

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 16 April 2015

Present:

Councillors M Hornby
L Reecejones
D Roberts

57 APPOINTMENT OF CHAIR

Resolved – That Councillor M Hornby be appointed Chair for this meeting.

58 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Sub-Committee were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

59 APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - NEWS AND BOOZE, 264-266 CONWAY STREET, BIRKENHEAD

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Sukhdeep Thiara to vary a Premises Licence in respect of News and Booze, 264-266 Conway Street, Birkenhead, under the provisions of the Licensing Act 2003.

The variation requested was to remove the following condition:

- Beer or cider with an ABV above 6% must not be sold at the premises.

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.

Representations had been received from Wirral Licensing Authority, Trading Standards, Environmental Health, Public Health and Merseyside Police. The representations related to a number of concerns that the removal of the condition would lead to all four Licensing Objectives being undermined. Copies of the representations were available.

The applicant attended the meeting together with his father and his legal representative, Mr Chris Johnson.

Mr A Bushell, Licensing Operations Manager, Sergeant S Barrigan, Merseyside Police, Ms H Jones, Senior Assistant Trading Standards Officer, Mr J Hardwick, Environmental Health Officer, Mr G Hill, Public Health Manager, Ms T Cavanagh,

Public Health Advisor and Mr G Rickwood, Senior Public Health Manager were also in attendance to speak on behalf of the representations that had been submitted.

The Licensing Manager confirmed that all documentation had been sent and received and that some plans and maps were available for distribution at the appropriate time.

Mr Johnson addressed the Sub-Committee and advised that he had represented the previous licence holder of the premises when the Licence had been revoked. He stated that in his mind there was no question at that time that the Licence should be revoked because the premises were troublesome. He informed Members that the Premises Licence had been granted on appeal on 13 November 2013 and explained that it was considered appropriate to have the condition restricting the sale of super strength beers and ciders at the premises due to evidence provided by local residents and Ward Councillors of alcohol related anti-social behaviour within the vicinity of the premises that was also linked to street drinking.

The applicant advised that people regularly come into the premises asking for beers and ciders above 6% ABV which he has to refuse. The applicant further advised that the reason he wanted the condition to be removed was to increase his profits and compete with other retailers in the area.

The applicant and Chris Johnson responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and the Responsible Authorities in attendance.

Mr A Bushell provided a chronology of events since the previous Premises Licence had been revoked. He advised that at the time he submitted his representation, a follow up visit to the premises had been due to take place. He reported that this visit had now taken place and during the visit it had been demonstrated that the CCTV was still not fully compliant with the licensing conditions. Mr Bushell stated that it was the view of the Licensing Authority that the removal of the condition not to sell beer or cider above 6% ABV would undermine the Licensing Objectives of the prevention of crime and disorder and the prevention of public nuisance and therefore requested that the application be refused.

Sergeant S Barrigan reported that since the Premises Licence had been granted, a number of incidents had been reported to the Police and the conditions of the Premises Licence had been breached. He informed Members that he had advised the applicant that he must apply for a variation should he wish to pursue being allowed to sell stronger beers and cider but made him aware that he may receive objections from Councillors and residents and that the application to remove the condition in respect of strong beers and cider would not be supported by Merseyside Police. Sergeant Barrigan advised Members that a number of premises within the vicinity of these premises had been invited to participate in a campaign called 'Reducing the Strength' which aims to tackle the harm and anti-social behaviour linked to high strength beers and ciders. He also reported that an underage sale had been made at the premises on 23 January 2015 and there had been a lack of compliance with the licensing condition in respect of CCTV at the premises. Members were also advised that the Licence Holder had not co-operated fully with Police requests to provide CCTV evidence. Sergeant Barrigan expressed his concerns that the approval of the application would result in the licensing objectives being undermined and requested that the application be refused.

Ms H Jones referred to the underage sale that had taken place at the premises on 23 January 2015 and advised Members that this had been made despite the systems that were in place to stop the sale of alcohol to a person under the age of 18, namely training which had previously been provided, Challenge 25 Policy and the till prompt. Ms Jones expressed concerns that introducing the sale of beers and ciders with an ABV of 6% or more would attract a new group of customers to the shop which would include children. She believed that the removal of the condition would undermine the Licensing Objectives.

Mr J Hardwick advised Members that seven premises in the area had voluntarily signed up to the Reducing the Strength campaign out of the eighteen premises that had been visited. He circulated a map which displayed the hotspot areas for anti-social behaviour in 2014 and advised that it was these areas that were being addressed in respect of the campaign. He advised Members that through the campaign it was hoped to improve the quality of life for the community and requested that the application be refused.

Ms T Cavanagh also referred to the Reducing the Strength campaign and advised Members that Wirral was currently working to limit the availability of cheap 'super strength' beers and ciders by way of implementing the campaign. Ms Cavanagh reported that these products were particularly linked with street drinkers and young persons and were a significant contributory factor in the harm experienced by the individual consuming this type of alcohol and their communities because of consequences such as anti-social behaviour. She provided data in respect of alcohol related hospital admissions and death rates and referred to the alcohol attributable health costs to the NHS. She advised Members that Public Health had profiled the postcode of these premises which revealed it to be in the top rank for alcohol hospital admissions and deprivation in health terms.

The representatives of the Responsible Authorities responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

In response to questions from Members, Mr Hill, Public Health, advised that there was very strong evidence in other parts of the country that reducing the ABV of beers and ciders also reduces anti-social behaviour and improves life for the community. Sergeant Barrigan agreed with this and provided figures in respect of the number of incidents that had occurred in the area from January 2012, how many of these were alcohol related and how many calls had been received in respect of these premises which showed an increase in the number of calls received regarding the premises.

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 heard from each of the Responsible Authorities that it was their view that if the condition was removed, there would be an increase in alcohol related anti-social behaviour within the vicinity of the premises. Each Responsible Authority had given their expert view of the impact of the sale of super strength lagers and beers. Members heard from Trading Standards and Public Health that young people were particularly attracted to premises selling this type of alcohol. Merseyside Police and

Environmental Health also provided evidence that street drinkers were attracted to premises selling this type of alcohol and it was the opinion of Merseyside Police that the consequence of this was an increase in alcohol related anti-social behaviour.

In determining the application Members took into consideration the reason why the condition had been placed on the Premises Licence along with the evidence provided by the Responsible Authorities relating to the pattern of alcohol related anti-social behaviour within the 7 Beats area and the two Police beats upon which the premises bordered.

Members had regard to their own Licensing Policy which expected licence holders to demonstrate knowledge of their local area and adopt appropriate conditions to promote the licensing objectives taking into consideration the area in which the premises is located.

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 News and Booze, 264-266 Conway Street, be refused.

60 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - POULTON POP IN, 411-413 POULTON ROAD, WALLASEY**

The Strategic Director of Regeneration and Environment reported upon an application that had been received by a local resident to review the Premises Licence in respect of Poulton Pop In, 411-413 Poulton Road, Wallasey.

The premises currently hold a Premises Licence which allows the sale of alcohol for consumption off the premises only.

The Strategic 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 appropriate 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 appropriate if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The application had been received from Merseyside Police and they advised that the grounds for review related to the premises knowingly employing an individual who could not lawfully be employed in the UK which had led to the licensing objective of

the prevention of crime and disorder being undermined. A copy of the representation was available.

The Premises Licence Holder, Mr Krishnabalan, attended the meeting with his representative Mr Douglas.

Sergeant S Barrigan also attended the meeting.

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

Sergeant Barrigan reported upon a visit made to the premises on 17 September 2014 where it was found that an individual had been working at the premises who did not have permission to work in the UK. Sergeant Barrigan referred to an interview that had taken place with an Immigration Officer during which Kanagarathinam had admitted to working in the shop for two to three months and that he had been given the job by his brother-in-law, Paheerathan who had subsequently been issued a £10,000 penalty by the Home Office in December 2014. Sergeant Barrigan referred to paragraphs 11.27 and 11.28 of the Statutory Guidance issued under Section 182 of the Licensing Act 2003 as it was his opinion that as the crime and prevention licensing objective had been undermined, serious consideration should be given to revoking the Premises Licence.

Sergeant Barrigan referred to other occurrences at the premises which had given cause for concern that the licensing objectives had not been upheld, namely the refusal to provide CCTV upon request and the sale of alcohol to a person under the age of 18 years.

Sergeant Barrigan referred to the review and whether an illegal immigrant had been knowingly employed at the premises. He cited the definition of 'knowledge' from the Home Office Guidance 2013. Sergeant Barrigan expressed his disappointment in respect of the fact that the new Designated Premises Supervisor was not in attendance at the meeting and therefore was unable to respond to any questions.

Mr Douglas did not dispute the outcome of the visit made to the premises by the Police on 17 September 2013, however, he advised Members that Mr Krishnabalan, the Premises Licence Holder, did not know that a person who was not entitled to work in the UK had been working at the premises as he lived in London at the time and had appointed a Designated Premises Supervisor to run the business. He believed the Premises Licence Holder could not be held liable for failings at the premises. Mr Douglas did not dispute the underage sale made at the premises and referred to the incident in respect of the CCTV stating that this could not be downloaded. He referred to the penalty issued by the Home Office and advised that this had been reduced to £7,000 and that the Premises Licence Holder and Designated Premises Supervisor were jointly liable. Mr Douglas advised Members that the business partnership had now been dissolved and that a new Designated Premises Supervisor had been appointed at the premises and asked that the Premises Licence be modified with conditions and not be revoked.

Mr Douglas and Mr Krishnabalan responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

In response to questions from Members, Mr Douglas was requested to clarify in writing a staff rota for the premises and who lived above the premises.

A short adjournment took place.

The meeting reconvened and a staff rota was distributed to Members together with the names of the individuals who lived above the premises.

Mr Douglas and Mr Krishnabalan responded to questions from Sergeant Barrigan.

Mr Douglas informed Members that new staff would be in place at the premises and believed that the revocation of the Premises Licence was unnecessary.

Sergeant Barrigan requested that the Premises Licence be revoked. He accepted that an illegal immigrant had been employed by a person who was no longer involved with the premises, however, he believed that employers retained the responsibility to make the necessary checks on individuals working at the premises. He referred to paragraphs 11.27 and 11.28 of the Statutory Guidance issued under the Licensing Act 2003 and requested Members to give serious consideration to the revocation of 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 meeting be adjourned to Wednesday 22 April 2015 in order that the Designated Premises Supervisor may attend.