

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 24 April 2009

Present:

Councillors	W Duffey	A Taylor
	D Roberts	C Teggin
	H Smith	

97 APPOINTMENT OF CHAIR

Resolved -

(1) That Councillor H Smith be appointed Chair for the morning session to consider the application in respect of Best One Express.

(2) That Councillor C Teggin be appointed Chair for the afternoon session to consider the application in respect of the ESWA Club.

98 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.

99 BEST ONE EXPRESS, 45-47 FLEETCROFT ROAD, WOODCHURCH

The Director of Regeneration reported upon an application received from Perinparajah Amalraj to grant a Premises Licence in respect of premises known as Best One, Fleetcroft Road, Woodchurch, under the provisions of the Licensing Act 2003.

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

Supply of Alcohol
Sunday to Saturday 06:00 to 23:00

Hours Open to the Public
Sunday to Saturday 06:00 to 23:00

The applicant attended the meeting together with Kuperan Murunesa and their representative Mr M Stafford.

In respect of this application fifty two representations had been received from local residents. The representations related to anti-social behaviour and public nuisance caused by youths congregating outside the premises. A petition containing 598

signatures had also been received. Copies of the representations and the petition were available.

Merseyside Police had made a representation in respect of this application concerning the prevention of crime and disorder. A copy of the representation and police logs were available. Sergeant D Peers, Inspector B Griffiths and Constable C Cottrell attended the meeting.

Many local residents attended the meeting in support of their objections to the application. Councillor P A Smith and Mr P Shanks (Chairman & Director, Childwall Green Residents (RTM Company) Ltd) attended the meeting to make representations on behalf of local residents.

No representations had been received from any of the other Responsible Authorities.

The Licensing Officer confirmed that all relevant notices had been sent out in respect of this application and that additional evidence had been supplied by the applicant in the form of a DVD. The Licensing Officer had also received a late representation to which the applicant objected and this was therefore not taken into consideration.

The Licensing Officer informed Members that the applicant wished to amend the application as follows:-

Supply of Alcohol
Sunday to Saturday 06:00 to 22:00

Hours Open to the Public
Sunday to Saturday 06:00 to 22:00

Mr Stafford addressed the Sub-Committee and explained that although the applicant had realised that the application was controversial and that the previous application which had been made in February 2008 had been unsuccessful, he reported that since the premises had been trading for a year without the sale of alcohol, a high level of request had been made for the premises to be able to sell alcohol.

Mr Stafford outlined the various procedures that the applicant was willing to put into place in order to prevent crime and disorder and concerns regarding public nuisance which included the installation of an OKID machine which he felt would assist when dealing with the problem of proxy sales and a CCTV system which would consist of 5 external and 11 internal cameras. He stated that the applicant would be willing for the installation of these to be made a condition to be attached to the Premises Licence. Mr Stafford outlined other measures the applicant would be willing to make such as voluntarily agreeing to restrictions of sales to over 21's during school holidays. He informed that the till has an electronic refusal button and that the applicant was very responsible. He felt that the concern of local residents appeared to be issues of youth disorder in the area which was not alcohol related. He explained that the applicant would be promoting the licensing objectives as much as possible and therefore was not likely to exacerbate existing problems. He felt that the petition containing 598 signatures in objection to the application was not relevant as it did not mention any of the licensing objectives.

Mr Stafford and the applicant responded to questions from Members of the Sub-Committee, the Police, Councillor Smith and Mr Shanks.

Sergeant Peers addressed the Sub-Committee and expressed his concerns regarding the application in relation to the high degree of anti-social behaviour in the area much of which was believed to be alcohol related. He felt that the OKID system would not prove effective as customers do not have to be over 18 in order to enter the premises. He felt that the existing problems of youth disorder in the area would be exacerbated if the application were to be granted. He also expressed concerns that the good work which had been undertaken in the area by the Local Community Support Officer would be undone. He referred to the fact that the Neighbourhood Inspector Mr Griffiths was in attendance at the meeting which indicated how important the matter was.

Inspector Griffiths stated that he was in attendance at the previous hearing in 2008 and that there had been few changes since then. He expanded upon the problems experienced in the area relating to anti-social behaviour. He outlined the problems concerning alcohol and young people in the area. He felt that although the OKID system would be useful this would not stop the existing problems of proxy sales. He referred to the issues raised previously regarding the number of young people on this Estate who had lost their lives due to alcohol. He felt that the strength of feeling from local residents was reflected in the number in attendance at the meeting.

Mr Shanks addressed the Sub-Committee and outlined the strong concerns of local residents. He reported that the Property Management Company had taken security measures in the form of gating which had been constructed, however the problems concerning youths drinking alcohol in the area had continued. He referred to the rejection of the previous application and various press releases relating to problems with alcohol. He asked that the application be rejected as it was felt the important work which had been undertaken by Merseyside Police to address the existing problems in the area would be undermined if the application were to be granted.

Councillor Smith reflected that the circumstances had not changed since the previous application which had been made and commented upon the large number of people who had contacted him to express their concerns. He asked that the application be rejected on the grounds put forward by Merseyside Police, Mr Shanks and the number of residents in objection to the application.

Sergeant Peers, Inspector Griffiths responded to questions from Members of the Sub-Committee and Mr Stafford.

The applicant demonstrated the CCTV system by DVD to the Sub-Committee and responded to questions from Members regarding this and the OKID system.

Mr Stafford felt that the problems outlined were not relevant to the licensing objectives. He felt that it could not be demonstrated that the sale of alcohol at the premises would exacerbate existing problems in the area. He referred to the fact that the applicant had amended the hours requested for the supply of alcohol and also offered conditions which would be attached to the Premises Licence and that they were willing to work in conjunction with Merseyside Police and therefore felt it would be appropriate to grant the application.

Sergeant Peers referred to the statutory duty of the Sub-Committee to support the licensing objectives and therefore reject the application.

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 the Licensing Act 2003. Members gave particular consideration to the view of Merseyside Police that the granting of the licence would seriously undermine the licensing objectives in respect of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

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 Best One, Fleetcroft Road, Woodchurch, be refused.

100 **ESWA CLUB, 54-56 PARK ROAD SOUTH, BIRKENHEAD**

The Director of Regeneration reported upon an application that had been received from Merseyside Police for the review of a Club Premises Certificate for the ESWA Club, 54-56 Park Road South, Birkenhead.

These premises currently have a Club Premises Certificate for the following licensable activities:

Supply of Alcohol
Sunday to Saturday 11.00 to 23.30

Hours Open to Members and Guests
Sunday to Saturday 11.00am to 00.00

Regulated Entertainment (Indoor Sporting Events)
Sunday to Saturday 11:00 to 23:30

Regulated Entertainment (Live Music and Recorded Music)
Sunday to Saturday 11:00 to 23:30

Entertainment Facilities (Facilities for Making Music, Dancing and Anything of a Similar Description)
Sunday to Saturday 11:00 to 23:30

A copy of the Club Premises Certificate setting out the above hours and conditions attached to the Certificate was available.

The 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 necessary for the promotion of the licensing objectives:

- Modify the Certificate conditions (permanently or for a temporary period of up to 3 months).
- Exclude a qualifying club activity from the scope of the Certificate (permanently or for a temporary period of up to 3 months).
- Suspend the Certificate for a period not more than 3 months.
- Revoke the Certificate.

Sergeant D Peers, Police Licensing, and Constable Carl Cottrell attended the meeting and advised that the grounds for review were in relation to the management of the Club that had been undermining the Licensing Objectives of the Licensing Act 2003.

Mr T Nelson attended the meeting to represent members of the committee of the ESWA Club who were also in attendance.

The Licensing Officer confirmed that all relevant documentation had been sent and received. A late representation had been received from Park High School to which Merseyside Police raised no objection and this was therefore taken into consideration. Two further late representations had been received which were not accepted by Merseyside Police and therefore not considered.

Mr Nelson reported that discussions had taken place between himself and Merseyside Police and that there was no issue regarding the facts of the case. The concern of Merseyside Police was that bookings had been accepted that did not comply with the club rules as functions must be booked by members, however, it was found that the ESWA club had committed breaches of their Club Premises Certificate and their own club rules. Mr Nelson reported that the committee of the ESWA club were now aware of the problems and would ensure they did not re-occur.

Sergeant Peers reported that the ESWA Club held a Club Premises Certificate and as such must comply with the conditions of this and their own club rules. There had been a number of complaints to Merseyside Police which had resulted in a joint agency visit on 4 September 2008 during which it was discovered that the games room and function room had been relocated without notification to the authorities. Advice had been given to the club by himself and Constable Jones from Merseyside Police, Margaret O'Donnell, Licensing Officer and Andy Hilliard, Merseyside Fire and Rescue. The club assured all parties of future compliance and that they would no longer accept 18th birthday parties.

On 21 February 2009 there was an incident at the premises which resulted in another visit from Merseyside Police on 26 February 2009 during which Mr and Mrs Nunn (Committee Chair and Secretary) admitted that the incident had taken place during a 16th birthday party which had been booked by a non-member. Merseyside Police subsequently seized the booking diary which showed that a large number of functions had been booked by non-members. Sergeant Peers reported that the evidence submitted showed blatant disregard of rules which undermined the licensing objectives and therefore requested revocation of the Club Premises Certificate.

Sergeant Peers responded to questions from Mr Nelson.

Mr Nelson outlined the background of the ESWA Club and reported that the premises had been part of Birkenhead culture since 1949 and that this was the first time that the Club had come before the Licensing Sub-Committee as it had a good reputation. The members of the committee of the Club accepted that there had been breaches of the Club Premises Certificate, however they sought to assure the Sub-Committee that measures would be taken to ensure the correct running of the premises and invited the Sub-Committee to impose strict conditions upon the Club Premises Certificate. Mr Nelson reported that the Club provided a daily facility to members of the public and urged the Sub-Committee to act upon public interest.

Mrs Nunn and Mr Taylor of the ESWA Club addressed the Sub-Committee to ensure that any future bookings taken would comply with club rules and gave their apologies for any breaches which had been undertaken by the Club. They ensured that a written booking system and a club dispersal policy would be provided within 14 days and submitted to Merseyside Police and the Licensing Department.

Mr Nelson, Mrs Nunn and Mr Taylor responded to questions from Members of the Sub-Committee and Merseyside Police.

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.

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 Club Premises Certificate shall be modified as follows:

(i) All Committee Members and members of staff at the club must be fully trained in the legal requirements relating to the status of the premises in respect of holding a Club Premises Certificate. This training must include details of the Club Rules adopted by the Committee.

(ii) There shall be no functions to celebrate birthdays for persons under 22 years of age held at the premises. Copies of Birth Certificates relating to the individual celebrating their birthday must be provided at the time of booking and retained with the booking details.

(iii) No further bookings of functions at the Club Premises shall be accepted until the Club has provided evidence to the satisfaction of Merseyside Police (Licensing Division) and the Licensing Authority that the Club are able to administer their function booking system in accordance with their Club rules, conditions of the Club Premises Licence and the requirements of the Licensing Act 2003. These written procedures for accepting bookings must be submitted to the Licensing Authority and Merseyside Police within 14 days from the date of the decision letter for their approval.

(iv) The Club shall develop a dispersal policy in conjunction with Merseyside Police (Licensing Division) and the Licensing Authority within 14 days from the date of the decision letter. The Club Secretary must provide evidence to both Merseyside Police (Licensing Division) and the Licensing Authority of how the dispersal policy shall be implemented, also within this time period, namely 14 days.

(v) There shall be clear signage displayed at the premises to reinforce the status of the Club, in that it is a Members Club.

(vi) Proper Committee minutes shall be kept clearly showing decisions and responsibility for their implementation then to be available for inspection on request by Merseyside Police (Licensing Division) and/or the Licensing Authority.

(vii) Adverts promoting the use of the Club by members of the public must not be displayed at the premises.

(3) The modification to the Club Premises Certificate shall take effect 21 days from the date of the decision letter on 22 May 2009.

101 ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR