

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 21 January 2011

Present: Councillor S Taylor (Chair)
Councillors WJ Davies G Ellis
S Niblock D McCubbin

74 APPOINTMENT OF CHAIR

Resolved -

- (1) That Councillor Sue Taylor be appointed Chair for this meeting.
- (2) That Councillors Sue Taylor, Gerry Ellis and Don McCubbin consider the application in respect of 218-220 Wallasey Village, Wallasey.
- (3) That Councillors Sue Taylor, Steve Niblock and Don McCubbin consider the application in respect of Kelsie's, 3-7 Wilbraham Street, Birkenhead.
- (4) That Councillors Sue Taylor, Steve Niblock and Bill Davies consider the application in respect of Wawel, 14 Oxtan Road, Birkenhead.

75 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had 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.

76 218-220 WALLASEY VILLAGE, WALLASEY

The Director of Law, HR and Asset Management reported upon an application that had been received from Laura Colebourne for the grant of a Premises Licence in respect of 218-220 Wallasey Village, Wallasey, under the provisions of the Licensing Act 2003.

The premises, previously known as 'The Local' had a Premises Licence which was surrendered in August 2010. The application for the grant of a Premises Licence was for the following hours:

Supply of Alcohol

Sunday to Saturday

08:00 to 23:00

Hours Open to the Public

Sunday to Saturday

08:00 to 23:00

As part of their application, applicants were requested to submit an operating schedule which sets out how they would conduct/manage their business in accordance with the four licensing objectives. A copy of the full application was available.

Four representations had been received from local residents in respect of this application. The representations related to anti-social behaviour and public nuisance which was a problem when the premises previously had a Premises Licence. The representations also related to anti-social behaviour which was currently a problem within the vicinity of the premises. Copies of the representations were available.

A representation had also been received from Ward Councillors Kate Wood, Lesley Rennie and Paul Hayes. The representation supported the concerns expressed by local residents. A copy of the representation was available.

Merseyside Police had also made a representation concerning the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm and in response to this letters had been received from the applicant's legal representative. A copy of the representation and the letters were available. No other representations had been received from any of the other responsible authorities.

The applicant, Laura Colebourne attended the meeting together with Mr Chahal and Mr Chohan, Solicitor.

Councillor Paul Hayes, Sergeant P Jenkins and local residents Mr Edgar, Mr Delamere and Mr Jones were also in attendance.

The Licensing Officer confirmed that all documentation had been sent and received and that a representation had been received just outside of the consultation period, Mr Chohan had no objections to the latter representation being considered by Members and it was therefore distributed to all parties.

Mr Chohan addressed the Sub-Committee on behalf of the applicant. He referred to the objections raised and pointed out that the objections related to Mr Chahal who was the person funding the premises. He informed Members that Mr Chahal would be bringing business to the area and felt that this would be more acceptable than a derelict building. He reported that the applicant held a Personal Licence and had experience of running an off licence as she had worked with Mr Chahal for ten months. He gave details of measures that would be put in place if the licence were to be granted such as an age check policy, till prompts, shutters at the rear of the premises, CCTV, door security staff and staff training.

Mr Chohan, Ms Colebourne and Mr Chahal responded to questions from Councillor Hayes, Sergeant Jenkins, the local residents in attendance, Members of the Sub-Committee and Mr Abraham, Legal Advisor to the Sub-Committee.

Sergeant Jenkins reported that he had made his objections on the grounds of Mr Chahal's business practice and his associates. Sergeant Jenkins reported upon incidents that had occurred in the past regarding Mr Chahal and informed Members that Merseyside Police could not deny that Mr Chahal had been involved in criminal activities. He further reported that Mr Chahal had apologised for the past incidents and had not come to the attention of Merseyside Police since this.

Sergeant Jenkins responded to questions from Mr Chohan, local residents, Members of the Sub-Committee and Mr Abraham.

Councillor Paul Hayes addressed the Sub-Committee and felt that it was clear from the evidence heard that the applicant would not be in charge of running the premises and that it would, in fact, be the responsibility of Mr Chahal. He therefore urged Members to reject the application.

Mr Delamere informed Members that the premises had been broken into previously and that the premises were located in an area within the vicinity of three secondary schools. He felt that there were already many licensed premises in the area and that this could give the wrong message to children.

Mr Edgar advised that the original objections made by Wallasey Village Community Partnership had been against the hours set out in the original application which had since been amended to the hours applied for above. However he still felt there were too many outlets selling alcohol in the area and that there existed high levels of crime in the area also. He therefore reported that the community wished to object to the application.

Mr Jones reported that Wallasey Village was a hot spot area and was concerned that alcohol would fall into the wrong hands. He referred to an incident that had occurred in Wallasey Village which had been referred to by Merseyside Police as a large scale drink fuelled incident. He had grave concerns that the applicant would not be strong enough to uphold the licensing objectives and would be subject to enormous pressure.

Mr Chohan asked that Members accept the application as he felt that the premises would serve the community and prevent crime rather than increase it and asked that the application be considered on its merits.

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.

Having heard representations from all parties in the matter including Merseyside Police, Councillor Hayes and local residents, Members considered that granting the application to Ms Colebourne would undermine the licensing objectives with regard to crime and disorder, public nuisance and the protection of children from harm.

Evidence was presented that whilst Ms Colebourne was to be the Premises Licence Holder, it would be Mr Chahal who would make most of the business decisions. Members were concerned that Ms Colebourne showed a lack of knowledge in relation to the four basic licensing objectives.

Members noted that Merseyside Police had expressed concern regarding Mr Chahal's involvement in criminal activity.

Members of the Sub-Committee also gave consideration to representations made by residents relating to anti-social behaviour in the area caused by youths intoxicated with alcohol and considered that the granting of the application would undermine the licensing objectives having heard evidence from Merseyside Police in respect of the involvement of Mr Chahal in criminal activities and the competency of Ms Colebourne.

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 218-220 Wallasey Village be refused.

77 KELSIE'S, 3-7 WILBRAHAM STREET, BIRKENHEAD

The Director of Law, HR and Asset Management reported upon an application that had been received from Merseyside Police for the review of a Premises Licence in respect of Kelsie's, 3-7 Wilbraham Street, Birkenhead, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence which had been granted under delegated authority on 21 June 2010 and 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 Licensing Sergeant advised that the grounds for review were in relation to the prevention of crime and disorder as Merseyside Police believed that the premises were encouraging excessive drinking which had resulted in a number of incidents of violence.

Sergeant Jenkins attended the meeting.

Mrs Y McGinn, former Designated Premises Supervisor and Mr M Hellon, lease holder, were also in attendance.

The Licensing Officer confirmed that all documentation had been sent and received and clarified to Members that Ms McGinn was the Licence Holder and Designated Premises Supervisor when the application was received, however she had since requested that she be removed as Designated Premises Supervisor.

Sergeant Jenkins advised that the grounds for review were in order to address increasing problems at the premises. He reported that the premises had been subject to a Closure Notice in December 2010 following an incident that had occurred on the 18 November 2010. Sergeant Jenkins informed Members of the details of the incident which had resulted in a male requiring hospital treatment and five arrests being made. He further reported that Mr Hellon had since been arrested for perverting the course of justice further to this incident and that the CCTV had been seized on 23 December 2010 as it had not been produced and appeared to have been wiped. Sergeant Jenkins maintained that a crime scene of a serious nature had been seriously compromised. Sergeant Jenkins informed Members of further details of incidents that had occurred at the premises since it had opened on 23 July 2010 including an irresponsible drinks promotion and reported that since the premises had opened there had been six arrests made, two people had been assaulted by doormen and there had been two incidents involving bottles. He believed that the premises had been run irresponsibly and that problems would continue unless sanctions were taken immediately. He also believed that Mr Hellon was intent on causing trouble and that management had not and would not take steps to rectify the problems.

Sergeant Jenkins responded to questions from Mr Hellon and Mr Abraham, Legal Advisor to the Sub-Committee.

Mrs McGinn addressed the Sub-Committee and advised that her daughter also held a Personal Licence. She made reference to the irresponsible drinks promotion referred to by Sergeant Jenkins and informed Members that she had been advised that the new laws regarding these promotions would not be coming into effect until October 2010 which is why she continued with it in July although she had been advised against it by Constable Cottrell. She referred to an incident that had occurred on 7 August 2010 and admitted that a male had been assaulted however he had not been glassed. She referred to the incident on 18 November 2010 and reported that Mr Hellon was not at the premises when the trouble started. She challenged allegations that Police Officers had made regarding Mr Hellon upon their arrival as she stated that Mr Hellon had not arrived back at the premises at that point. Mrs McGinn reported that the CCTV had been viewed by officers and therefore felt that they had not been hindered when trying to obtain evidence from the premises. She referred to the fact that Mr Hellon had been arrested on 23 December 2010 and reported that the CCTV would have wiped itself clean by that time after the 30 day period. Mrs McGinn felt that herself, her family and the premises had been under harassment from Merseyside Police.

Mrs McGinn and Mr Hellon responded to questions from Members of the Sub-Committee and Mr Abraham.

Mr Hellon addressed the Sub-Committee. He referred to the incident on 18 November 2010 and the fact that the Police had said he had met them at the door. He reiterated that he was not at the premises at that time. He denied compromising evidence from the incident and stated that the Police had the CCTV and felt that he had been under harassment from the Police. He further confirmed that he had invested a substantial amount of money in to the premises and that this was money still owed to individual creditors.

The Chair reminded Mr Hellon that any allegations of harassment would not form any part of the determination of the application.

The Licensing Officer reported that the premises were currently closed and that Mrs McGinn did not intend to have any further involvement with the premises.

Sergeant Jenkins advised that the evidence had been put before Members of the Sub-Committee and refuted the allegations of harassment.

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.

After giving careful consideration to the application made by Merseyside Police to review the Premises Licence and the representations made in writing and orally at the hearing, Members resolved to impose the conditions listed below on the Premises Licence.

In determining the application Members considered evidence from Merseyside Police in respect of a number of incidents of crime and disorder linked directly to the premises.

Members noted that the premises were not currently trading and were subject to a closure notice.

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 following conditions be attached to the Premises Licence:

- **The premises must only use polycarbonate containers and bottles.**
- **The Designated Premises Supervisor at these premises must hold a Level 3 National Diploma for Designated Premises Supervisors.**
- **No entry to the premises to be permitted after 01:30.**
- **There must be a minimum of 3 SIA Registered Door Supervisors be on duty from 20:00 hours until closing time and that they are also required to be on duty at any private event or function, in which alcohol is supplied.**

- **CCTV must be installed at the premises in accordance with the specification issued by the Licensing Authority. Tapes and visual images recorded shall be retained for a period of 31 days and access to the system must be made available to an authorised officer on request.**
- **There must be a minimum of 3 safety stewards on duty from 20:00 hours until closing and they should be readily identifiable to the public by wearing an arm band or other distinctive marking.**
- **The premises must adopt a Think 25 Policy and display the appropriate posters.**

78 **WAWEL, 14 OXTON ROAD, BIRKENHEAD**

The Director of Law, HR and Asset Management reported upon an application that had been received from Marcin Szostak for the grant of a Premises Licence in respect of Wawel, 14 Oxtan Road, Birkenhead, under the provisions of the Licensing Act 2003.

The premises had not previously been licensed. The application was for the following hours:

Supply of Alcohol

Sunday to Saturday 08:00 to 23:00

Hours Open to the Public

Sunday to Saturday 08:00 to 23:00

As part of their application, applicants were requested to submit an operating schedule which sets out how they would conduct/manage their business in accordance with the four licensing objectives. A copy of the full application was available.

In respect of this application, a representation had been received signed by three Local Residents. The representation related to alcohol related disorder within the vicinity of the premises. Representations had also been received by a local business and a property management company who owned a number of properties on Oxtan Road. These representations related to anti-social behaviour caused by individuals who were intoxicated. Two petitions had also been received signed by a total number of 62 residents/local businesses who were against the application. The representation related to anti-social behaviour caused by individuals who were intoxicated by alcohol within the vicinity of the premises. Copies of the representations and petitions were available.

The applicant, Mr Szostak attended the meeting together with Ms Clarke, Licensing Consultant.

Councillor Phil Davies, Ward Councillor, was also in attendance together with Mr Brennan who was representing tenants in the area.

The Licensing Officer confirmed that all documentation had been sent and received.

Councillor Davies referred to an email he had received from Inspector Blease. Mrs Clarke objected to the late submission of the email and this was therefore not considered by Members.

Mrs Clarke addressed the Sub-Committee and reported that the applicant had been in this country for three and a half years and was attending University where he was studying accountancy. She advised Members that his family were all from the retail business in Poland and had come here to support him, therefore it was a family run business and it was being run responsibly. She informed Members that only Polish beer would be sold at the premises which would be priced over and above the price of beer sold at other outlets. She also informed Members that three different kinds of Polish vodka would be on sale at the premises. She advised that the hours applied for were to accommodate flexibility.

Although the residents' concerns were understood by Mrs Clarke, she informed Members that the area was densely populated and pubs were already situated within the vicinity. She advised Members that the applicant would be servicing a small community of Polish people and offered that the applicant would compromise and reduce the hours open until 10.00 pm.

Mrs Clarke responded to questions from Members of the Sub-Committee.

Councillor Phil Davies reported that he had represented the area for twenty years and that the area was already served by a massive number of outlets selling alcohol. He felt that if the application was to be granted it would exacerbate problems of anti-social behaviour and disorder in Birkenhead. He informed Members that a substantial number of residents from Oxton Road had signed the petition and local residents did not want another licensed premises opening in the area. He felt that it was driving businesses and residents away from the area and asked that Members take note of the very serious problems of anti-social behaviour in the area and consider the application very carefully.

Mr Brennan informed Members that he had owned and managed property in the area for over eight years and reported that there were massive problems in the area regarding anti-social behaviour related to alcohol. He informed Members that the problems were worse during the day than in the evening.

Councillor Phil Davies and Mr Brennan responded to questions from Mrs Clarke.

In determining the matter Members gave consideration to the representations made by local residents and businesses and a Ward Councillor relating to concerns that the sale of alcohol at the premises could exacerbate public nuisance and anti social behaviour within the vicinity of the premises.

Members noted that the applicant would be installing CCTV at the premises and would be implementing a comprehensive training programme for all staff.

Members took into account that no representations had been received from any of the responsible authorities. Members had regard to the statutory guidance, in particular paragraph 13.33 in relation to cumulative impact.

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 Wawel, 14 Oxtan Road, Birkenhead be granted with the following hours:

Supply of Alcohol

Sunday to Saturday 08:00 - 22:00

Hours Open to the Public

Sunday to Saturday 08:00 - 22:00

(3) That the additional condition be attached to the Premises Licence:

- The premises must adopt a Think 25 Policy and display the appropriate posters.

79 **ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR - STREET COLLECTION**

The Director of Law, HR and Asset Management reported upon an application that had been received for a Street Collection Permit from Ben Sutcliffe on behalf of the Caudwell Children Charity which was to take place on Sunday 20 February 2011 at Arrowe Park.

Resolved - That the application for a Street Collection Permit due to take place on Sunday 20 February 2011 at Arrowe Park on behalf of the Caudwell Children Charity be granted.