

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 3 November 2011

Present:

Councillor WJ Davies (Chair)

Councillors G Davies  
D Roberts

E Boulton  
D McCubbin

## 54 APPOINTMENT OF CHAIR

Resolved -

(1) That Councillor W J Davies be appointed Chair to consider the application regarding the Holiday Inn Express together with Councillors G Davies and D Roberts.

(2) That Councillor D McCubbin be appointed Chair to consider the application regarding Monte Carlo together with Councillors G Davies and D Roberts.

(3) That Councillor D McCubbin be appointed Chair to consider the application regarding Smilers Pizza together with Councillors E Boulton and D Roberts.

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

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

No such declarations were made.

## 56 HOLIDAY INN EXPRESS, THE KINGS GAP, HOYLAKES

The Director of Law, HR and Asset Management reported upon an application that had been received from Sanguine Hospitality Management Company Limited for a Premises Licence in respect of the Holiday Inn Express, The Kings Gap, Hoylake, under the provisions of the Licensing Act 2003.

The hours applied for were set out within the report.

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.

Representations had been received in respect of the application from 19 local residents. A representation had also been received from The Parish Church of Hoylake, St Hildeburgh's. The representations related to noise nuisance and anti-social behaviour which they considered was a problem within the vicinity of the premises and the potential for this to increase should the Premises Licence be granted. Copies of the representations were available.

Representations had also been received from Ward Councillors, John Hale and Gerry Ellis. These representations supported the concerns expressed by local residents.

Environmental Health had made a representation regarding public nuisance to residents who live in close proximity to the premises.

Mr Wright and Ms Brannan attended the meeting together with their legal representative Mr Bruder.

Councillor Hale was also in attendance together with local residents, Mr Harrison, Mr Edwards and Mrs Sutherland.

Mr N Joughin, Environmental Health was also present.

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

Mr Bruder addressed the Sub-Committee. He reported that Sanguine Hospitality Management had been in business for five years and already owned several premises. He advised that the intention for this premises was to service the main provision of it being a hotel. He referred to a plan of the premises and reported upon the number of bedrooms and the restaurant and where they were situated, the provision of car parking spaces and the situation of the car park. He informed Members that the predominant aspect of the premises was to serve as a hotel and as a high class restaurant for orders to be placed before 11 pm but also to cater for occasional functions such as weddings and the facility to serve outside these hours. Mr Bruder referred to the fact that no representations had been received from Merseyside Police and that the proposed conditions sought by Environmental Health had been agreed to. He also advised that the General Manager would be available at all times should residents need to address any concerns.

Mr Bruder explained that in operating the premises they were particularly mindful not to cause disturbance to people staying in the hotel.

Mr Wright reported upon procedures in place for staff training including due diligence and health and safety.

Mr Bruder responded to questions from Councillor Hale, Mr Edwards, Mrs Sutherland and Members of the Sub-Committee.

Mr Joughin confirmed that the proposed conditions sought by Environmental Health had been agreed to by the applicant.

Councillor Hale advised Members that although the development was welcomed, he was of the opinion that should the application be granted migration from other premises in the area would occur at a late hour and that this would cause noise and disturbance in the area. He expressed concern regarding problems that may occur should members of the public be allowed to gain access to the premises after midnight and questioned the need to extend the hours beyond 12 midnight. He was also concerned regarding the number of cars at the premises for residents and those attending functions. He believed that Temporary Event Notices should be used for special occasions.

Mr Bruder offered to attach a condition to the Premises Licence which would state that no entry would be permitted to non-residents of the hotel beyond 23:00.

Mr Harrison made representations to Members of the Sub-Committee, he expressed concerns regarding the hours applied for and also referred to concerns regarding the environment.

Mr Edwards reported upon concerns regarding noise nuisance, he advised that the community housed a lot of elderly people and suggested that the premises could use Temporary Event Notices for the first twelve months then re-apply for the Licence should no problems occur within this time.

Mrs Sutherland advised that she had concerns regarding her children being disturbed in the early hours and the potential for this to occur seven days per week.

Mr Joughin advised that Environmental Health would have no input on Temporary Event Notices.

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 gave consideration to representations from local residents and a Ward Councillor regarding concerns that public nuisance could be caused by people migrating to the premises from other licensed premises in the area as well as people leaving the premises at a late hour.

Members noted the proposed condition from the applicant that non-residents to the hotel would not be allowed entry beyond 23:00.

In determining the matter Members took into account the fact that the premises will be operating as a hotel and a restaurant. Members heard evidence from the applicant that the premises would be used on occasions for functions such as weddings and that the application made was to enable them to provide such events.

Members also had regard to the fact that there were no representations from Merseyside Police and that the following conditions proposed by Environmental Health had been agreed to by the applicant.

- No nuisance shall be caused by noise coming from the premises or by vibration noise transmitted through the structure of the premises.

- All external doors and windows must be kept closed when regulated entertainment is being provided except in the event of an emergency and access to or egress from the premises.
- The Licence holder or his representative must conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and must take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record must be made of those assessments in a log book kept for that purpose and must include, the time and date of the checks, the person making them and the results including any remedial action.

**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 the Holiday Inn Express, The Kings Gap, Hoylake, be granted under the provisions of the Licensing Act 2003 with the following hours:**

**Sale by Retail of Alcohol**

**Sunday to Saturday 08:00 to 02:00**

**Hours Open to the Public**

**Sunday to Saturday 08:00 to 03:00**

**Regulated Entertainment (Exhibition of Films, Live Music, Performance of Dance and Anything of a Similar Description)**

**Sunday to Saturday 08:00 to 02:00**

**Regulated Entertainment (Recorded Music)**

**Sunday to Saturday 08:00 to 02:00**

**Entertainment Facilities (Facilities for Dancing and Anything of a Similar Description)**

**Sunday to Saturday 08:00 to 02:00**

**Late Night Refreshment**

**Sunday to Saturday 23:00 to 02:00**

**Non-Standard Timings**

**All of the above Licensable Activities and Hours Open to the Public permitted 24 Hours a day for Residents of the Hotel and their bona-fide guests.**

## **New Years Eve**

**Sale by Retail of Alcohol, Regulated Entertainment and Late Night Refreshment until 04:00**

**Hours Open to the Public until 05:00**

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

- **The premises must not allow access to persons who are not residents of the hotel or their bona-fide guests beyond 23:00.**
- **A notice must be displayed prominently outside the premises advising the public that the premises are only open to non-residents of the hotel up until 23:00.**
- **The premises must encourage customers to remain in the hotel building whilst waiting for transport to leave the premises after attending functions.**
- **The Premises Licence Holder must take all reasonable steps to ensure that public nuisance is not caused by persons drinking or taking bottles and glasses outside of the premises building when night time functions are taking place.**

## **57 MONTE CARLO RESTAURANT, 22-24 MARKET STREET, HOYLAK**

The Director of Law, HR and Asset Management reported upon an application that had been received from Andre Tedesco to vary a Premises Licence in respect of the Monte Carlo Restaurant, 22-24 Market Street, Hoylake, under the provisions of the Licensing Act 2003.

The application to vary the Premises Licence was to remove the following condition currently imposed on the Premises Licence:

- The sale of alcohol must be ancillary to the sale of a substantial meal.

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 licence be granted.

In respect of the application, two representations had been received from local residents. A representation had also been received from The Hoylake, West Kirby and District Society. A petition had also been received signed by 167 local residents who were against the application. The representations related to anti-social behaviour and public nuisance which they stated was currently a problem within the vicinity of the premises. Those making the representations considered that the removal of the condition would change the way the premises operated and would

subsequently lead to an increase in public nuisance. Copies of the representations were available.

The applicant, Mr Tedesco, attended the meeting together with his business partner Mr Thompson.

Councillor Hale, Mrs McKinley and Mr Bullock, local residents, were also in attendance.

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

Mr Thompson advised that the premises had opened as a Mediterranean restaurant and as such the applicant wished to vary the concept of the premises and be able to offer the facility to sell drinks separately.

Mr Thompson responded to questions from Members of the Sub-Committee and Mr Abraham Legal Adviser to the Sub-Committee and Councillor Hale.

Councillor Hale raised concerns regarding residents who lived opposite the premises being disturbed by noise and nuisance.

Mr Thompson advised that the music would be background music and that it would not be in their best interests to cause disturbance to local residents.

Mrs McKinley addressed the Sub-Committee, she reported that she had discussed her concerns with the applicant and that her concerns had been met.

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 gave consideration to representations made by local residents and a Ward Councillor relating to concerns that public nuisance could be caused by customers using the premises as a bar if they did not have to consume a meal. In determining the matter Members noted that residents had discussed their concerns with the applicant and were now content that the primary use of the premises would continue to be as a restaurant.

Members also noted that there were no representations received from any of the Responsible Authorities in particular Merseyside Police and Environmental Health.

**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 in respect of the Monte Carlo Restaurant, 22-24 Market Street, Hoylake, be granted to remove the following condition:**

- **Sale of alcohol must be ancillary to the sale of a substantial meal.**

58 **SMILERS PIZZA, 22 MOUNT PLEASANT ROAD, NEW BRIGHTON**

The Director of Law, HR and Asset Management reported upon an application that had been received from Hajr Hasan for a Premises Licence in respect of Smilers Pizza, 22 Mount Pleasant Road, New Brighton, under the provisions of the Licensing Act 2003.

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

**Late Night Refreshment**

Sunday to Saturday 23:00 to 02:00

**Hours Open to the Public**

Sunday to Saturday 15:00 to 02:00

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.

Five representations had been received from local residents in respect of the application. The representations related to noise nuisance emanating from the premises, particularly from the extractor fan at the premises and from staff of the premises whilst making deliveries. The representations also related to nuisance from smells coming from the premises. Copies of the representations were available.

A representation had also been received from Ward Councillor, Pat Hackett who supported the concerns expressed by local residents. A copy of the representation was available.

Mr Ahmed, an associate of the applicant attended the meeting together with Mr Brennan, the owner of the premises, to outline the application.

Mrs Barnes, Mrs Edwards, Mrs Roberts and Mr Powell, local residents, were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that Mr Brennan wished to submit some photographs. The local residents agreed to the photographs being submitted and they were therefore taken into consideration by the Sub-Committee.

Mr Brennan reported that he wished to amend the hours applied for as follows:

**Late Night Refreshment**

Sunday to Saturday 23:00 to 00:00

**Hours Open to the Public**

Sunday to Saturday

15:00 to 00:00

Mr Brennan reported that he owned the premises and that it had operated as a fast food business since 1999. He advised Members that he understood the concerns of local residents and that he had raised these concerns with the manager of the business and had taken steps to address the concerns raised. He reported that he had contacted Environmental Health who had visited the premises and advised that the noise had been unacceptable. He informed Members that the noise had been caused by vibration from the extractor fan and that extra insulation had been installed as an attempt to address this issue. He advised that a further step could be taken should the noise level remain unacceptable. He referred to the concerns raised by Mrs Roberts and addressed each one in turn. With regard to the planning issue of the shed at the back of the premises, he reported that this was a temporary construction to house refrigeration units. He reported upon the issue of waste regarding the bin store and advised that he would make this larger in order to accommodate all bins including residential bins. He believed that there was no issue with litter in the area and that parking issues were not caused by the premises. He referred to the environmental concerns regarding an orange gas bottle and reported that this had been left by the previous tenant, however he informed Members that this would be removed within 10 days. He was of the opinion that as the business was successful they must be meeting a need, that he understood and accepted some concerns of local residents and that he had reduced the hours originally applied for.

Mr Brennan responded to questions from Members of the Sub-Committee and Mr Abraham, Legal Advisor to the Sub-Committee.

Mrs Roberts referred to the bins permanently situated on the pavement which she believed caused an obstruction, she referred to the temporary structure and the gas bottle which was a potential fire hazard. She raised issues regarding rubbish stored behind the shed which had the potential to attract pests and reported upon a current problem she experienced regarding fruit flies. She also informed Members that there was a parking issue which in turn caused safety issues. She noted the hours applied for had been amended by the applicant, however she raised objections to the business as a whole.

Mr Powell supported the objections raised by Mrs Roberts and advised that there were numerous fast food takeaways in the area to meet local demand.

Mrs Edwards also supported the objections raised by Mrs Roberts and was of the opinion that there was no demand from passing trade in the area.

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 Relevant Guidance issued under Section 182 of the Licensing Act 2003.

Members noted the amendment made to the application by the applicant to reduce the requested terminal hour by two hours. Members gave consideration to the representations made by local residents relating to public nuisance that was currently a concern in respect of noise and litter pollution generated by the premises.

Members also gave consideration to the fact that there were no representations from the Responsible Authorities in particular Environmental Health.



Members noted that a number of the issues raised relating to the trading practices of the premises were the responsibility of other agencies and ongoing enquiries were continuing. Members took into consideration that some action had been taken to resolve noise issues, for example, noise caused by the existing cooking range fume extract system and that this was still subject to monitoring by Environmental Health. The Landlord, Mr Brennan, confirmed that the orange canister to the rear of the premises would be removed within the next 10 days.

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 for a Premises Licence in respect of Smilers Pizza, 22 Mount Pleasant Road, New Brighton, be granted with the following hours:**

**Late Night Refreshment**

**Sunday to Saturday 23:00 to 00:00**

**Hours Open to the Public**

**Sunday to Saturday 15:00 to 00:00**

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

- **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 remains free from general customer debris generated from his/her premises. A record of these checks must be maintained and available for inspection by an authorised officer.**