

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 18 November 2010

Present: Councillors S Taylor  
P Glasman  
R Wilkins

## 65 APPOINTMENT OF CHAIR

**Resolved - That Councillor Sue Taylor be appointed Chair for this meeting.**

## 66 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked 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.

## 67 NEWS AND BOOZE, BOROUGH ROAD, BIRKENHEAD

The Director of Law, HR and Asset Management reported upon an application that had been received from Trading Standards for the review of a Premises Licence in respect of News and Booze, Borough Road, Birkenhead, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence which allows the licensable activities as set out in the report.

A copy of the Premises Licence setting out the 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 Conditions of the Licence.
- Exclude a licensable activity from the scope of the Licence.
- Remove the Designated Premises Supervisor.
- Suspend the Licence for a period 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.

The application had been submitted by Trading Standards and the Trading Standards Manager advised that the grounds for review were in relation to the protection of children from harm following the sale of alcohol to persons under the

age of 18 years during two test purchase operations at the premises since the licence was granted in February 2008.

John Malone, Trading Standards Manager attended the meeting together with Andrew Bushell, Senior Assistant Trading Standards Officer and Constable Cottrell, Police Licensing.

Mr Kullar, the Premises Licence Holder was also in attendance together with his Solicitor, Mr Johnson and Mr Nickson, Licensing Consultant.

The Licensing Officer reported that all documentation had been sent and received including further documentation submitted by Halsalls Solicitors which had been distributed to all parties.

Mr Malone referred to the representations he had made in which he had recorded a list of events of visits to the premises, advice given to staff and three failed test purchases, two in relation to alcohol and one in relation to tobacco. He listed the key points of the interviews undertaken with members of staff at the premises and also referred to due diligence within the premises. He asked that if Members did not revoke the Premises Licence that the Licence be suspended until all staff had been trained and also requested that a number of proposed conditions be attached to the Premises Licence.

Mr Malone and Mr Bushell responded to questions from Members of the Sub-Committee.

Mr Johnson felt that the Premises Licence Holder experienced language problems and as a result of this had not fully understood the invitations made by Trading Standards to attend training courses.

Mr Kullar, Premises Licence Holder responded to questions from Members of the Sub-Committee.

Mr Johnson reported that Mr Kullar had owned the premises for two and a half years and also had a shop in Conway Street which he had owned for 8 years. He also advised that although a failed test purchase had taken place on 15 April 2008 another test purchase had been passed that year. He informed Members that he had introduced Mr Kullar to Mr Nickson, Licensing Consultant and further to this the issues regarding training had been addressed. He asked Members to consider that the failures had been identified and addressed accordingly.

Mr Nickson informed Members that he was the Senior Consultant of a Licensing Consultants Company, approved by BIIAB to deliver and examine qualifications for Personal Licence Holders. He outlined his findings within the report further to meeting with Mr Kullar on 22 October 2010. He reported that the shop was neat and presentable which he felt gave a good impression to local residents. He reported that there were four members of staff at the premises, three of whom had personal licences. Mr Nickson listed a number of measures which would be best practice for protecting children from harm and felt that the premises fulfilled most of these criteria. He further reported that all four members of staff had now attained BIIAB Level 1 Award in Responsible Alcohol Retailing. Mr Nickson felt that the risk had now been

dramatically reduced, however he felt there should be closer contact between the Premises Licence Holder and Trading Standards.

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

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.

Members considered the representations made by all parties and determined that on this occasion they did not consider that a revocation or suspension of the licence was warranted.

**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 neither revocation or suspension of the Premises Licence was considered to be necessary.**

**(3) That the following additional conditions be attached to the Premises Licence:**

- **The premises must adopt a Think 25 Policy and display the appropriate posters. All staff must be trained on the policy.**
- **All staff who sell alcohol must attend training sessions provided by Wirral Trading Standards.**
- **The premises must only accept a passport, photo driving licence or PASS accredited identification as proof of age.**
- **The premises must maintain and keep a refusals log which must be checked regularly by the Designated Premises Supervisor or Premises Licence Holder who must sign the log after each check. The refusals log must be made available to Trading Standards and Merseyside Police upon request.**
- **Refresher training must be undertaken with all staff responsible for the sale of alcohol at least once every six months. This training must be recorded and made available to Trading Standards and Merseyside Police on request.**

**68 TDS CONVENIENCE STORE, 15-17 ALBANY ROAD, ROCK FERRY**

The Director of Law, HR and Asset Management reported upon an application that had been received from Kanagasabai Shatthiyanthamoorthi for a Premises Licence in respect of TDS Convenience Store, 15-17 Albany Road, Rock Ferry, under the provisions of the Licensing Act 2003.

The application for the grant of a Premises Licence was for the following hours:

## **Supply of Alcohol**

Monday to Sunday                      08:00 to 23:00

## **Hours Open to the Public**

Monday to Sunday                      06:00 to 23:00

The applicant was required to submit an operating schedule setting out how they would conduct/manage their business in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the licence be granted.

Two representations from local residents had been received in respect of this application. The representations related to anti-social behaviour and public nuisance which was currently a problem within the vicinity of the premises. A petition had also been received signed by 264 residents who were against the application. The petition related to anti-social behaviour caused by individuals who were intoxicated by alcohol within the vicinity of the premises. Copies of the representations and petition were available.

The applicant attended the meeting with his Agent, Mr Bowser, to outline the application.

Mrs Taylor, Mr Brassey and Mrs Fallon were also in attendance together with Councillor Chris Meaden who had been asked to represent the residents.

The Licensing Officer confirmed that all documentation had been sent and received. The applicant's agent reported that he wished to submit a letter from Merseyside Police. Councillor Meaden advised that she had no objections to the letter being submitted and it was therefore taken into consideration by Members of the Sub-Committee.

The applicant's agent addressed the Sub-Committee and explained that the applicant had another business within the vicinity and had had no problems with this business. He reported that the applicant had held a Personal Licence for five years. He advised that the applicant understood the concerns of local residents and would be a responsible retailer and train staff accordingly. He reported that after consultation with Merseyside Police the applicant had amended the hours for the Supply of Alcohol as set out above. He informed Members that the applicant was very vigilant in his present premises and wanted residents to know he was serious and wanted to create employment for his family.

The applicant and his agent responded to questions from Members of the Sub-Committee.

Councillor Meaden informed Members that she was very concerned due to the high levels of underage sales and anti-social behaviour in the area. She reported that the premises were situated in a high residential area and opposite a primary school and referred to the petition which had been signed by almost 300 residents. She felt that

if the application was granted the area would be saturated with similar outlets. She advised Members that she had spoken to Merseyside Police who also had concerns about more drinkers in the area. Councillor Meaden informed Members that there were already 22 off licences within one mile radius and 7 in that particular area and was very concerned as there were already major problems with young people drinking in the area. She therefore asked that the application be refused.

Councillor Meaden and the local residents responded to questions from Members of the Sub-Committee.

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

The applicant's agent referred to the times requested and advised that the applicant would be willing to close at 10 pm if that would please the residents and Members of the Committee.

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.

Councillor Sue Taylor reminded local residents and Councillor Meaden that if any problems occurred at the premises there was the facility to bring the premises into review.

**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 a Premises Licence in respect of TDS Convenience Store, 15-17 Albany Road, Rock Ferry, be granted with the following hours:**

**Supply of Alcohol**

**Monday to Sunday            08:00 to 22:00**  
**Hours Open to the Public**

**Monday to Sunday            06:00 to 22:00**

**(3) That the following conditions be attached to the Premises Licence:**

- **The premises must adopt a Think 25 Policy and display the appropriate posters**
- **Staff must receive training on underage sales provided by Wirral Trading Standards. This training must be completed before the premises opens and staff must attain BIIAB Level 1 Certificate within 3 months of opening**
- **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 and training records must be kept and maintained**

- **Records of training must be supplied to the Licensing Authority when this training has taken place**
- **The premises must maintain a refusal log with regular checks. This log must be made available on request to Licensing Officers and Responsible Authorities to ensure that it is being used.**
- **Posters must be displayed at the premises stating that no sale of alcohol will take place to persons buying alcohol on behalf of persons under the age of 18**
- **The Premises Licence Holder or his/her representative must ensure that inspections of the outside area of the premises are undertaken on a daily basis in order that the outside area is free from bottles and general customer debris. A record of these checks must be maintained and available for inspection by an authorised officer**
- **The premises must only accept a passport, a photo driving licence or PASS accredited identification in support of till checks**
- **CCTV must be installed at the premises. Tapes and visual images recorded shall be retained for a period of 31 days and access to the system must be made available to Licensing Officers and Responsible Authorities on request. The CCTV system must be in place before the premises opens.**