

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 8 March 2012

Present:

Councillors	S Niblock	E Boulton
	J Salter	A Sykes

117 **APPOINTMENT OF CHAIR**

Resolved -

(1) That Councillor J Salter be appointed Chair to consider the applications regarding the Grant of a Personal Licences together with Councillors E Boulton and S Niblock.

(2) That Councillor S Niblock be appointed Chair to consider the application regarding the Old Tavern Club together with Councillors E Boulton and A Sykes.

118 **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.

119 **EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

Resolved - That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following two items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test had been applied and favoured exclusion.

120 **APPLICATION FOR THE GRANT OF A PERSONAL LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 (DC)**

The Director of Law, HR and Asset Management reported upon an application received from DC for a Personal Licence under the provisions of the Licensing Act 2003.

The report was exempt because it contained sensitive and personal information regarding the individual concerned.

It was reported that under the provisions of the Licensing Act 2003 the Licensing Authority must seek guidance from the Police if the applicant is convicted of a

relevant offence. An Objection Notice had been received in respect of the application on the grounds that the applicant had been convicted of a relevant offence. A copy of the Notice of Objection was available.

The applicant did not attend the meeting.

**Resolved - That the applicant be instructed to attend a future meeting of the Licensing Act 2003 Sub-Committee should he wish to pursue his application.**

121 **APPLICATION FOR THE GRANT OF A PERSONAL LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 (FR)**

The Director of Law, HR and Asset Management reported upon an application received from FR for a Personal Licence under the provisions of the Licensing Act 2003.

The report was exempt because it contained sensitive and personal information regarding the individual concerned.

It was reported that under the provisions of the Licensing Act 2003 the Licensing Authority must seek guidance from the Police if the applicant is convicted of a relevant offence. An Objection Notice had been received in respect of the application on the grounds that the applicant had been convicted of a relevant offence. A copy of the Notice of Objection was available.

The applicant attended the meeting and made representations in support of his application.

Sergeant P Jenkins and Constable R Jones attended the meeting. Sergeant Jenkins made representations regarding the Objection Notice submitted by Merseyside Police.

Sergeant P Jenkins and the applicant responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Members gave careful consideration to the application for a Personal Licence and the Objection Notice submitted by Merseyside Police and in doing so referred to the Statutory Guidance issued under Section 182 of the Licensing Act 2003, in particular, paragraph 4.9.

Members also had regard to the representations made by the applicant and noted that he was involved in 6/7 restaurant businesses on the Wirral. In determining the matter, Members had to consider whether there were exceptional or compelling circumstances to justify the granting of the application.

Members had concerns regarding the seriousness of the offence referred to by Merseyside Police, namely affray, which resulted in a violent attack on an individual by the applicant and two co-accused and which resulted in a 6 month prison sentence suspended for two years.

Members did not consider that exceptional or compelling circumstances had been presented in order to justify granting the application.

**Resolved - That the application made by FR for the grant of a Personal Licence be refused under the provisions of the Licensing Act 2003.**

122 **OLD TAVERN CLUB, MAGAZINE LANE, WALLASEY**

The Director of Law, HR and Asset Management reported upon an application that had been received from Stephen Cooley to vary a Premises Licence in respect of the Old Tavern Club, Magazine Lane, Wallasey, under the provisions of the Licensing Act 2003.

The application to vary the Premises Licence was as follows:

**Supply of Alcohol**

Friday and Saturday                      20:00 to 03:00

**Hours Open to the Public**

Friday and Saturday                      20:00 to 03:00

**Regulated Entertainment (Live Music and Performance of Dance)**

Friday and Saturday                      20:00 to 02:00

**Regulated Entertainment (Recorded Music)**

Friday and Saturday                      20:00 to 03:00

**Entertainment Facilities (Facilities for Dancing)**

Friday and Saturday                      20:00 to 03:00

The applicant had submitted an operating schedule setting out how the business would be conducted/managed 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 petition signed by 86 local residents who were against the application had also been received. The representations related to anti-social behaviour and noise nuisance caused by customers of the premises.

Representations had been received from Ward Councillors, Councillors Hackett and Taylor. The representations supported the concerns expressed by local residents.

Environmental Health had also made a representation due to a complaint received from a local resident and a subsequent visit made to the premises regarding noise coming from the smoking shelter at the premises. The complaint also related to noise from entertainment escaping from the premises whilst customers opened the door leading to the shelter.

Copies of all representations were available at the meeting.

The applicant, Mr Cooley, attended the meeting together with Mr Cooley Junior and Mr Thory, employee.

Mr N Joughin, Environmental Health Officer was in attendance.

Also in attendance were Mrs Maxwell, Mr O'Callaghan, Mrs Harty and Mr Pritchard, local residents.

The Licensing Manager confirmed that all documentation had been sent and received and that both parties had requested that Members view further information by way of CCTV submitted by the applicant and a video recording submitted by Mrs Maxwell. Mr Pritchard had also requested to submit further information. The applicant was content for this to be considered and this was therefore distributed to Members.

Members viewed the footage submitted by the applicant and Mrs Maxwell. Mrs Maxwell subsequently left the meeting due to work commitments.

The Licensing Manager informed Members of apologies received from Councillor S Taylor who wished to attend the meeting but was unable to do so.

Mr Cooley addressed the Sub-Committee and advised that the reason for the application was in order to keep the business afloat. He refuted the suggestion that a number of complaints had been made regarding the premises and believed that he could have been contacted regarding any concerns. He referred to the CCTV footage of people leaving the premises and believed the noise on Seabank Road late at night was due to revellers from New Brighton. He reported that CCTV cameras were installed inside and outside the premises and door supervisors were employed who prevented noise nuisance. He informed Members that he had operated until 3 am every weekend since November with the use of Temporary Events Notices and had not experienced any problems. He also believed that the club was run well and that it offered a unique facility for people of all ages.

Mr Cooley responded to questions from Members of the Sub-Committee, Mr Abraham, Legal Adviser to the Sub-Committee and local residents.

Mr Joughin reported that he had received a complaint from a local resident regarding noise emanating from the smoking shelter. He advised that he had visited the premises and recommended certain works be carried out on the smoking shelter. He informed Members that this work had since been completed and after visiting the premises on two occasions was satisfied that no noise was emanating from the smoking shelter.

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

Mr O'Callaghan addressed the Sub-Committee. He expressed his concerns regarding noise nuisance late at night caused by customers leaving the premises. He requested that the application be refused.

Mrs Harty informed Members of the noise nuisance and sleep deprivation she had experienced due to noise emanating from people gathering outside the premises at a late hour.

Mr Pritchard informed Members of the noise and disturbance suffered by local residents and believed that noise levels and anti-social behaviour would be unbearable should the application be granted. He reported that the premises were situated in a residential area which was densely populated and asked Members to refuse the application and support and protect local residents.

Mr Pritchard responded to questions from the applicant.

In determining the application the Licensing Act 2003 Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy, in particular, paragraph 8.1 and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

Members heard representations in support of the application from Mr Cooley, the Premises Licence Holder and Designated Premises Supervisor, Mr Cooley Junior, and Mr Thory, an employee at the premises.

Members also heard evidence from local residents and considered written representations from Ward Councillors, Sue Taylor and Pat Hackett regarding public nuisance caused by customers leaving the premises at a late hour.

Members considered the representation from Mr Joughin, Environmental Health Officer, regarding noise from regulated entertainment emanating from the smoking area situated at the rear of the premises which had resulted in the applicant carrying out works to the satisfaction of Mr Joughin in preventing such noise nuisance.

Members viewed the CCTV footage installed at the premises and noted that individuals who had left the premises nevertheless continued to congregate in the vicinity of the premises at a late hour.

Members considered evidence from residents that should the application be granted, this would create further disturbances at a later hour than was already being caused by customers outside the premises.

Members noted that whilst the applicant sought to provide consumers with greater flexibility, it was also an important consideration that this be balanced carefully against the duty to promote the licensing objectives, in particular, the prevention of public nuisance. Members had regard to the location of the premises which were situated in a residential area.

In light of the above, Members considered that the Licensing Objective in respect of the Prevention of Public Nuisance would be undermined should the application be granted and believed there would be no conditions that could be imposed on the Premises Licence that would alleviate the problems if the extended hours were granted.

**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 Old Tavern Club be refused.**