

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 31 May 2012

Present:

Councillors D McCubbin
 A Hodson
 S Niblock
 J Salter

1 **APPOINTMENT OF CHAIR**

Resolved -

(1) That Councillor A Hodson be appointed Chair to consider the item regarding Club Zu together with Councillors D McCubbin and S Niblock.

(2) That Councillor S Niblock be appointed Chair to consider the item regarding Paradise Pizza and Kebab Shop together with Councillors D McCubbin and J Salter.

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

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

No such declarations were made.

3 **APPLICATION TO REVIEW A PREMISES LICENCE - CLUB ZU, 28 OLIVER STREET EAST, 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 Club Zu, 28 Oliver Street East, Birkenhead, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence which 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 application had been submitted by Merseyside Police and the Licensing Sergeant advised that the grounds for review were in relation to the prevention of crime and disorder and public safety due to the illegal abstracting of electricity at the premises.

Sergeant P Jenkins and Constable R Jones, Merseyside Police, attended the meeting.

Ms N Diable, the Premises Licence Holder was also in attendance.

The Licensing Officer reported that all documentation had been sent and received and that further documentation received from Merseyside Police had been circulated prior to the meeting.

Sergeant Jenkins outlined the application for review. He reported that a number of breaches of the Premises Licence had been identified subsequent to a visit made to the premises on 31 March 2011. He reported that due to a clear family connection between this premises and a premises that had previously had its Premises Licence revoked due to having an illegal gas supply, a warrant was obtained. On a visit made on 5 April 2012 it was discovered that the electricity meter at Club Zu had also been interfered with and that electricity had been abstracted from the premises. He gave details of an interview that had taken place with Ms Diable when she stated that she had been the Premises Licence Holder of Club Zu since the end of November 2011 and fully accepted that she had illegally abstracted electricity as she had used it and not paid for it. Sergeant Jenkins advised that there was an ongoing criminal investigation into the matter and that Ms Diable was currently on Bail. He confirmed that the amount stolen was very substantial. He reported that a crime had been committed and the licensing objective of crime and disorder had clearly been compromised. He believed there would be no conditions that could be added to the Premises Licence. He therefore requested that the Premises Licence be revoked.

Ms N Diable requested to submit a written statement. Sergeant Jenkins had no objections to this and it was therefore considered by all parties.

The Chair asked whether Ms Diable wished to add anything verbally to her written statement, however Ms Diable declined the opportunity to do so.

Ms Diable responded to questions from Members of the Sub-Committee, Mr Abraham, Legal Advisor to the Sub-Committee and Sergeant Jenkins.

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence at Club Zu, 28 Oliver Street East, Birkenhead and the representations made by Nichola Diable, the current Premises Licence Holder.

In determining the review application, Members 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 particular, paragraphs 11.25 - 11.31.

Members accepted the evidence provided by Merseyside Police that the electricity supply at the premises had been unlawfully tampered with and extracted and that there had not been a recognised supply of electricity to the premises since 2007. Members therefore noted that Merseyside Police had major concerns in respect of the licensing objectives of public safety and crime prevention regarding this.

Members heard representations from Nichola Diable, the current Premises Licence Holder and her admission that as Premises Licence Holder she was responsible for the premises and also that she rented the premises from her father and Ged Wilson. Members noted that Nichola Diable had been the Premises Licence Holder since November 2011 and that in her statement dated 11 October 2010 she also stated that she was managing the premises at this time and therefore her involvement with the business extended beyond November 2011.

Members also accepted the evidence from Merseyside Police by way of an interview undertaken with Nichola Diable when she admitted that she had not registered with any electricity supplier since she had become Premises Licence Holder at the premises that she had abstracted electricity and had used electricity at the premises which had not been paid for.

In light of the above, Members considered that placing conditions on the Premises Licence would not be appropriate. Therefore, Members considered it necessary for the promotion of the licensing objectives, in particular, the prevention of crime and disorder and public safety, to revoke the 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 Premises Licence in respect of Club Zu, 28 Oliver Street East, Birkenhead be revoked.

4 APPLICATION FOR THE GRANT OF A PREMISES LICENCE - PARADISE PIZZA AND KEBAB SHOP, 110 WALLASEY ROAD, WALLASEY

The Director of Law, HR and Asset Management reported upon an application that had been received from Ali Yesildag for a Premises Licence in respect of Paradise Pizza and Kebab Shop, 110 Wallasey Road, Wallasey, under the provisions of the Licensing Act 2003.

The application was for the grant of a new Premises Licence with the hours outlined 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.

A representation had been received from Central Liscard Area Residents Association. A petition had also been received signed by 52 local residents. Two representations had also been received from local residents. The representations related to anti-social behaviour and noise nuisance caused by customers of the premises. Copies of the representations and petition were available.

Ward Councillor, Bernadette Mooney had also made a representation which supported the concerns expressed by local residents.

Following consultation with Merseyside Police, the applicant had agreed to conditions being imposed on the Premises Licence should the application be granted.

The applicant, Mr Yesildag, attended the meeting together with Ms Keeley who acted as interpreter.

Ward Councillor, Darren Dodd was in attendance together with Mr D Hale, Chair, and Mr G Sanson, Member, Central Liscard Area Residents Association.

The Licensing Officer confirmed that all documentation had been sent and received and that a written request had been received from Central Liscard Area Residents Association for Councillor Dodd to speak on their behalf.

The applicant explained the reasoning behind his application which was due to the business suffering economically over the past two years. He advised that customers had previously requested whether alcohol was available at the premises. He informed Members that he had been at the premises for a number of years and that local residents had no problems with the way the shop was run.

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

In response to a question from Mr Hale, Members of the Sub-Committee confirmed that they had read his written submission.

Councillor Dodd reported that a number of residents had raised concerns regarding the increasing number of licensed premises in Liscard and that they were concerned about the increase in the number of people in the area late at night causing noise and anti-social behaviour. He believed that should the application be granted this would be a magnet for consumers to buy alcohol at a later hour. He also raised concerns about the sale of alcohol to persons under the age of 18.

Mr Hale referred to his written representations and stated that residents believed that saturation point had been reached in Liscard and that they had concerns regarding the area receiving a poor reputation.

Mr Sanson reported that residents were opposed to the application as they were concerned about the spread of availability of alcohol in the area.

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

Members sought clarification regarding a proposed condition outlined in the operating schedule which stated that no children would be allowed in the shop after 7pm unless accompanied by an adult. The applicant stated that he wished to withdraw the proposed condition.

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 made by the Central Liscard Area Residents Association and a Ward Councillor relating to concerns that if the application was to be granted this would cause anti-social behaviour within the vicinity of the premises and make alcohol available to persons under the age of 18.

Members noted that Merseyside Police, in consultation with the applicant, had proposed a number of conditions to address the concerns raised and promote the Licensing Objectives in relation to the prevention of crime and disorder and the protection of children from harm.

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

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 Paradise Pizza and Kebab Shop, 110 Wallasey Road, Wallasey, be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Thursday 17:00 to 01:00
Friday and Saturday 17:00 to 04:00

Alcohol sales made after 23:00 would be for delivery orders only

Hours Open to the Public

Sunday to Thursday 17:00 to 01:00
Friday and Saturday 17:00 to 04:00

Late Night Refreshment

Sunday to Thursday 23:00 to 01:00
Friday and Saturday 23:00 to 04:00

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

- **The premises must operate a refusals book which must be available for inspection by an Authorised Officer upon request.**
- **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.**
- **The Premises must adopt a Challenge 25 policy and display appropriate posters and signage. All staff must be trained on this policy and a record of this training must be kept and be made available to an Authorised Officer on request.**
- **The Challenge 25 Policy must be adhered to when alcohol is sold ancillary to a food delivery order. Any person appearing to be under the age of 25 years at the point of delivery/sale must be asked for ID before delivery is made. This policy must be clearly displayed on all literature.**
- **When any telephone order is taken for food, where alcohol is ancillary to the order, the Challenge 25 policy must be made clear to the purchaser.**
- **Sales of alcohol must only be made when meal(s) are purchased.**
- **Proof of age must be requested upon delivery.**
- **There must be no sale of strong strength alcohol on the premises with an ABV of 7% and above.**
- **Delivery must only be made to dwellings and other buildings. No delivery to be made to persons in the open air.**
- **The only acceptable forms of ID are a passport, photo driving licence or other PASS accredited ID.**