

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 17 May 2017

Present:

Councillors D Realey
 P Stuart
 M Sullivan

45 **APPOINTMENT OF CHAIR**

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

46 **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.

47 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - ONE STOP NEWS AND BOOZE, 102 VITTORIA STREET, BIRKENHEAD**

The Managing Director for Delivery reported upon an application that had been received from the Licensing Authority for a Review of the Premises Licence in respect of One Stop News and Booze, 102 Vittoria Street, Birkenhead, under the provisions of the Licensing Act 2003.

The Managing Director for Delivery advised that the Sub-Committee may, having regard to the application to review the Premises Licence 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.

Members were informed that 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 that were appropriate to promote the licensing objectives.

The grounds for review were in relation to the sale of alcohol being sold outside of the hours permitted by the Premises Licence, breaches of the Premises Licence conditions and the premises employing an individual who is not permitted to work in the UK.

Members were informed that the premises currently hold a Premises Licence allowing the licensable activities as set out within the report.

Mr A Bushell, Licensing Operations Manager attended the meeting together with Mr C Williams, Licensing Enforcement Officer and Constable J Moran.

The Premises Licence Holder attended the meeting together with her brother-in-law, Mr Sumbal.

The Licensing Manager confirmed that all documentation had been sent and received and that the statements submitted by Constable J Moran had been received by the Premises Licence Holder. It was clarified that these documents had been sent by email and received the day prior to the meeting.

Mr A Bushell reported that on 31 January 2017 the premises were visited as part of a multi-agency operation. During this visit four cans of Strongbow Cider had been sold to a Licensing Enforcement Officer outside of the hours permitted by the Premises Licence. Following immigration checks undertaken by Merseyside Police it had been confirmed that the person who had sold the alcohol had no leave to remain in the UK and was therefore illegally working at the premises. On 3 February 2017 the premises had been re-visited and the person who was not entitled to work in the UK had again been seen working behind the counter.

Members were further informed that following an inspection of the Premises made by a Licensing Enforcement Officer on 27 April 2017, a number of breaches of the Premises Licence conditions had been identified. These included: no evidence of staff training, CCTV images could not be provided, proxy sales notices were not displayed and the refusal register was not being used in accordance with the conditions set out in the Premises Licence. Members were advised that at the time of the inspection the Premises Licence Holder, who is also the Designated Premises Supervisor, was not present at the time of the inspection, however a Warning Letter detailing the breaches had been sent by email to the Premises Licence Holder on 9 May 2017. Mr Bushell further advised that a follow up inspection had been made to the premises by a Licensing Enforcement Officer on 16 May 2017 and the breaches identified on 27 April 2017 had not been rectified.

Constable J Moran who had attended the premises during the operation on 31 January 2017 provided further evidence of a disregard for the law which had been demonstrated by the premises. She reported that a Test Purchase had been conducted at the premises on 6 May 2017 when tobacco, namely 20 Lambert and Butler Cigarettes, had been sold to a 16 year old volunteer.

Mr Bushell responded to questions from Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee.

The Premises Licence Holder advised that she had held the Premises Licence and been the Designated Premises Supervisor since 2014. She informed Members that both herself and her husband were no longer in day to day control of the premises subsequent to his ill health. Members were advised that this had resulted in Mr Sumbal becoming involved in the operation of the premises.

Members heard that Mr Sumbal had become involved in the operation of the premises in September 2016 and that the premises started to sell alcohol in October 2016. Members further heard that since the premises started to sell alcohol there was no evidence that the conditions attached to the Premises Licence had been complied with.

Members were informed that it was Mr Sumbal's intention to purchase the business and become both the Premises Licence Holder and Designated Premises Supervisor after selling his business in Birmingham.

Members considered that Mr Sumbal accepted responsibility in respect of the evidence submitted by the Licensing Authority and Merseyside Police relating to the sale of alcohol to a Licensing Officer outside of the hours permitted by the licence, breaches of the Premises Licence conditions, the employment of a person not entitled to work in the UK and the tobacco being sold to a person under the age of 18 years.

Mr Sumbal explained that he had experienced difficulties in recruiting staff to work permanently at the premises, however he was able to provide names of individuals who he now considered to be permanent staff members. Members were advised that two of these staff members would be attending formal training at a substantial cost to Mr Sumbal and he would be asking them to sign an agreement to stay at the premises for at least 6 months. Mr Sumbal stated that he would be willing to work with the authorities to operate the premises in accordance with the conditions of licence. Members noted however that it was following Mr Sumbal's involvement in the premises that the premises had given cause for concern to the authorities.

Mr Sumbal and the Premises Licence Holder responded to questions from Members of the Sub-Committee, Mr A Bayatti, Legal Advisor to the Sub-Committee and Mr A Bushell.

In determining the review, Members had regard to the licensing objectives, the Council's Statement of Licensing Policy and Statutory Guidance issued under Section 182 of the Licensing Act 2003.

Members considered the submissions made by the Licensing Authority which were supported by Merseyside Police. Members also considered the submissions made by the Premises Licence Holder and on her behalf by Mr Sumbal.

Members gave consideration to the proposals put forward by the Premises Licence Holder to address the causes of concern which had led to the Review. In determining the appropriateness of these proposals, Members did not consider that this would prevent the Licensing Objectives from being undermined in future.

In determining the Review Application the Licensing Act 2003 Sub-Committee accepted the evidence provided by the Licensing Authority and Merseyside Police.

Members considered that the crime prevention, protection of children from harm and the public safety licensing objectives had been seriously undermined. In coming to their decision the Sub-Committee had particular regard to paragraphs 11.23, 11.27 and 11.28 of the Statutory Guidance.

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 One Stop News and Booze, 102 Vittoria Street be revoked.**