

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 23 September 2009

Present:

Councillors H Smith  
A Taylor

R Wilkins

13 **APPOINTMENT OF CHAIR**

**Resolved – That Councillor Bob Wilkins be appointed Chair for this meeting.**

14 **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.

15 **RAVENS CROFT, THE MOUNT, HESWALL**

The Director of Regeneration reported upon an application that had been received from Barracuda Pubs & Bar Company Limited to vary a Premises Licence in respect of Ravenscroft, The Mount, Heswall, under the provisions of the Licensing Act 2003.

These premises currently hold a Premises Licence and the application to vary the Premises Licence was a request to extend the Licensed area to include the external area for the Sale of Alcohol and Late Night Refreshment for the same hours that were currently permitted within the Licence. The applicant had also requested that the following condition be removed from the Premises Licence:

‘There shall be no drinking outside the curtilage of the building at any time.’

In respect of this application a representation had been received from Heswall Congregation of Jehovah’s Witnesses who were located to the rear of the premises. The representation related to public nuisance to the congregation caused by customers from the premises from the outside area. A copy of the representation was available.

Mr Wikberg and Mr Murphy from the Heswall congregation of Jehovah’s Witnesses attended the meeting in support of their representations.

Ms Hazelwood, Solicitor representing Barracuda Pubs & Bar Company Limited, attended the Hearing. The Designated Premises Supervisor was also present.

The Licensing Officer confirmed that all documents had been sent and received and an aerial map had been produced to clarify the situation of the buildings concerned.

Mr Wikberg and Mr Murphy had no objections to this and therefore the map was circulated to all parties.

Ms Hazelwood explained that the application was limited in that it was to extend the licensed area into the back of the premises. She described the outside area of the premises and outlined that the area was encapsulated by a brick wall. She felt that if the application were to be granted this would cure the existing problem the premises encountered with clients going outside the front of the premises which caused nuisance to neighbours and thus would be a step forward in taking potential noise risk away from the sensitive area at the front of the premises. She reported that the premises were food orientated and family driven. She informed Members that an acoustic lobby would be constructed to the rear of the premises and felt that there was a very remote possibility that noise would be carried to the Kingdom Hall building which was situated at the rear of the premises. She also reported that the outside area would be closely monitored by staff and that it wasn't envisaged that a lot of noise would emanate from the area. Ms Hazelwood pointed out that only one representation had been received which was from the Jehovah's Witnesses however no representations had been made by either the Environmental Health Officer or Merseyside Police.

Ms Hazelwood referred to the hours of worship at Kingdom Hall which were on a Thursday from 7-9 pm and Sunday 10 am until 12 midday and suggested that on a Thursday evening noise would be only marginally increased if the application were to be granted. She explained that on a Sunday the premises opens at 10 am and serves breakfasts which would not generate loud noise and that although the premises gets busier from 11 am the attraction was still food being served and not loud music or cheap drinks. The applicant proposed that the courtyard be out of use until 12 noon on a Sunday to address the concern of disturbance to the congregation on a Sunday morning. Ms Hazelwood suggested that the application could not be refused and that any conditions imposed must be necessary and proportionate.

The applicants responded to questions from Members of the Sub-Committee.

Mr Murphy addressed the Sub-Committee and explained that he wanted to protect the interests of the congregation as he felt that if the application was granted this would adversely affect the quiet enjoyment of the Kingdom Hall building by the Heswall Congregation of Jehovah's Witnesses.

Mr Wikberg explained that the problems of noise would be exacerbated during the summer months. He reported that the Kingdom Hall had been used by the Jehovah's Witnesses for more than 25 years and felt they were being gradually encroached upon. He informed members that they had so far enjoyed a peaceful relationship with the premises for which he thanked them, however, he was concerned about noise levels and the impact this would have on the quiet enjoyment of the meetings that took place at the Kingdom Hall building. He asked that the application be refused.

Mr Wikberg and Mr Murphy responded to questions from Members of the Sub-Committee.

Members accepted that the premises were being managed well and trusted that this would continue.

Members listened carefully to representations from all parties and took into account the proposals put forward by the applicant in terms of the conditions offered to minimise the impact of the application on the congregation at Kingdom Hall.

Members took into account the applicant's reasoning to prevent public nuisance by removing people from the front of the premises.

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, 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 application to vary the Premises Licence to extend the licensed area to include the external area for the sale of alcohol and late night refreshment for the permitted hours as stated be granted with the following conditions:-**

- (i) There shall be no drinking outside the front of the building at any time.**
- (ii) There shall be no consumption of food or drink in the rear courtyard area (which was specified in the application) of the premises on a Sunday until midday.**

**16 TAURUS SERVICE STATION, ORRYSDALE ROAD, WEST KIRBY**

The Director of Regeneration reported upon an application that had been received from David Wilcox for the grant of a Premises Licence in respect of Taurus Service Station, Orrysdale Road, West Kirby, under the provisions of the Licensing Act 2003.

These premises had not previously been licensed and the application for the grant of the Premises Licence was as follows:

Supply of Alcohol

Sunday to Saturday 07:00 to 23:00

Hours Open to the Public

Sunday to Saturday 07:00 to 23:00

In accordance with Section 176 of the Licensing Act 2003, alcohol is prohibited from being sold at premises that are primarily used as a garage, or are part of premises

used primarily as a garage. Premises are used as a garage if they are used for one or more of the following:

- the retail of petrol
- the retail of derv
- the sale of motor vehicles
- the maintenance of motor vehicles

The applicant had provided additional information to support that these premises would not be used primarily as a garage which was available.

In respect of this application six representations had been received from local residents. The representations related to public nuisance caused by youths and alcohol related incidents within the vicinity of the premises. Copies of the representations were available.

David Wilcox attended the meeting together with his solicitor Barry Holland.

The Licensing Officer confirmed that all documents had been sent and received and that all residents who had made representations had been invited to attend the meeting however none of them were in attendance.

Mr Holland explained that he had provided evidence regarding the use of the site and the anticipated footfall. The figures he had produced showed that in two other similar sites, Brooklands and Beechley, the shop was the leading reason for the site being in existence and it was anticipated that the footfall of the new site would match these sites. He reported that the use of the shops in both the existing premises were 62% and 63% respectively and it was anticipated that there would be a marked growth in the shop sales and no great increase in fuel sales. He outlined that this was a clear indication that the primary use of the site would be for retail. Mr Holland reported that the premises would be a traditional convenience store which would sell some 2,000 lines, there would be a bakery area and coffee making facilities. He also reported that liquor would be stored in specially designed units. He pointed out that there had been no representations made by Merseyside Police and that he had spoken to Sergeant Peers regarding the application, also no residents were in attendance. He informed Members that CCTV would be installed which would meet the requirements of the Police and there would be a minimum of two staff at all times.

Mr Holland and Mr Wilcox responded to questions from Members of the Sub-Committee.

Members took into account that the evidence put forward showed that the applicant was vigilant in his other store with regard to the sale of alcohol and noted the steps he intended to take regarding the licensing objectives.

Members were satisfied that the premises would not be used primarily as a garage.

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, 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 application for the grant of a Premises Licence for the Supply of Alcohol and Hours Open to the Public Sunday to Saturday 07:00 to 23:00 be granted.**

**17 RED CAT, GREASBY ROAD, GREASBY**

The Director of Regeneration reported upon an application that had been received from Green King Retailing Limited to vary a Premises Licence in respect of the Red Cat, Greasby Road, Greasby, under the provisions of the Licensing Act 2003.

The application to vary the Premises Licence is to remove the following conditions from the Premises Licence:

No children to be allowed on site after 19.00 hrs  
Outside areas to be closed and cleared by 22.00 hrs  
No external music to be played  
Public Entertainment Licence Conditions transferred from the previous licence issued under the Local Government (Miscellaneous Provisions) Act 1982

The applicant has requested that the above conditions be replaced with the following conditions:

No children to be allowed on site after 21.00 hrs  
No external drinking to take place after 22.00 hrs  
No external music to be played after 22.00 hrs

Following discussions with Environmental Health the applicant agreed to the following amendments:

No external eating or drinking to take place after 22.00 hrs (to replace the above requested condition) and external music to be limited to background music.

Mr Chris Cronchie, attended the meeting on behalf of Greene King Retailing Limited, together with Russell Jacobs, Designated Premises Supervisor and Carol Jacobs of the Red Cat, Greasby. Mr Cronchie informed members that under new management, the Red Cat had recently undergone minor refurbishment in a step towards a more food and family orientated area of business. Mr Cronchie felt that these measures would give the Red Cat more parity with local competition.

Mr Cronchie stressed that the Red Cat had no ambition to offer outside music or entertainment. Members were advised the premises did not have any facilities for such activities. He confirmed that Fire Doors would be kept closed after 10pm to prevent background music drifting out of the premises and that noise levels would be monitored.

The Director of Regeneration indicated that the current Premises Licence stated that all external doors and windows (apart from access and egress) must be kept shut when any entertainment was taking place.

Councillor Peter Reisdorf, Ward Councillor for Greasby, Frankby and Irby, attended the meeting and spoke on behalf of residents who had submitted representations relating to noise nuisance. The Red Cat was situated in close proximity to several residential areas and residents were concerned about the detrimental impact the noise would have on their properties.

Mr Cronchie re-assured Councillor Reisdorf that the Red Cat had no interest in providing outside music. Mr Jacobs also pointed out that there had been incidents when they had received complaints from residents about the level of noise at times when the premises had been closed. His assumption was that the noise nuisance had been emanating from other premises within the locality.

Mr Cronchie was asked to clarify the outside area of the Red Cat. He presented a map to the Sub-Committee highlighting the area in question. At present smokers were not allowed in the outside area after 10pm and there was a tendency for them to stand on the roadside at one of the two entrances to the premises. The proposed variation to the licence would enable smokers to use the outside area which would assist in containing noise levels.

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, 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 application to vary the Premises Licence under the provisions of the Licensing Act 2003 be granted and subject to the following conditions:**

- **No children to be allowed on site after 21.00 hrs**
- **No external eating or drinking to take place outside after 22.00 hrs**
- **Public Entertainment Licence conditions should be removed from the licence.**

**(3) The following condition shall remain on the licence:**

- **No external music to be played**