

LICENSING ACT 2003 SUB-COMMITTEE

Tuesday, 2 December 2008

Present: Councillors H Smith P Williams
A Taylor

53 APPOINTMENT OF CHAIR

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

54 DECLARATIONS OF INTEREST

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

No such declarations were made.

55 MORETON FOOD AND WINE - HOYLAKE ROAD, MORETON

The Director of Regeneration reported upon an application from Trading Standards for the review of a Premises Licence under the provisions of the Licensing Act 2003, for the premises known as Moreton Food and Wine, 383 Hoylake Road, Moreton. The Premises Licence allowed the following licensable activity –

Sale by Retail of Alcohol

Monday to Saturday	08:00 to 23:00
Sunday	10:00 to 22:30

Merseyside Police had made a representation in support of the application by Trading Standards, which related to the protection of children from harm and a representation in support of the application had also been received from Councillor Blakeley as a resident, Councillor Moseley as a resident and Councillor Mountney as an individual who worked in the area. There had been no representations received from other Responsible Authorities.

The Director indicated that having regard to the application and to any relevant representations, take such of the following steps as it considered necessary for the promotion of 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.

However, he commented that the licensing authority could decide that no action was necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The Trading Standards Manager provided details of the grounds for the application to review the Premises Licence, which were as a result of under age sales of alcohol and Sgt D Peers from Merseyside Police Licensing Division set out his reasons for supporting the application for review.

The Premises Licence Holder, Mrs Ranjan, outlined the circumstances of the under age sales that had taken place and set out measures that were proposed to ensure the correct operation of the business. She commented also that she did not object to the following conditions being placed on the licence that had been proposed by Trading Standards to ensure due diligence was implemented and maintained –

1. Adoption of a Think 21 Policy and display of the appropriate posters;
2. Acceptance of passport, photo driving licence or pass accredited identification only, in support of till checks;
3. Maintenance of a refusal log with regular checks by management to ensure that it is being used;
4. Sufficient trained staff to ensure coverage during times when alcohol is sold;
5. Regular staff training and that staff attend Trading Standards training when arranged.

Members noted that evidence provided by both Merseyside Police and Trading Standards showed that prior to 2008, the Premises Licence Holder, who had held a licence since 2002 had refused the sale of alcohol during test purchase operations undertaken by both Responsible Authorities.

In determining the application, the 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 the Licensing Act 2003.

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 following conditions be imposed on the Premises Licence –

- **The premises must adopt a Think 21 Policy and display of the appropriate posters**
- **The premises must only accept a passport, photo driving licence or a pass accredited identification, in support of till checks**
- **The premises must maintain a refusal log with regular checks by management to ensure that it is being used**
- **Staff must attend training on under age sales provided by Trading Standards**
- **All staff working at the premises must receive regular updated training in respect of preventing the sale of alcohol to persons under 18 years and**

records of training must be supplied to the Licensing Authority when this has taken place.

56 **IRBY KEBAB HOUSE - 10 THINGWALL ROAD, IRBY**

The Director of Regeneration reported upon an application for the grant of Premises Licence as follows under the provisions of the Licensing Act 2003 for the premises known as Irby Kebab House, 10 Thingwall Road, Irby –

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	15:00 to 00:00
Friday & Saturday	15:00 to 01:00

The Director further advised that there existed currently a condition on the planning permission relating to the premises that trading could not take place between the hours of 11.00pm and 12 noon. He also reported that 11 representations had been received from Local Residents, which related to public nuisance and anti-social behaviour and a petition, lead by Wirral West Conservatives had also been received, signed by 23 local residents who were against the application in respect of anti-social behaviour.

Mr B Holland, Solicitor, had also made a representation on behalf of a group of residents and enclosed further representations written individually by residents in relation to Crime and Disorder and Public Nuisance. A further petition signed by 52 local residents who were against the application had also been received which related to public nuisance and noise nuisance. Representations had also been received from Irby Dental Practice and Da Piero Italian Restaurant, as local businesses, which related to anti-social behaviour. No representations had been received from Responsible Authorities.

The applicant, Mr Yusuf Duzen, addressed the sub-committee in support of his application and referred to the demand by customers for his business to remain open later than 11.00pm. His application had outlined the steps he intended to take to promote the four licensing objectives and he commented upon measures he had taken to address concerns that had been expressed to him in relation to noise from fume extraction and from refrigeration units.

Mr Holland and other objectors outlined the objections to the application. A breach of planning conditions had been reported as residents had alleged that the premises had been closed by 11.00pm on only 9 days out of the previous 54 and Mr Holland referred also to an increase in noise, litter and disturbance in the area since the premises opened and commented that residents believed that a further increase in opening hours would exacerbate problems in the area. A ward councillor addressed the sub-committee and referred to an increase in anti-social behaviour in the area since the premises opened.

The applicant commented that he was not aware of anti-social behaviour or nuisance in the area and denied that his business was responsible for the matters referred to by the objectors.

In determining the application, the 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 the Licensing Act 2003. The sub-committee gave particular consideration to representations made by and on behalf of local residents related to an increase in anti-social behaviour, public nuisance and noise nuisance within the vicinity of the premises, since the premises opened in October 2008.

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 in view of the reported increase in incidents of public nuisance, litter, noise and anti-social behaviour, which has led to an increased police presence since the premises have been opened and operating as a kebab house and, in view of the evidence that the applicant had disregarded planning and licensing legislation by remaining open and trading beyond 11.00pm, the sub-committee considered that granting the application would undermine the Licensing Objective of preventing public nuisance. The application was therefore refused.