

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 23 November 2011

Present:

Councillors	G Davies	S Taylor
	D Roberts	R Wilkins
	J Salter	

66 **APPOINTMENT OF CHAIR**

Resolved -

(1) That Councillor G Davies be appointed Chair to consider the application regarding La Bodega together with Councillors S Taylor and B Wilkins.

(2) That Councillor J Salter be appointed Chair to consider the application regarding Cheapest Booze together with Councillors D Roberts and S Taylor.

67 **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, of so, to declare them and state what they were.

Councillors S Taylor and J Salter declared a personal interest in the application regarding Cheapest Booze by virtue of having observed part of operation Gentian.

68 **LA BODEGA, MARKET STREET, HOYLAKE**

The Director of Law, HR and Asset Management reported upon an application that had been received from Gary Laycock and Timothy Herring to vary a Premises Licence in respect of La Bodega, Market Street, Hoylake, under the provisions of the Licensing Act 2003.

The hours applied for regarding the variation were set out within the report. The applicant had also proposed to amend a number of conditions that were currently imposed on the Premises Licence, details of these were also set out within the report.

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, three representations had been received from local residents. A representation had also been received from the Hoylake Residents

Forum. A petition signed by 94 local residents who were against the application had also been received. The representations related to anti-social which was considered to be a problem within the vicinity of the premises. Copies of the representations were available.

A representation had also been received from Ward Councillor, John Hale. The representation supported the concerns expressed by local residents and a copy was available.

The applicant, Mr Laycock attended the meeting together with his legal representative, Mr C Johnson.

Councillor John Hale, Ward Councillor attended the meeting together with Mrs McKinley, Mr Dyson and Mr Bullock on behalf of local residents.

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

The applicant advised Members that he operated other licensed premises on the Wirral and had many years experience within the licensing trade. He gave a brief description of the premises and reported that there had been no incidents of crime and disorder associated with the premises. He further reported that he had been a member of the local Neighbourhood Action Group and had been Chair of Pubwatch. He believed that should the variation be granted, this would add to the economy within the area with minimum disruption to the local community.

The applicant responded to questions from local residents, Councillor Hale, Members of the Sub-Committee and Mr Abraham, Legal Adviser to the Sub-Committee.

Councillor Hale reported that the premises were situated in very close proximity to residential properties. He advised Members that local residents had experienced noise and nuisance in the area. He requested that the variation to the hours and conditions be refused.

Mr Dyson believed that there were too many bars in a largely residential area and that problems occurred when people gathered outside after closing due to noise nuisance. He believed that should the variation be granted the situation would be made worse by the occurrence of noise nuisance later at night and that this would be extremely detrimental to residents.

Mrs McKinley expressed her concerns regarding noise nuisance late at night which would be exacerbated should the variation be granted and the close proximity of local residents to the premises. She also referred to the cumulative impact of noise from the licensed premises within the vicinity and requested that the variation of hours and conditions be refused.

Mr Bullock reported that he had experienced low-level anti-social behaviour in respect of vandalism to his premises. He expressed concerns regarding migration to the premises at a later hour should the variation be granted and noise nuisance late at night.

The local residents and Councillor Hale responded to questions from Members of the Sub-Committee, the applicant and his legal representative.

Mr Johnson invited the comments of Mr Raybold, Co-ordinator of Wirral Pubwatch Scheme.

Mr Raybold addressed the Sub-Committee and reported that Mr Laycock had been engaged in the scheme since its inception. He also reported that there had been no reported incidents in Hoylake within the past four months.

Mr Raybold responded to questions from local residents, Councillor Hale and Members of the Sub-Committee.

Mr Johnson referred to the Statutory Guidance issued under the Licensing Act 2003. He pointed out that no objections had been received from Merseyside Police or Environmental Health and asked that the variation be granted as requested.

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 general concerns of licensed premises being open beyond 00:30 within Hoylake. Members noted that the concerns related to a perception that anti-social behaviour and noise nuisance may be caused if the application was granted.

Members took into account that there was no evidence presented linking the premises directly to any incidents of public nuisance or disorder within the vicinity of the premises.

Members had regard to the fact that there were no representations from any of the Responsible Authorities, in particular Merseyside Police and Environmental Health and that the evidence presented by those objecting to the application was not specifically related to these premises.

Members also had regard to representations relating to 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 considered the representations made by the applicant in respect of his experience in managing licensed premises, his contribution to the local Pub Watch Scheme and his undertaking to ensure that the premises would be operated in a responsible manner so as not to cause nuisance to residents and that should any issues be brought to his attention they would be dealt with accordingly.

Members also 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 or variation 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 vary the Premises Licence under the provisions of the Licensing Act 2003, in respect of La Bodega, be granted with the following hours:-

Sale by Retail of Alcohol

Sunday to Thursday 11:00 to 00:00 (unchanged)

Friday and Saturday 11:00 to 01:00

Hours Open to the Public

Sunday to Thursday 09:00 to 00:30

Friday and Saturday 09:00 to 01:30

Regulated Entertainment (Live Music)

Sunday to Thursday 11:00 to 00:00

Friday and Saturday 11:00 to 01:00

Regulated Entertainment (Recorded Music)

Sunday to Thursday 09:00 to 00:00

Friday and Saturday 09:00 to 01:00

Late Night Refreshment

Sunday to Thursday 23:00 to 00:00

Friday and Saturday 23:00 to 01:00

(3) That the application regarding Non-Standard Timings be refused.

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

- No persons must be allowed to enter the premises beyond 00:00 on Fridays and Saturdays.
- Two SIA registered door supervisors must be employed from 23:00 on Fridays and Saturdays.
- Staff must ensure that customers leave the premises quietly.
- No glasses or bottles must be taken from the premises.
- Customers wishing to leave the premises after 00:00 must leave the premises via the exit on Albert Road.

- **The outside area on Albert Road must be cleared by 23:00.**
- **Customers must only use the outside area at the rear of the premises for smoking after 23:00.**
- **All external doors and windows must be kept closed when regulated entertainment is being provided except in the event of an emergency and to allow access to or egress from the premises.**
- **The licence holder or his/her representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.**

69 THE COURTYARD, 7-9 ROSE MOUNT, OXTON, CH43 5SG

This application had been withdrawn prior to the hearing.

70 CHEAPEST BOOZE, 7 DAWPOOL DRIVE, BROMBOROUGH

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 Cheapest Booze, 7 Dawpool Drive, Bromborough, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence that allows the sale of alcohol and are open to the public for the following hours:

Sunday to Saturday 07:00 to 22:00

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, Merseyside Police advised that the grounds for review were in relation to the premises being linked to criminal activity and alcohol being sold to a person under the age of 18 years. He considered that the criminal activity linked to the premises and the alcohol being sold to an underage person seriously undermined the licensing objectives in particular the prevention of crime and disorder and the protection of children from harm.

Sergeant P Jenkins attended the meeting.

Mr Nadesapillai, Premises Licence Holder, was also in attendance.

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

Sergeant P Jenkins stated that an employee at the premises had sold alcohol to an underage person. He also reported that an illegal immigrant had been found working at the premises who had assumed the identity of the Designated Premises Supervisor when questioned about his identity by Merseyside Police. Sergeant Jenkins advocated that the circumstances of this particular case were serious and therefore requested that the Premises Licence be revoked, failing this, that a number of conditions be attached to the Premises Licence.

Sergeant Jenkins responded to questions from Members of the Sub-Committee.

The Premises Licence Holder made his representations and 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 considered 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.

Resolved (2:1 Councillor S Taylor voting against) -

(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 in respect of Cheapest Booze, 7 Dawpool Drive, Bromborough:

- The Designated Premises Supervisor must receive training from Trading Standards regarding the prevention of selling alcohol to persons under 18 years no later than 27 January 2012. Any future Designated Premises Supervisor must receive such training within two months of being appointed Designated Premises Supervisor.**
- The premises must operate a Challenge 25 Policy and display the appropriate posters. All staff must be trained on this policy.**

- **A refusals register must be kept and updated and be made readily available for inspection by any relevant authority. This register must be checked regularly by the Designated Premises Supervisor or the Premises Licence Holder who must sign the log after each check. All staff must be trained to ensure that they know what a refusals log is and where it is kept.**
- **The Designated Premises Supervisor at these premises must hold a minimum of a Level 2 Award for Designated Premises Supervisors no later than 27 January 2012.**
- **Till prompts must operate at the premises to alert staff to check the age of customers when selling alcohol.**
- **Details of all new staff must be presented to Wirral Police Licensing in order that their details, if necessary, be passed to the UK Border Control Agency for their information and in order that the requisite checks may be conducted. Any documentation pertaining to such persons must also be presented to Merseyside Police for examination and any necessary checks.**
- **Employment records of any staff must be available for the inspection of any of the relevant Authorities.**
- **CCTV must operate at the premises at least in accordance with the minimum specification issued by the Licensing Authority. Tapes and visual images recorded must be retained for a period of 31 days and must be handed to an Authorised Officer on request.**