

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 5 October 2011

Present:

Councillors	S Niblock	M Hornby
	D McCubbin	R Wilkins

39 **APPOINTMENT OF CHAIR**

**Resolved -**

(1) That Councillor S Niblock be appointed Chair to consider the item regarding R S News and Convenience Store, together with Councillors D McCubbin and B Wilkins.

(2) That Councillor B Wilkins be appointed Chair to consider the item regarding the Keg Off Licence, together with Councillors M Hornby and D McCubbin.

40 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members were asked 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.

Councillor S Niblock declared a personal interest in Item 3 (Minute 42 post) by virtue of being acquainted with one of the objectors. The applicant stated they had no objections to Councillor Niblock considering the application.

41 **HOLIDAY INN EXPRESS, THE KINGS GAP, HOYLAKE**

This item was withdrawn prior to the hearing.

42 **R S NEWS AND CONVENIENCE STORE, 6 KING STREET, ROCK FERRY**

The Director of Law, HR and Asset Management reported upon an application that had been received from Narinda Kaur Singh for the grant of a Premises Licence in respect of R S News and Convenience, 6 King Street, Rock Ferry, under the provisions of the Licensing Act 2003.

The application for the grant of a Premises Licence was as follows:

**Sale by Retail of Alcohol**

Sunday to Saturday                      07:00 to 23:00

## **Hours Open to the Public**

Sunday to Saturday                      06:00 to 23:00

Applicants were 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 application be granted.

In respect of the application, five representations had been received from local residents. The representations related to alcohol related anti-social behaviour and public nuisance which was currently a problem within the vicinity of the premises. A copy of the representations were available.

The applicant, Mrs Singh, attended the meeting together with her representative, Mrs Gibbs.

Mrs Smythe and Miss Roberts, local residents, were also in attendance.

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

Mrs Gibbs advised that the application had been made as Mr and Mrs Singh intended to take over the premises and turn it into a convenience store. She reported that the premises had previously been sub-let and run as a green grocers and the aim was to provide a one stop shop and also offer Asian food, beer and wine. Mrs Gibbs informed Members that Mr and Mrs Singh were well experienced and had previously owned a premises in Upton and a premises next-door-but-one to these premises, also that they had been living above the premises for two years and were familiar with customers and neighbours. Mrs Gibbs reported that no representations had been received from Merseyside Police and that after taking into consideration the concerns of local residents, the applicant would be willing to reduce the hours applied for as follows:

## **Sale by Retail of Alcohol**

Sunday to Saturday                      08:00 to 22:00

## **Hours Open to the Public**

Sunday to Saturday                      06:00 to 22:00

Mrs Gibbs responded to questions from Members of the Sub-Committee, Mrs Smythe and Miss Roberts.

Mrs Smythe addressed the Sub-Committee and reported that residents had previously experienced problems in the area due to youths drinking alcohol, however this had improved and she felt that should the licence be granted the problems would re-occur as the premises would provide another outlet for purchasing alcohol.

Miss Roberts reported that the premises had previously held a premises licence some years ago and that she had experienced incidents of anti-social behaviour.

She informed Members that there had also been a drug problem in the area. She advised Members that she objected to the application as she felt these problems would re-occur and she also felt that there were enough licensed premises within the vicinity where alcohol could be purchased.

Mrs Smythe and Miss Roberts responded to questions from Members of the Sub-Committee, Mr Abraham, Legal Advisor to the Sub-Committee and the applicants.

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 Statutory Guidance issued under section 182 of the Licensing Act 2003.

Members of the Licensing Act 2003 Sub-Committee considered representations from local residents regarding the number of licensed premises within the vicinity of these premises and the history of anti-social behaviour within the area. Members also had regard to the fact that there were no representations from the Responsible Authorities, in particular, Merseyside Police.

Members considered that the hours and conditions applied were a proportionate response to the application presented and were necessary for the promotion of the Licensing Objectives.

Members took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

**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 grant the Premises Licence in respect of R S News and Convenience Store, 6 King Street, Rock Ferry, be granted with the following hours:-**

**Sale by retail of Alcohol**

**Sunday to Saturday 08:00 to 22:00**

**Hours Open to the Public**

**Sunday to Saturday 06:00 to 22:00**

**(3) That in addition to the appropriate conditions proposed in the operating schedule, the following conditions be applied to the licence:**

- **The premises must adopt a Challenge 25 Policy and display the appropriate posters regarding this policy.**
- **Staff must receive training on underage sales provided by Wirral Trading Standards. This training must be completed before the premises starts to sell alcohol.**

- **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. Training records must be kept and maintained and made available to any authorised officer upon request.**
- **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 in 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 must only accept a passport, a photo driving licence or PASS accredited identification in support of till checks.**
- **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, glasses and general customer debris. A record of these checks must be maintained and available for inspection by an authorised officer.**
- **CCTV must be installed at the premises at least in accordance with the minimum 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.**

**43 KEG OFF LICENCE, 155-157 NEW CHESTER ROAD, NEW FERRY**

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 the Keg Off Licence, 155-157 New Chester Road, New Ferry, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence to allow the licensable activities as set out within the report.

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 Merseyside Police and the Licensing Sergeant 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 a test purchase operation at the premises. The Licensing Sergeant also advised that he was concerned with the Licence Holder's competence to uphold the licensing objectives.

Sergeant P Jenkins and Constable C Cottrell, attended the meeting.

Mr A Bushell, Trading Standards, was also in attendance.

Mr P Carter, Designated Premises Supervisor was present.

The Licensing Manager reported that all documentation had been sent and received and that further documentation from Merseyside Police had been received and distributed to all parties. CCTV footage from the premises was also available for Members to view.

Members viewed the CCTV footage taken at the premises.

Sergeant Jenkins reported upon the details of the grounds for the review. He referred to an operation that had taken place on 8 August 2011 regarding a test purchasing exercise and the uncooperative behaviour of Mr Carter. Sergeant Jenkins advised Members that he would be content for certain conditions to be attached to the Premises Licence.

Sergeant Jenkins responded to questions from Members of the Sub-Committee, the Licensing Manager and Mr Abraham, the Legal Adviser to the Sub-Committee.

Mr Bushell reported upon the incident that took place on 8 August 2011 regarding the selling of alcohol to a person under the age of 18. He advised that Trading Standards fully supported the view of Merseyside Police and felt that the conditions requested by the Police would be both proportionate and appropriate in these circumstances.

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

In determining the Review application, Members of the Licensing Act 2003 Sub-Committee had regard to the licensing objectives, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003.

In determining the matter Members of the Sub-Committee had regard to the representation provided by Trading Standards and the evidence presented by Merseyside Police which reflected poor management and a lack of knowledge and understanding with regards to the requirements of the Licensing Act 2003 and which had a significant impact on the Licensing Objectives.

Members also took into account evidence received from Merseyside Police relating to alcohol being sold to an under aged person at the premises which seriously undermined the Licensing Objective in respect of the Protection of Children from Harm.

**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 Conditions of the Premises Licence in respect of the Keg Off Licence, 155-157 New Chester Road, Birkenhead, be modified as follows:**

- **CCTV must be installed at the premises at least in accordance with the minimum 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 Merseyside Police and any authorised officer on request. Certified proof of compliance with this specification must be provided to the Licensing Authority no later than 11 November 2011.**
- **The current Designated Premises Supervisor, Paul Carter, must attend a course provided by Trading Standards in relation to the prevention of the sale of alcohol to underage persons no later than 11 November 2011.**
- **A Challenge 25 policy must be implemented at the premises and understood by the Designated Premises Supervisor. Appropriate signs advertising this policy must be displayed within the premises.**
- **A refusals register must be kept and updated and must be readily available for inspection by an authorised officer.**
- **The Designated Premises Supervisor, Paul Carter must hold a BIIAB Level 2 National Certificate for Designated Premises Supervisors no later than 11 November 2011. Any future Designated Premises Supervisor at these premises must obtain such a qualification.**
- **Regular training of all staff must be carried out by the Premises Licence Holder in relation to age restricted sales. This training should be completed at least every 6 months. Written records of the training must be kept and produced to an Authorised Officer upon request.**
- **Till prompts must be installed advising the seller to take the necessary steps to obtain proof of age from any person who could be deemed to be under the age of 18 years.**
- **The premises must only accept a passport, a photo driving licence or PASS accredited identification in support of till checks.**