

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 22 November 2017

Present:

Councillors    D Burgess-Joyce  
                     P Stuart  
                     M Sullivan

78    **APPOINTMENT OF CHAIR**

**Resolved – That Councillor P Stuart be appointed Chair for this meeting.**

79    **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.

80    **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 82-84 GRANGE ROAD WEST, BIRKENHEAD**

The Managing Director for Delivery reported upon an application that had been received from Mr Ragupathy for a Premises Licence in respect of 82-84 Grange Road West, Birkenhead, under the provisions of the Licensing Act 2003.

It was reported that these premises were situated within the special cumulative impact area and had previously held a Premises Licence which was revoked by the Licensing Act 2003 Sub-Committee on 18 February 2016 following a Closure Order issued by Wirral Magistrates Court. The hours requested were outlined within the report.

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives and taking into account the Special Cumulative Impact Policy. 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 application be granted.

Representations had been received from Merseyside Police, the Licensing Authority, Public Health, Ward Councillors, a local resident and Arch Initiatives. The representations related to concerns of the cumulative impact of an additional licensed premises in an area where known street drinkers congregate and cause anti-social behaviour. Concerns were also raised that each of the four Licensing Objectives could be undermined and the history of criminal activities directly linked to the premises. Copies of the representations were available.

The applicant attended the meeting together with his solicitor, Ms Forrest.

Ms T Cavanagh-Wilkinson, Public Health, Councillor J Stapleton, Councillor G Davies, Ward Councillor, Sergeant Carrmichael and S Cushion, Merseyside Police, A Bushell, Licensing Operations Manager and K McHugh, Wirral Ways to Recovery were in attendance.

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

Ms Forrest addressed Members and advised that although the premises fall within the cumulative impact policy zone, she believed the application should be considered on its merits. Ms Forrest referred to the representations received and set out the measures that would be put in place to prevent alcohol being sold in such a way that it would be detrimental to the community and to ensure that the Licensing Objectives would be promoted. She advised that the application contained comprehensive conditions and that the applicant was an experienced operator. She informed Members that the applicant would be happy to reduce the hours to 9am to 10pm for the sale of alcohol should the application be granted. She believed that the impact of an additional outlet selling alcohol in this area would not have a negative impact on the Licensing Objectives and that another premises selling alcohol in the area would not add to the problems of alcohol related anti-social behaviour in the area. Members were also advised that the applicant had worked in the trade since 1999. He would employ local people and would live above the premises with his family. Ms Forrest therefore believed that Members should act outside of the current Cumulative Impact Policy for this area and grant the Premises Licence in respect of these premises.

Ms Forrest and the applicant responded to questions from the other parties present, Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Merseyside Police advised Members that the premises is located in an area with problematic street drinking which leads to anti-social behaviour as well as associated crime and disorder and public nuisance. Evidence had been provided by Merseyside Police giving a breakdown of alcohol related disorder which was currently a problem in the area where these premises are located. It was the strong view of Merseyside Police that a further premises selling alcohol in this area would have a detrimental effect on the work currently being undertaken to reduce the level of alcohol related anti social behaviour and crime and disorder. This view was shared by all parties that had made representations in respect of the application. Merseyside Police expressed concern that these premises could be targeted due to previous criminal activity taking place at the premises. Concerns were also expressed in respect of whether the applicant could uphold the 41 conditions he had proposed as he didn't seem to understand them when questioned.

Merseyside Police referred to the statement provided by Inspector Wilkinson which outlined their concerns relating to the frequency of incidents reported to the police that are directly related to the misuse of alcohol within the locality of the premises. The statement provided statistics illustrating the level of anti-social behaviour within the vicinity of the premises between 1 May 2017 and 12 November 2017. The figures illustrated that within the centre of Birkenhead around the Grange Road area there is a problem of street drinking and alcohol related anti-social behaviour.

Members were informed there were two homeless hostels within close proximity to the premises and that many residents who attend these hostels have problems with alcohol that result in anti-social behaviour. Members were further informed of the presence of Wirral Ways to Recovery who provide services to individuals with drug and alcohol problems within the vicinity of the premises.

Merseyside Police highlighted to Members that the applicant did not recognise or take into account particular issues related to this locality when making the application. This view was shared by other parties making representations and was also demonstrated by the applicant who could not provide Members with a clear understanding of the area or the implications of operating a premises selling alcohol at this location. The applicant further stated that he had provided no input to the operating schedule which outlined how he would operate the premises. Following the submissions made by the applicant, Merseyside Police expressed serious concerns with regard to the competency of the applicant to operate a licensed premises in an area that is subject to significant levels of alcohol related anti-social behaviour linked particularly to street drinking and it was their view that the application should be refused.

The Licensing Authority raised serious concerns about the applicant's ability to effectively manage the premises to uphold the licensing objectives. In particular it was set out that despite the obvious issues relating to alcohol related anti-social behaviour in the area, it was the view of the Licensing Authority that the applicant was unable to demonstrate that the sale of alcohol at these premises would not add to the current problems occurring within the vicinity of the premises.

Members heard from Councillor Jean Stapleton who made representations in her own right as well as on behalf of Councillor Phil Davies. She stated that she had personally witnessed the existing problems within the area as she lives in the locality. Councillor Stapleton also described the concerns of residents that these problems would be exacerbated if there was an increase in the number of premises being allowed to sell alcohol. Councillor George Davies, Ward Councillor, reiterated the concerns of Councillor Stapleton and believed that should the application be granted, this would be detrimental to the area and would be a backward step in relation to the work carried out by Merseyside Police.

Public Health gave evidence relating to the availability of alcohol from another licensed premises in the area and identified research about the effect of the availability of alcohol. Public Health stated that they did not consider that the applicant had demonstrated how he could operate the premises in such a way that it would bring an improvement to the area. They also raised doubts regarding the competency of the applicant to operate a business selling alcohol in this difficult area.

Members considered the representations from Wirral Ways to Recovery who, through their own direct experience, described the type of anti-social behaviour from street drinkers that occurs on a regular basis on Grange Road West. Again, it was their view that an additional premises selling alcohol in this area would not improve the Town Centre but would add to the current problems. They made the point that this would be the case irrespective as to who would operate this type of premises at this locality.

In determining the application the Licensing Act 2003 Sub-Committee have had regard to the Licensing Objectives, the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy, in particular Section 11 which sets out details of the Council's Cumulative Impact Policy.

In determining this application the Sub-Committee did not attribute any responsibility to the applicant in respect of previous criminal activity at the premises.

It was not disputed by the applicant that the premises was located in an area that had been identified as a problem area for alcohol related anti-social behaviour.

Members considered the submissions made by the applicant and his representative Ms Forrest, along with representations made in writing and orally at the Hearing today by Merseyside Police, the Licensing Authority, Public Health, Ward Councillors, a representative of Wirral Ways to Recovery and a local resident and considered each case on its own merits.

Members accepted the evidence and representations provided by the parties making representations that the area in which the premises is located has a significant number of licensed premises and that there is a clear problem within the area relating to alcohol related crime, disorder and anti-social behaviour linked to alcohol. In considering these representations Members had particular regard to Section 11 of the Council's Licensing Policy which sets out details of the cumulative impact policy that applies to this area. In having regard to this Section, Members did consider this application on its own merits. All submissions made by the applicant were taken into consideration. Members noted the extensive number of licensing conditions proposed in the Operating Schedule, however, had concerns with regard to the lack of knowledge and understanding of these conditions demonstrated by the applicant.

Members found no evidence that the applicant would manage the premises in such a way as to uphold and promote the licensing objectives given the distinct alcohol related issues that are in existence already in the locality. In determining the application Members did not find any good reason to depart from the Special Cumulative Impact Policy to allow the application to be granted.

**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 82-84 Grange Road West, Birkenhead, be refused.**