birkenhead under the provisions of the Licensing Act 2003.

John Malone, Trading Standards Manager attended the meeting together with Sergeant Peers, Police Licensing Sergeant.

The Licensing Officer reported that the Designated Premises Supervisor was unable to attend the meeting due to illness and that the Premises Licence Holder was out of the country.

John Malone reported that he had no objections to this matter being adjourned.

Resolved - That this matter be adjourned to a date to be arranged in September 2009.

4 **NAME OF PREMISES: J & P OFF LICENCE, 119 KING STREET, WALLASEY**

The Director of Regeneration reported upon an application that had been received from Trading Standards for the review of a Premises Licence in respect of J & P Off Licence, 119 King Street, Wallasey, under the provisions of the Licensing Act 2003.

J & P Off Licence currently had a Premises Licence which allowed the following licensable activity:

Supply of Alcohol

Monday to Saturday	08:00 to 23:00
Sunday	10:00 to 22:30

A copy of the Premises Licence setting out the above hours and conditions attached to the Licence was available.

The Director advised that the Sub-Committee may, having regard to the application for review and any relevant representations, take such of the following steps as it considered necessary for the promotion of the licensing objectives:

- Modify the Licence conditions.
- Exclude a licensable activity from the scope of the Licence.
- Remove the Designated Premises Supervisor.
- Suspend the Licence for a period of not exceeding three months.
- Revoke the Licence.

The licensing authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

John Malone, Trading Standards Manager attended the meeting together with Sergeant D Peers, Police Licensing and advised that the grounds for review were in relation to the protection of children from harm following an underage sale taking place at the premises.

Merseyside Police had made a representation in support of the application by Trading Standards which related to the protection of children from harm. A copy of the representation was available.

Mr Miah, the current Designated Premises Supervisor and Premises Licence Holder attended the meeting.

The Licensing Officer reported that further to the review being issued, the Premises Licence Holder had changed therefore both were invited to attend the meeting, however the previous Premises Licence Holder was unable to attend.

Mr Malone reported that the case against the previous Premises Licence Holder had been heard at court and he therefore had extra evidence regarding the prosecution.

Mr Miah had no objections to this evidence being submitted.

Mr Malone outlined the reasons for the review in that there had been one sale of alcohol from the premises to a 14 year old volunteer. The store did not operate a refusals log and no training was in place. Mr Malone reported that he sought additional conditions to be attached to the Premises Licence which he had outlined in his report.

Mr Miah reported that he would be prepared to accept the proposed conditions.

Sergeant Peers reported that Merseyside Police were in support of the review however there had subsequently been a change in management at the premises therefore he was satisfied regarding the running of the premises and supported the proposed conditions by Trading Standards.

Mr Miah responded to questions from Members of the Sub-Committee, Sergeant Peers and Mr Malone.

Members of the Sub-Committee considered evidence presented by Trading Standards and Merseyside Police relating to alcohol being sold to under aged persons which seriously undermined the Licensing Objective in respect of the Protection of Children from Harm.

In considering the application, Members recognised that the current Premises Licence Holder who was also the Designated Premises Supervisor was not at the premises at the time of the under age offences. Members noted the willingness of the Premises Licence Holder to adopt the conditions proposed by Trading Standards and his recognition that such conditions should help prevent the sale of alcohol to young persons under the age of 18 years.

Members considered that the modification to the conditions attached to the Premises Licence was a proportionate response to the application presented and was necessary for the promotion of the Licensing Objectives.

In determining the application the Licensing Act 2003 Sub-Committee had regard to the licensing objectives, the Council's Statement of Licensing Policy and the Department of Culture and Media and Sport Guidance issued under Section 182 of the Licensing Act 2003.

Resolved -

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the Sub-Committee shall impose the following conditions on the Premises Licence:

- **The Premises must adopt a 'Think 25' policy and display the appropriate posters at the premises at all times.**
- **The Premises must only accept a passport, a photo driving licence or a PASS accredited identification in support of till checks.**

- **The Premises must maintain a refusal log with regular checks by management to ensure that it is being used. This refusal log must be made available on request to an Authorised Officer.**
- **Staff must attend training on underage sales provided by Trading Standards within the next three months from the date of the hearing.**
- **All staff working at the premises must receive regular updated training in respect of preventing the sale of alcohol to persons under 18 years of age. Evidence of this training must be provided to an Authorised Officer on request.**

5 NAME OF PREMISES: FARMERS ARMS, 43 NEW CHESTER ROAD, NEW FERRY

The Director of Regeneration reported upon an application that had been received from Merseyside Police for the review of a Premises Licence in respect of the Farmers Arms, 43 New Chester Road, New Ferry, under the provisions of the Licensing Act 2003.

The premises currently hold a Premises Licence which allowed the following licensable activities:

Supply of Alcohol

Monday to Saturday	11:00 to 00:00
Sunday	12:00 to 23:30

Hours Open to the Public

Monday to Saturday	11:00 to 00:30
Sunday	12:00 to 00:00

Regulated Entertainment (Live Music and Recorded Music)

Monday to Saturday	11:00 to 00:00
Sunday	12:00 to 23:30

Entertainment Facilities (Entertainment Facilities of a Similar Description)

Monday to Saturday	11:00 to 00:00
Sunday	12:00 to 23:30

A copy of the Premises Licence setting out the above hours and conditions attached to the licence was available.

The Director advised that the Sub-Committee may, having regard to the application for review and any relevant representations, take such of the following steps as it considered necessary for the promotion of the licensing objectives:

- Modify the Licence conditions.

- Exclude a licensable activity from the scope of the Licence.
- Remove the Designated Premises Supervisor.
- Suspend the Licence for a period of not exceeding three months.
- Revoke the Licence.

The licensing authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

Sergeant Peers attended the meeting together with Rita Jones, Police Licensing and advised that the grounds for review were in relation to the prevention of crime and disorder and public nuisance following a number of incidents of disorder occurring at the premises over the past 12 months.

Mr Ashcroft, Solicitor representing the Farmers Arms attended the meeting together with Mr Wilson-Jones, Area Manager, Mr Lewis, Designated Premises Supervisor and Mr Whitby, Manager.

The Licensing Officer confirmed that all notices had been sent and received and no additional documentation had been submitted.

Sergeant Peers requested that he submit two statements which he had received that morning. Mr Ashcroft had no objections to these being submitted, therefore they were taken into consideration at the hearing.

Sergeant Peers reported that the premises were not being properly managed which had resulted in incidents of crime and disorder and public nuisance. He reported upon a number of incidents that had occurred at the premises since July 2008 which included a major Police incident involving a number of officers on 18 December 2008. He also expressed his concern regarding a letter he had received stating that the Designated Premises Supervisor had left and who had a key role within the Licensing Act.

Sergeant Peers concluded that the incidents that had occurred at the premises over the last 12 months had undermined the licensing objective of crime and disorder. He felt that the premises required effective management and that out of hours drinking had been a common and regular feature. Sergeant Peers suggested that there were grounds for revocation of the premises licence, however if the Sub-Committee did not take this view he asked that certain conditions be attached to the premises licence. Sergeant Peers urged that Members considered the removal of the DPS from the premises. He also asked that Members take into account the number of incidents that had occurred at the premises and the poor management of the premises and asked that the licence be revoked.

Sergeant Peers responded to questions from Members of the Sub-Committee.

Mr Wilson-Jones, Area Manager and reported that he had received the paperwork for the review shortly after he had taken over management of the premises. He agreed that the number of problems at the premises had been horrific. He reported that the number of problems had reduced greatly and that the intention was to spend an amount of money on the premises which would make it community and family orientated.

Mr Wilson-Jones responded to questions from Members of the Sub-Committee and Mr Abraham, legal advisor to the Sub-Committee.

Mr Lewis, Designated Premises Supervisor, explained that he wanted to implement a new ethos and concept of the premises including the availability of additional beverages such as cocktails and that it be a nice family-friendly pub.

Mr Lewis responded to questions from Members of the Sub-Committee.

Mr Ashcroft, Solicitor representing the Farmers Arms, explained that Admiral Taverns were prepared to make a financial commitment to change the culture of the premises and felt that the representations that had been put to Members focused on the past. He felt that the problems experienced with the management of the premises could be solved by a partnership approach as there had been lack of co-operation in the past. Mr Ashcroft felt that matters could be solved by attaching suitable conditions to the Premises Licence. He also felt that the proposed conditions would address the licensing objectives of crime and disorder and public nuisance.

In determining the application the Licensing Act 2003 Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Department of Culture and Media and Sport Guidance issued under Section 182 of the Licensing Act 2003. In particular Members had regard to paragraphs 10.45 and 10.47 of the Guidance relating to the responsibilities of the Designated Premises Supervisor.

Members considered evidence from the Police in respect of a high number of serious incidents of disorder and anti-social behaviour from customers of the premises over the past 12 months. Members were also provided with evidence of the premises trading beyond the hours permitted by the premises licence. The evidence presented at the hearing gave serious concern to Members of the Sub-Committee regarding crime and disorder and public nuisance emanating from the premises as well as concerns regarding breaches of the premises licence.

Members considered that the evidence presented by Merseyside Police reflected poor management of the premises and a disregard to the requirements of the Licensing Act 2003, and believed that this had a significant negative impact on the Licensing Objectives in relation to the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

Resolved -

- (1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.**
- (2) That the Premises Licence be suspended for a period of 28 days.**
- (3) That the following conditions be imposed onto the Premises Licence:-**
 - CCTV to be installed at the premises in accordance with the specification issued by the Licensing Authority and that all staff must be trained in its use. Tapes and visual images recorded must be retained for a period of 31 days and be provided to an authorised officer on request.**

- **The current Designated Premises Supervisor to be removed from the Premises Licence.**
- **There must be a Personal Licence Holder at the Premises at all times that alcohol is offered for sale at the premises.**
- **The Designated Premises Supervisor of these premises must successfully complete the BIIAB Level 2 National Certificate for Designated Premises Supervisors.**
- **An incident book must be kept and maintained at all times and all incidents recorded therein and be available for inspection at all times.**
- **The Premises must adopt a Think 21 Policy and display appropriate posters**