

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 26 November 2008

Present:

Councillor H Smith (Chair)

Councillors D Roberts

A Taylor

47 **APPOINTMENT OF CHAIR**

Resolved - That Councillor H Smith be appointed Chair for this meeting.

48 **DECLARATIONS OF INTEREST**

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

No such declarations were made.

49 **BAM BUDDAH LOUNGE BAR, CONWAY STREET, BIRKENHEAD**

The Director of Regeneration reported upon an application by Merseyside Police for the review of a Premises Licence for the premises known as the Bam Buddha Lounge Bar, 34-42, Conway Street, Birkenhead, under the provisions of the Licensing Act 2003.

A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

In considering the application for review and any relevant representations, the sub-committee was advised that it may take any of the following steps as it considers necessary for the promotion of the licensing objectives or, alternatively, decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives:

Modify the Licence conditions (permanently or for a temporary period of up to 3 months).

Exclude a licensable activity from the scope of the Licence (permanently or for a temporary period of up to 3 months).

Remove the Designated Premises Supervisor (if applicable).

Suspend the Licence for a period not more than 3 months.

Revoke the Licence.

Merseyside Police advised that the grounds for review were in relation to the prevention of crime and disorder. They had provided further information to support the grounds for review and which were included within the application. The application for review was supported by Merseyside Fire and Rescue Service.

Further to the application, a written response from the Premises Licence Holder's Solicitors, Messrs Haworth and Gallagher had been received. A copy of this response was available.

It was confirmed that there had been no representations received from the other responsible authorities.

Merseyside Police were represented by Sergeant D Peers and Constable R Jones.

Mr A Hilliard, Fire Safety Officer, represented Mersey Fire and Rescue Service.

Mr T Nelson and Mr C Jones, Messrs Howarth and Gallagher Solicitors, represented the Bam Buddah Lounge Bar. Also in attendance were:-

Mr S Finney – Designated Premises Supervisor	
Mr N Baker -	Owner
Mr D Doyle	Director
Mr G Sandland	Consultant

Sergeant Peers referred to the decision of the Sub-Committee on 26 September 2007 (Minute 38) to vary the Premises Licence with additional hours on Saturday to 6:00 am for the supply of alcohol. He referred to the record of incidents during 2008 (page 35), which had highlighted poor management of the premises and the application by the Police for a review of the Premises Licence.

He referred to a letter from the former DPS for these premises dated September 2008, indicating that he had ceased employment with the Bam Buddah Lounge in May 2008 and that his name had been removed from the licence with immediate effect. This meant that for some five months there was no individual with DPS responsibility for this major night club in Birkenhead Town Centre. He referred to a serious incident which had occurred on 3 August 2008, relating to disturbance in Argyle Street, when five persons were arrested and charged with numerous counts of assault and affray.

Sergeant Peers referred to other serious incidents:-

- (i) contraventions of Fire Safety Legislation with potential to endanger life (13/6/08)
- (ii) a police visit on 8 November 2008 had revealed that only two SIA registered doorpersons were on duty instead of four, as stated on the Premises Licence
- (iii) an incident involving serious facial injuries caused by a "glass" assault on 1 November 2008. In this connection, he referred to a statement showing the impact that this particular assault had had (pages 22-24). He also submitted photographic evidence to show the effects of such an assault.

Sergeant Peers commented that, taken as a whole, this series of incidents portrayed a disturbing picture of the conduct of these premises over the last twelve months.

Mr Hilliard drew attention to contraventions of the Fire Safety Legislation which had been drawn to his attention by officers of the Licensing Department. The breaches involved closure of fire escape doors and the placing of curtains over windows and doors at first floor level. He commented that this was an example of bad management at a time when there was no Designated Premises Supervisor in place.

The Chair referred to the requirement that the management of the premises undergo a training programme so as to highlight their roles and responsibilities.

Mr Hilliard commented that this was the responsibility of the club management and it should be part of their fire and risk assessment.

Mr Nelson reported that his clients had introduced polycarbonate glasses and plastic bottles following the "glassing" incident which had occurred on 1 November. Drinks were now being provided in safe glasses and no bottles would be served. His clients had agreed to attach this as a condition to the licence.

Mr Nelson referred to the police visit on 8 November by two uniformed officers when there were only two SIA-registered doorpersons on duty. He pointed out that there were only eight customers in the club at that time and two further doorpersons had subsequently reported late for duty at approximately 12.30 am.

Mr Nelson commented that, whilst the replacement of the DPS was an administrative oversight, there was no breakdown in communications with the police during this period. He pointed out that any of the three personal licence holders could have been appointed to the position of DPS.

The Director of Regeneration advised those present that the DPS was culpable for the running of the premises and it was a statutory requirement for the business to have a DPS in place.

Mr Nelson introduced Mr N Baker, owner of the premises. He explained that he had owned the freehold of this large building since the early 1960s. He had been involved in the licensing trade for some forty years in Liverpool, Birkenhead and Wallasey and was fully aware of his duties and responsibilities. He had committed significant expenditure on the refurbishment and renovation of these premises and employed 28 members of staff. He confirmed his agreement to attach the condition relating to plastic and containers and bottles to be attached to the licence.

Mr S Finney reported that he had been appointed DPS since September. He gave an undertaking to conduct the premises in accordance with the requirements of the Licensing Act and conditions attached to the licence, including the prohibition on the use of glass bottles and glasses.

Mr G Sandland reported that he had been employed as a consultant by the owner since 2005, with responsibility for building works and also providing the main point of contact with Merseyside Police. He had always co-operated with the police and had been responsible for changing the policy regarding the use of glass bottles and glasses as a result of the serious incident which had occurred on 1 November.

Mr Nelson stated that the incidents recorded in the police log were not grounds to restrict trading hours or suspension of the licence. This was a crucial part of the year for these premises when an upturn in business was expected. He reported that everything was in place to improve the management of the club, including the appointment of the DPS, the hands-on approach by Mr Baker (owner) and Mr Doyle (Director), together with the additional condition regarding use of plastic containers. The licence should therefore remain in force.

Sergeant Peers referred to the police log and reported that three serious incidents had occurred between the hours of 4 – 6 am, indicating that the extra drinking time between these hours had led to more drunkenness and assaults, which seriously undermine the crime prevention objective.

He reported that the DPS had an important role to play and this was a key part of the Licensing Act. The lack of a DPS for a period of five months was a serious omission. The police log (page 35) showed that the premises were being badly managed and he invited the Sub-Committee to consider suspension of the licence.

Mr Nelson stated that suspension of the licence was not necessary, nor would it be fair. He acknowledged that a serious mistake had been made in delaying the appointment of a replacement DPS but this had now been rectified and other management control measures were now in place, together with the amended condition regarding the use of plastic containers.

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 Department of Culture and Media and Sport Guidance issued under Section 182 of the Licensing Act 2003.

Members of the Licensing Act 2003 Sub-Committee considered evidence from Merseyside Police in respect of serious incidents of crime and disorder linked directly to the premises.

In determining the matter Members took account of evidence from Merseyside Police regarding the times when serious incidents of crime and disorder had occurred and the concerns raised by Merseyside Police that the availability of alcohol until 6.00am had an impact on the levels of crime and disorder.

Members of the Sub-Committee also had regard to a representation from Merseyside Fire and Rescue Service that raised concerns regarding poor management at the premises that had put the safety of the public at risk.

Members also noted the concerns raised by Merseyside Police regarding poor management that had led to a period of approximately four months when there was no Designated Premises Supervisor at the premises.

In determining the application Members of the Licensing Act 2003 Sub-Committee had particular regard to the Licensing Objectives relating to the prevention of crime and disorder and public safety. Members considered that the modification to the conditions attached to the Premises Licence was a proportionate response to the application presented and is 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 the determination of the application.
- (2) That the licence conditions relating to the supply of alcohol and hours open to the public be amended as follows, with effect from 19 December 2008

Supply of alcohol –

Sunday to Saturday 10.00 am – 4:00 am

Hours open to the public –

Sunday to Saturday 10:00 am – 4:30 am

- (3) That the following condition be attached to the licence:-

The premises must only use polycarbonate bottles and containers.

- (4) That the attention of the owner/management be drawn to the requirement of Merseyside Fire and Rescue Service that management undergo a training programme in respect of Fire Safety as requested by Merseyside Fire and Rescue Service within their representation dated 14 October 2008. Evidence that this training has been undertaken must be supplied to the Licensing Authority within 21 days from notification of this decision in writing.

50 **PENSBY HOTEL, RIDGEWOOD DRIVE, PENSBY**

The Director of Regeneration reported upon an application from Mr S Blanshard to vary a premises licence for the premises known as the Pensby Hotel, Ridgewood Drive, Pensby.

The application to vary the Premises Licence was as follows:

Supply of Alcohol

Sunday to Thursday 10:00 to 00:00

Friday and Saturday 10:00 to 00:30

Hours Open to the Public

Sunday to Thursday 10:00 to 00:30
Friday and Saturday 10:00 to 01:00

Regulated Entertainment (Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description)

Sunday to Thursday 19:00 to 23:00
Friday and Saturday 19:00 to 00:00

Regulated Entertainment (Exhibition of Films, Indoor Sporting Events and Plays)

Sunday to Saturday 10:00 to 23:30

Entertainment Facilities (Facilities for Dancing and Making Music)

Sunday to Thursday 19:00 to 23:00
Friday and Saturday 19:00 to 00:00

It was noted that the applicant had withdrawn the following items:

- (i) A proposed amendment that the outside seating area be closed at 10.00pm.
- (ii) A request to vary the licence to include a designated area for customers to take drinks outside beyond 10.00pm.

The Director reported that the applicant had included a request to extend the licensed area to include a function room on the first floor. A copy of the plan of the function room was available. The applicants were required to submit as part of their application an operating schedule setting out how they will conduct/manage their business in accordance with the four Licensing Objectives. A copy of the full application detailing the steps proposed by the applicant was available.

Members of the Licensing Act 2003 Sub-Committee were advised that the proposals set out in the operating schedule would become conditions of licence should the licence be granted.

Mr A Smith, Designated Premises Supervisor, attended the meeting on behalf of the applicant.

Councillor R Wilkins, Ward Councillor, attended the meeting as an observer.

The Director reported that two representations had been received from local residents relating to public nuisance caused by customers of the premises. However, one objection had subsequently been withdrawn.

A representation had been received from Environmental Health regarding public nuisance but the applicant had agreed to the suggested conditions and the representation was therefore withdrawn.

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 Department of Culture, Media and Sport Guidance issued under section 82 of Licensing Act 2003.

Members of the Sub-Committee also gave consideration to a representation made by a Local Resident and Ward Councillors concerning public nuisance caused by customers of these premises at a late hour.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during the determination of the application.

(2) That the application to vary a Premises Licence in respect of the premises known as the Pensby Hotel, Ridgewood Drive, Pensby, under the provisions of the Licensing Act 2003 be approved with the following hours and with the extension of the licensed area to include a function room on the first floor , and subject also to the following conditions: -

(a) Hours of Operation

Supply of Alcohol

Sunday to Thursday 10:00 to 00:00
Friday and Saturday 10:00 to 00:30

Hours Open to the Public

Sunday to Thursday 10:00 to 00:30
Friday and Saturday 10:00 to 01:00

Regulated Entertainment (Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description)

Sunday to Thursday 19:00 to 23:00
Friday and Saturday 19:00 to 00:00

Regulated Entertainment (Exhibition of Films, Indoor Sporting Events and Plays)

Sunday to Saturday 10:00 to 23:30

Entertainment Facilities (Facilities for Dancing and Making Music)

Sunday to Thursday 19:00 to 23:00
Friday and Saturday 19:00 to 00:00

(b) The Licensing Act 2003 Sub-Committee determined that in addition to the appropriate conditions proposed in the operating schedule, as well as existing conditions on the licence, the following conditions be applied:

(i) There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public notices requiring customers to leave the premises and the area quietly.

(ii) Bottles or broken glasses shall not be disposed of from the premises between the hours of 9.00pm and 9.00am so as not to cause a disturbance to residents in the vicinity of the premises.

(iii) There shall be diligent control over the levels of any music played to ensure compliance with the following condition:

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

Also, as part of that control, whenever music is playing.

(a) All windows and doors (apart from access and egress) shall be closed

and

(b) Noise emissions shall be periodically checked outside and the results logged.

(iv) The outside seating area shall be closed by 9.00 pm.

(v) That layout plans for the outside area including the designated smoking area shall be submitted to and approved by the Licensing Department.

51 **PIZZA AND GRILL, 163 OLD CHESTER ROAD, BEBINGTON**

The Director of Regeneration reported upon an application by Mr and Mrs Geareas for the grant of a Premises Licence for the premises known as Pizza and Grill, Old Chester Road, Bebington.

The application for the grant of a Premises Licence was as follows:

Late Night Refreshment

Sunday to Thursday	23:00 to 00:00
Friday & Saturday	23:00 to 01:00

Hours Open to the Public

Sunday to Thursday	16:00 to 00:00
Friday & Saturday	16:00 to 01:00

The applicants were required to submit as part of their application 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 detailing the steps proposed by the applicant was available.

Members of the Licensing Act 2003 Sub-Committee were advised that the proposals set out in the operating schedule would become conditions of licence should the licence be granted.

In respect of this application four representations have been received from local residents relating to public nuisance from customers of the premises. Copies of the representations were available.

The applicants had provided a petition in support of their application signed by 98 residents.

Environmental Health had made a representation in respect of the application regarding public nuisance following complaints from local residents. A copy of the representation was available.

No other representations were received from the responsible authorities.

Mr and Mrs Gearegas, applicants, attended the meeting.

Mr M Pleass and Mr J Norman, objectors, attended the meeting.

Mr and Mrs Gearegas outlined the reasons for this application. They responded to questions from Members and from the objectors regarding the operation of their business.

Mr Pleass summarised the reasons for his objection. He explained that there was a significant change in the way the business had traded during the past six months. The emphasis was now on the late night selling of pizzas on the internet whereas the previous pizza business had ceased trading at 11.30 pm., and this was having a detrimental effect on residential amenity. He suggested that this type of operation should be relocated to more appropriate premises.

Mr Norman summarised his objection. He referred to problems relating to litter associated with fast food establishments generally and to the late opening of this particular establishment which was in contravention of the planning permission.

The Director of Law, HR and Asset Management, advised the applicant that the current restriction on the planning permission meant that they would have to apply

separately to the Planning Department to amend the current condition that trading shall cease at 11.30 pm.

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 Department of Culture, Media and Sport Guidance issued under section 182 of Licensing Act 2003.

Members of the Sub-Committee also gave consideration to the representations made by local residents concerning noise nuisance, at a late hour, from within the premises caused by the extractor and also the behaviour from customers of these premises. Concerns were also raised regarding the shutters being closed at a late hour causing a nuisance to local residents.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during the determination of the application.

(2) That the application to grant a Premises Licence under the provisions of the Licensing Act 2003 in respect of Pizza and Grill 163 Old Chester Road, Rock Ferry, be approved with the following hours, and subject also to the following conditions:-

(a) Hours of Operation

Late Night Refreshment

Sunday to Monday	23:00 to 00:00
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Hours Open to the Public

Sunday to Monday	16:00 to 00:00
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(b) Members recommended that advice be sought from Environmental Health regarding the shutters on the premises so as not to cause a nuisance to local residents. Members recommended that advice must also be sought from Planning in respect of the existing Planning Restrictions on the premises.

52 **LIGHTHOUSE CLUB, PARK LANE HOLIDAY PARK, MEOLS**

The Director of Regeneration reported upon an application from Mrs M Bailey to vary a premises licence for the premises known as the Lighthouse Club, Park Lane Holiday Park, Park Lane, Meols.

The application to vary the Premises Licence, as now amended by Mrs Bailey, was as follows:

Supply of Alcohol

Sunday to Thursday 12:00 to 23:30

Friday and Saturday 12:00 to 00:00

New Years Eve 12:00 to 02:00

Hours Open to the Public

Sunday to Thursday 10:00 to 00:00

Friday and Saturday 10:00 to 00:30

Regulated Entertainment (Live Music)

Friday and Saturday 19:30 to 00:00

Regulated Entertainment (Recorded Music)

Sunday to Thursday 17:00 to 23:00

Friday and Saturday 17:00 to 00:00

Regulated Entertainment (Performance of Dance)

Sunday to Thursday 19:30 to 23:00

Friday and Saturday 19:30 to 00:00

The applicants were required to submit as part of their application 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 detailing the steps proposed by the applicant was available.

Members of the Licensing Act 2003 Sub-Committee were advised that the proposals set out in the operating schedule would become conditions of licence should the licence be granted.

In respect of this application a petition has been received signed by 64 residents who were concerned by the application due to noise nuisance. A copy of the petition was available.

A representation had also been received from Councillor John Hale who had been requested to make the representation on behalf of local residents.

Merseyside Fire and Rescue Service had made a representation in respect of the application following an inspection of the premises but following completion of the required works their objection was withdrawn.

No other representations had been received from the responsible authorities.

Councillor Hale welcomed the amendments to the original application. However, he emphasised the need for the applicant to take appropriate action to minimise noise pollution.

The Chair reminded the applicant that residents could ask for a Review if there was excessive noise emanating from these premises and Environmental Health could also make a referral back to the Sub-Committee.

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 Department of Culture, Media and Sport Guidance issued under section 182 of Licensing Act 2003.

Members noted the amended application and also gave consideration to the representations made on behalf of local residents by a Ward Councillor concerning noise nuisance caused by customers of these premises at a late hour. Members also had regard to the fact that there were no representations made by any of the Responsible Authorities, in particular from Environmental Health (Pollution Control), and that there was no history of complaints at the premises in relation to noise nuisance.

Members also took into account section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when concerns relating to the Licensing Objectives arise later in the respect of the premise.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during the determination of the application.

(2) That the application to vary a Premises Licence in respect of the premises known as the Lighthouse Club, Park Lane Holiday Park, Park Lane, Meols, under the provisions of the Licensing Act 2003 be approved with the following hours:-

Supply of Alcohol

Sunday to Thursday 12:00 to 23:30
Friday and Saturday 12:00 to 00:00

New Years Eve 12:00 to 02:00

Hours Open to the Public

Sunday to Thursday 10:00 to 00:00
Friday and Saturday 10:00 to 00:30

Regulated Entertainment (Live Music)

Friday and Saturday 19:30 to 00:00

Regulated Entertainment (Recorded Music)

Sunday to Thursday 17:00 to 23:00
Friday and Saturday 17:00 to 00:00

Regulated Entertainment (Performance of Dance)

Sunday to Thursday 19:30 to 23:00
Friday and Saturday 19:30 to 00:00