



## Licensing Act Committee

<b>Date:</b>	<b>Wednesday, 7 June 2023</b>
<b>Time:</b>	<b>5.30 p.m.</b>
<b>Venue:</b>	<b>Committee Room 1, Birkenhead Town Hall</b>

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Please note that public seating is limited therefore members of the public are encouraged to arrive in good time.

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This meeting will be webcast at  
<https://wirral.public-i.tv/core/portal/home>

## AGENDA

1. **WELCOME AND INTRODUCTION**
2. **APOLOGIES**
3. **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee are 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.

4. **MINUTES (Pages 1 - 4)**

To approve the accuracy of the minutes of the meeting of the Licensing Act Committee held on 16 November 2022.

## **5. MINUTES OF THE LICENSING PANEL (Pages 5 - 22)**

To approve the accuracy of the minutes of the Licensing Panel (now re-named as Licensing Sub Committee) meetings held on 19 December 2022, 20 December 2022, 6 January 2023 and 18 January 2023.

## **6. PUBLIC AND MEMBER QUESTIONS**

### **6.1 Public Questions**

Notice of question to be given in writing or by email by 12 noon, Friday 2 June 2023 to the Council's Monitoring Officer via this link: [Public Question Form](#) and to be dealt with in accordance with Standing Order 10.

For more information on how your personal information will be used, please see this link:

[Document Data Protection Protocol for Public Speakers at Committees | Wirral Council](#)

Please telephone the Committee Services Officer if you have not received an acknowledgement of your question by the deadline for submission.

### **6.2 Statements and Petitions**

Notice of representations to be given in writing or by email by 12 noon, Friday 2 June 2023 to the Council's Monitoring Officer ([committeeservices@wirral.gov.uk](mailto:committeeservices@wirral.gov.uk)) and to be dealt with in accordance with Standing Order 11.1.

Petitions may be presented to the Committee if provided to Democratic and Member Services no later than 10 working days before the meeting, at the discretion of the Chair. The person presenting the petition will be allowed to address the meeting briefly (not exceeding three minute) to outline the aims of the petition. The Chair will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda. If a petition contains more than 5,000 signatures, it will be debated at a subsequent meeting of Council for up to 15 minutes, at the discretion of the Mayor.

Please telephone the Committee Services Officer if you have not received an acknowledgement of your statement/petition by the deadline for submission.

### **6.3 Questions by Members**

Questions by Members to dealt with in accordance with Standing Orders 12.3 to 12.8.

## **7. APPOINTMENT OF MEMBERS TO THE LICENSING ACT SUB-COMMITTEE (Pages 23 - 26)**

### **Terms of Reference**

The terms of reference for this committee can be found at the end of this agenda.

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## LICENSING ACT COMMITTEE

Wednesday, 16 November 2022

Present: Councillor A Hodson (Chair)

Councillors	C O'Hagan	M Collins
	C Davies	S Williams
	J Hoey	C Cooke
	C Jones	D Mitchell
	M Booth	K Greaney
	D Burgess-Joyce	

Apologies: Councillors S Bennett  
D Kenny  
L Fraser

### 7 WELCOME AND INTRODUCTION

The Chair welcomed everyone to the meeting and those watching the webcast.

### 8 APOLOGIES

The Chair confirmed apologies had been received from Councillors S Bennett, L Fraser and D Kenny.

### 9 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the 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.

### 10 MINUTES

**Resolved** – That the accuracy of the minutes of the meeting held on 7 June 2022 be approved.

### 11 MINUTES OF THE LICENSING PANEL

**Resolved** – That the accuracy of the minutes of the meetings of the Licensing Panel held on 27 May, 8, 22 and 23 June, 11 August and 16 and 23 September 2022 be approved.

## 12 **PUBLIC AND MEMBER QUESTIONS**

The Chair reported that there had been no public questions, statements or petitions submitted.

## 13 **CUMULATIVE IMPACT ASSESSMENT REVIEW**

The Head of Legal Services (Interim Monitoring Officer) submitted a report providing Members of the Committee with consultation feedback on the cumulative impact assessment which is contained within the Council's Statement of Licensing Policy, requesting that the Committee make a recommendation to Council as to whether there is evidence that it would be necessary to continue to include a cumulative impact assessment within the Council's Statement of Licensing Policy.

The Licensing Manager reported that the Council's Statement of Licensing Policy had first been published in January 2005 and had since been subject to four reviews, the last full review of the Policy had taken place in December 2019.

Merseyside Police had requested the Licensing Authority consider adopting a Special Cumulative Impact Policy for an area within Birkenhead due to the level of crime and disorder, public nuisance, littering, street drinking, under-age drinking and anti-social behaviour believed to be resulting in part from the number of off-licence premises located in the area. The request had been supported by Ward Councillors.

Further to a comprehensive consultation process about the possibility of introducing a Special Cumulative Impact Policy for Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre and upon examining the responses received through the consultation, the Licensing Authority had been satisfied that there was evidence that the number of premises in Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre licensed under the Licensing Act 2003 for the sale by retail of alcohol for consumption off the premises were cumulatively giving rise to significant problems of public nuisance and crime and disorder.

The Licensing Authority subsequently resolved to introduce a Special Cumulative Impact Policy limited to Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre with effect from 10 July 2017 to apply to Premises licensed for the sale by retail of alcohol for consumption off the premises only.

Members were informed that it was now necessary to review the current circumstances and determine whether there was evidence for the Statement of Licensing Policy to continue to include a cumulative impact assessment.

Statutory consultation had been undertaken regarding whether it remained necessary for the cumulative impact assessment to continue to be included in the Council's Statement of Licensing Policy. In response to the consultation, Merseyside Police had submitted a report which provided details of alcohol related crimes and anti social behaviour in and around the area of Birkenhead to which the cumulative impact assessment applied. The findings of Merseyside Police were attached at Appendix 2 to the report and it was the view of Merseyside Police that street drinking continued to be a major policing issue within the assessment area. Included in the report from Merseyside Police were the results of a survey that had been undertaken with businesses in the area. Thirty-Seven local businesses responded to the survey, some of which had provided details of the impact of street drinkers in the area. A table showing the responses to the survey was attached at Appendix 3 to the report.

A Police Officer currently responsible for policing Birkenhead Town Centre had submitted a statement within the report. This officer expressed concern that the adverse impact of street drinkers in the area would worsen if the area was no longer subject to a cumulative impact assessment.

In response to the consultation a submission had also been made by a Licensing Consultant. This response was attached at Appendix 4 to the report and expressed concern that the existence of a cumulative impact assessment preserved a 'low status quo' as well as 'poor operating regimes' and served to deter applications from responsible operators. The Licensing Consultant also expressed concerns in respect of how applications were considered when they were made in an area that is subject to a cumulative impact assessment. It was the view of the Licensing Consultant that the cumulative impact assessment should not remain in place.

Members of the Committee were advised that should they recommend to Council that they were of the opinion that there continued to be evidence for the cumulative impact assessment to remain in place, the Licensing Authority would be required to revise the cumulative impact assessment to include a statement to that effect and set out the evidence as to why it remained of that opinion. If the Licensing Authority was no longer of the view that the cumulative impact assessment should remain in place it must publish a statement to that effect.

Sergeant Watson attended the meeting and addressed Members of the Committee. He provided some background in respect of his involvement policing night-time economy and other issues around licensed premises and street drinkers. He advised that he had liaised extensively with local neighbourhood inspectors and the dedicated ward manager when compiling the report.

Members referred to the evidence that had been provided in 2017 when the Policy had been implemented. The Licensing Manager advised Members that they must consider the report by Sergeant Watson and determine whether there remained evidence that the number of premises selling alcohol for consumption off the premises only, was having a cumulative impact and leading to problems that were undermining the licensing objectives.

Members head from Sergeant Watson who advised that having a cumulative impact assessment in place was an effective tool in seeking to address the issue of street drinkers that remained a problem in the area. In response to the proposal made by the Licensing Consultant, who responded to the consultation, that a Public Spaces Protection Order would be a more appropriate way of tackling street drinking in the area, Sergeant Watson advised Members that a cumulative impact policy in this area provided a more effective targeted approach to addressing the issues around street drinking.

In response to a query in respect of Planning providing permission for premises selling alcohol to operate in the area, the Licensing Manager informed Members that whilst Planning is a separate regime, there was an expectation that an applicant would obtain Planning Permission before seeking a licence. It was explained to Members of the Committee that having a cumulative impact assessment within the Licensing Policy would not prevent applications being made and that if there are representations in respect of an application it must then be considered on its merit. It would be for the applicant to demonstrate that they will not have a negative cumulative impact in the area and undermine the licensing objectives.

On a motion by Councillor D Mitchell and seconded by Councillor M Collins, it was -

**Resolved (by assent) – That the Committee:**

- (1) Determined that there remained evidence that the number or density of premises selling alcohol, for consumption off the premises, in the area of Birkenhead identified within the current Statement of Licensing Policy attached at Appendix 1 to the report, is having a cumulative impact and leading to problems in the area which are undermining the licensing objectives.**
- (2) Recommend to Council that the Licensing Authority remained of the opinion that it is necessary to continue to include a cumulative impact assessment within the Council's Statement of Licensing Policy.**



## LICENSING PANEL

Monday, 19 December 2022

11.30 a.m. - 2.00 p.m.

Present:

Councillor

Councillors C Davies  
K Greaney

D Mitchell

### 20 APPOINTMENT OF CHAIR

Nominations for Chair were requested.

Councillor Karl Greaney was nominated by Councillor Dave Mitchell and seconded by Councillor Chris Davies.

There were no other nominations so Councillor Karl Greaney was declared Chair of the meeting.

### 21 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

The Chair asked for declaration of any interests in the matter to be discussed.

No interests were declared.

### 22 CONSIDERATION OF AN OBJECTION NOTICE IN RESPECT OF A TEMPORARY EVENT NOTICE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - SUE'S BAR, ARGYLE STREET, BIRKENHEAD

The Chair introduced all attendees at the meeting and welcomed them. He confirmed that all papers had been circulated and there were no new papers or evidence to be introduced.

The Licensing Manager introduced the report which was to consider a Temporary Event Notice regarding Sue's Bar in Argyle Street Birkenhead to allow licensable activities to take place between 10.00am on Monday 26 December 2022 and 4.00am on Tuesday 27 December 2022.

The proposed premises user explained to the Licensing Panel the measures they had put in place since Merseyside Police had raised concerns regarding the premises. These included terminating the sale of alcohol at 3.15am, making regular checks in the toilets and upgrading the CCTV system. The Licensing Panel were advised that problems did occur outside of the premises but that these were due to the lack of taxis and people not being able to disperse from the premises quickly. The Licensing Panel were advised that should the premises be allowed to carry out licensable activities in

accordance with the Temporary Event Notice the premises would operate with the level of staffing that normally work on a Friday and Saturday and that this would include 3 doorstaff.

The proposed premises user was questioned about the detail of the actions taken.

Merseyside Police highlighted incidents from the records provided to the Licensing Panel, advising the Panel that they had concerns that should the premises operate under the terms of the Temporary Event Notice the licensing objective of preventing crime and disorder would be undermined and the safety of the public would be put at risk. The Licensing Panel were also informed of a warning letter that had been issued to the premises due to them not complying with the conditions of their premises Licence in respect of CCTV. The Panel were advised by the premises that in response to the warning letter the CCTV at the premises had been upgraded but it was unknown as to whether it was recording for 31 days as this period of time had not lapsed since the upgrade had been carried out. Merseyside Police advised the Panel that they had general concerns regarding the management of the premises and that the premises was their second highest in respect of premises that had incidents of alcohol related crime and disorder recorded against them.

The proposed premises user challenged the evidence provided by Merseyside Police and highlighted incidents that were recorded against the premises that should not have been attributed to the operation of the premises.

Members then retired to deliberate the decision.

**Resolved:**

**That a Counter Notice be issued in respect of the Temporary Event Notice for Sue's Bar for 26 and 27 December 2022.**

## LICENSING PANEL

Tuesday, 20 December 2022

Present:

Councillors M Booth  
D Burgess-Joyce

J Hoey

### 23 APPOINTMENT OF CHAIR

The Senior Solicitor advised the committee that no formal appointment of a Chair was required given that the objection was not going to be formally heard.

### 24 CONSIDERATION OF AN OBJECTION NOTICE IN RESPECT OF TEMPORARY EVENT NOTICES UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - PLATINUM BAR, CONWAY STREET, BIRKENHEAD

The Head of Legal Services reported upon the objections that had been submitted from Merseyside Police in respect of Temporary Event Notices relating to Platinum Bar, Conway Street, Birkenhead in accordance with the provisions of the Licensing Act 2003.

The Licensing Manager reported that the proposed premises user had withdrawn both Temporary Event Notices prior to the meeting.

**Resolved – That, due to the Temporary Event Notices having been withdrawn, there was no cause to consider the Objection Notice.**

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## LICENSING PANEL

Friday, 6 January 2023

Present:

Councillors M Booth  
D Burgess-Joyce  
K Greaney

25 **APPOINTMENT OF CHAIR**

**Resolved – That Councillor D Burgess-Joyce be appointed Chair for this meeting.**

26 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Panel 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.

27 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - CALDY SPORTS CLUB, PATON FIELD, TELEGRAPH ROAD, CALDY CH48 1 NX**

The Head of Legal Services reported upon an application that had been received from Caldys Sports Club Limited for a Premises Licence in respect of Caldys Sports Club, Paton Field, Telegraph Road, Caldys.

It was reported that the premises currently have a Club Premises Certificate with the permitted hours outlined within the report. The hours applied for were set out 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. 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.

In respect of the application, three representations had been received from local residents as well as a petition signed by 20 local residents which supported the representations made. The representations related to noise nuisance from entertainment coming from the premises and nuisance caused by customers consuming alcohol on the premises and leaving the premises at

a late hour which was currently a problem for residents. Copies of the representation and petition were available.

The Chair of Caldys Sports Club attended the meeting together with the prospective Designated Premises Supervisor and their legal representative. Local residents were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received. A local resident in attendance advised a video was available should Members wish to view it which would be shared with the applicant's solicitor should Members feel it necessary to be viewed.

The Licensing Manager outlined the report.

The legal representative for the applicant informed Members of the Panel that the application had been made to replace the existing Club Premises Certificate and that the premises is an established club which supports the playing of various sports such as rugby, cricket and hockey. It was explained that principally the sale of alcohol would take place in the clubhouse and within a marquee located next to the Clubhouse in which they would host occasional planned events.

The Licensing Panel were informed that there would be no intention to change the current operation of the premises and that operating under a Premises Licence would bring increased accountability in how the Club operate in respect of licensable activities.

The Licensing Panel were made aware that a number of measures would be in place to promote the licensing objectives which included CCTV, lighting from the clubhouse to the carpark, non-glass receptacles to be used when consuming alcohol away from the clubhouse or marquee and also when rugby First XV would be playing and a Challenge 21 policy.

The legal representative responded to questions from the local residents in attendance, the Legal Advisor to the Panel and Members of the Licensing Panel.

The Licensing Panel heard from the local residents in attendance who outlined their concerns in respect of the current problems they had been experiencing due to the way in which the Club were currently operating, in particular they were made aware of individuals leaving the premises intoxicated and engaging in anti social behaviour when they had left the premises.

The Members of the Licensing Panel also heard of how noise from music emanating from the premises had caused disturbance to local residents and that there had been incidents of drunkenness, public urination and individuals

leaving the premises with beer in glasses. The local residents also expressed concerns in respect of noise emanating from music being played in the premises.

In response to the representations made by local residents the Licensing Panel heard from the legal representative of the premises that they were prepared to add a number of additional conditions to the Premises Licence to uphold the licensing objectives.

In determining the application Members of the Licensing Panel had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and also that there had been no representations from Merseyside Police or any of the relevant Responsible Authorities.

In coming to their decision the Licensing Panel considered the willingness of the applicant to have additional conditions applied to a Premises Licence and also to meet with local residents should the application be granted.

Members of the Licensing Panel also had regard to the strong submission that the Club would remain primarily a sports club and would not operate as a public house.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

**Resolved (2:1 Councillor D Burgess-Joyce dissenting) –**

**(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 Caldy Sports Club, Paton Field, Telegraph Road, Caldy, be granted with the following hours:**

**Sale by Retail of Alcohol (For consumption 'On' and 'Off' the Premises)**

**Monday to Thursday 11:00 to 23:00**

**Friday and Saturday 11:00 to 00:00**

**Sunday 12:00 to 23:00**

**Exhibition of Films, Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description**

**Monday to Thursday 11:00 to 23:00**  
**Friday and Saturday 11:00 to 00:00**  
**Sunday 12:00 to 23:00**

**Late Night Refreshment**

**Friday and Saturday 23:00 to 01:00**

**Hours Open to the Public**

**Monday to Thursday 08:00 to 00:00**  
**Friday and Saturday 08:00 to 01:00**  
**Sunday 08:00 to 00:00**

**(3) That in addition to the conditions submitted as part of the application, the following conditions be placed on the Premises Licence:**

- **The telephone number of the Designated Premises Supervisor or a responsible person acting on behalf of the Licence Holder must be made available to local residents upon request.**
- **Assessments must be made of any noise levels that may be produced by live or recorded music being played in any marquee located within the outside area of the premises. These assessments must take place at least every 60 minutes. The premises must take steps to reduce the level of noise where it is found that it is likely to cause a public nuisance. A written record of all assessments must be maintained in a log book kept for that purpose and must include, the time and date of the checks, the person undertaking the checks, the results of the checks and any remedial action. These records must be made available for inspection upon request by an authorised officer.**
- **An incident log book must be kept and maintained at the premises which must be used to record any incidents of crime and disorder or anti social behaviour or complaints regarding the operation of the premises. The incident log book must be reviewed by an officer of the Club or member of the management team on a weekly basis with a record of the review recorded and signed. The book shall be available for inspection at all reasonable times to an Authorised Officer. The records must be retained for 12 months.**
- **The Club must invite residents living in close proximity to the premises in Telegraph Road and in Pikes Hey Road to a quarterly meeting. The first meeting to be arranged to take place before 31**



**January 2023. The meeting must be attended by the Designated Premises Supervisor or a nominated member of the Club management team attending on behalf of the Premises Licence Holder. A record of the meetings must be kept by the Designated Premises Supervisor and these records be made available for inspection upon request by an authorised officer.**

- **A minimum of 2 SIA registered door supervisors must be employed at the premises on occasions when the sale of alcohol will take place beyond 11.00pm. The door supervisors must be employed from 10.00pm until the premises is cleared of all customers.**
- **In addition to the above condition, the Premises Licence Holder must risk assess the need for door supervisors at functions and events held at the premises and implement an appropriate number of SIA registered door supervisors to be in place at an appropriate time as identified in the risk assessment.**

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## LICENSING PANEL

Wednesday, 18 January 2023

Present: Councillor A Hodson (Chair)  
C Davies  
D Mitchell

### 28 APPOINTMENT OF CHAIR

**Resolved – That Councillor A Hodson be appointed Chair for this meeting.**

### 29 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel 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.

### 30 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 2 PRINCES PAVEMENT, BIRKENHEAD CH41 2XY

The Director of Law and Governance reported upon an application that had been received from Modi Stores Limited for a Premises Licence in respect of 2 Princes Pavement, Birkenhead, CH41 2XY.

It was reported that the premises is situated within a Cumulative Impact Assessment (CIA) area in Birkenhead with the hours applied for set out within the report. The Licensing Panel were advised that due to the proposed location of the premises being within the CIA area, the following matters must be taken into account in consideration of the application:

- whether the applicant has demonstrated in their operating schedule that they will not be adding to the cumulative impact of licensed premises selling alcohol for consumption off the premises only within the CIA area
- whether the Licensing Authority would be justified in departing from its' CIA in light of the individual circumstances of the case
- whether the granting of the application would undermine the licensing objectives and that conditions would be ineffective in preventing the problems identified within the CIA

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. 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.

In respect of the application, a representation had been received from Merseyside Police who believed that the granting of the application would undermine the prevention of crime and disorder licensing objective due to ongoing issues with street drinking and alcohol related crime within the area. A copy of the representation was available.

The applicant attended the meeting together with the Business Development Manager of Go Local, a representative from the Post Office, a Licensing Agent and their legal representative. Two Constables from Merseyside Police were also in attendance.

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

The Licensing Manager outlined the report.

The legal representative for the applicant informed Members of the Panel that the applicant was aware that the premises is situated within the Cumulative Impact Assessment area for Birkenhead and had therefore taken this into account in preparing their operating schedule. It was therefore acknowledged that the applicant must demonstrate that this was an exceptional application and that they would not be adding to the cumulative impact of premises selling alcohol for consumption off the premises only, in this area, should the application be granted.

The Members of the Licensing Panel were informed that the application had been made to operate the premises as a Post Office and convenience store and that the applicant had been approached by the Post Office to operate the services of a Post Office at this location due to the fact that such services were no longer offered within this area of Birkenhead. It was reported that the applicant was currently operating a Post Office on another site in Wirral. Members were advised that due to the recognised demand for a Post Office in this area, the Post Office was currently supporting the applicant in the operation of a temporary Post Office near to the proposed new premises.

It was submitted on behalf of the applicant that in order for a Post Office to be viable in this area, it would be necessary for it to operate in conjunction with a diverse retail offer and that the business model for this particular premises would be a convenience store. Also, in order for a convenience store to operate successfully it would be necessary for it to provide a 'complete basket of goods' which would include the sale of alcohol. It was reported that there is

a restriction within the lease for these premises in respect of the provision of alcohol at this location in that it must not exceed 15% of the net retail floor area.

The applicant was aware that individuals with alcohol and drug problems do frequent the area and are known to congregate on benches near to this location. It was submitted by the applicant's representative that the alcohol on offer at these premises would not attract this cohort of individuals who seek to purchase super strength alcohol at low cost, often in single cans as there would not be alcohol for sale under special offer or promotion; there would be no sales of beer, lager or cider with an alcohol content above 6.5% ABV except for specialist branded premium priced products and certain brands of alcohol and that single cans of alcohol would not be sold from these premises.

Members were further advised that other measures would be in place to prevent anti-social behaviour or crime and disorder should the application be granted, these included comprehensive CCTV which would include coverage outside the premises and staff training with regard to their responsibilities under the Licensing Act 2003. It was also submitted on behalf of the applicant that the premises would work with Merseyside Police and would not sell alcohol to individuals who are identified as a cause for concern. It was reported that the structure of the premises would include a double door entry controlling access and egress to the premises, details of how the premises would be staffed were provided which included the applicant and his wife working full time at the premises.

Members were made aware that the business would operate under the brand of 'Go Local'. The Business Development Manager for 'Go Local' advised that they would enter into a joint business plan with the applicant and hold meetings every three weeks. They informed Members that should the applicant not conform with the 'Go Local' brand their partnership could be terminated which would be detrimental to the sustainability of the business and the viability of the Post Office.

Members were advised that the applicant had extensive retail experience which included operating and managing premises selling alcohol, was currently operating a Post Office and that the operation of a Post Office was the driving force behind the application.

The legal representative on behalf of the applicant, the Licensing Agent and the Business Development Manager of Go Local responded to questions from Members of the Licensing Panel and the legal advisor to the Licensing Panel.

Merseyside Police reported that they had made a representation in respect of the application as the premises is situated in the Cumulative Impact Assessment area in Birkenhead and it was their view that the granting of the application would add to the cumulative impact of licensed premises selling

alcohol for consumption off the premises only. An Officer in attendance referred to the cumulative impact within the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003, highlighting references to the Police being the main source of advice on crime and disorder.

The Officer from Merseyside Police referred to the statement of the dedicated Police Officer for Birkenhead Town Centre and highlighted that the area in which the proposed premises would be located is a hotspot for anti-social behaviour, violence and public disorder and that a number of individuals who have persistently caused issues in Birkenhead Town Centre are now subject to Criminal Behaviour Orders. The Officer referred to other measures that the Police were having to consider to reduce the incidents of crime and disorder in the area of Birkenhead Town Centre.

Members were advised that it was the view of Merseyside Police that the Operating Schedule submitted by the applicant did not propose sufficiently robust conditions that could satisfy the Police that the premises would not add to the cumulative impact of licensed premises selling alcohol for consumption off the premises only. Merseyside Police also submitted that the proposed conditions were vague and made particular reference to a proposed condition relating to CCTV at the premises.

In response to questions regarding Merseyside Police being reassured by what had been presented by the applicant, the Officer advised that whilst he had been appeased in some respects there remained a concern that there would be an additional premises in the CIA area selling alcohol.

The Officers from Merseyside Police responded to questions from the legal representative of the applicant and Members of the Licensing Panel.

In determining the application Members of the Licensing Panel had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003. The Licensing Panel also had regard to:

- whether the applicant had demonstrated that they would not be adding to the cumulative impact of licensed premises selling alcohol for consumption off the premises only, within the CIA area
- whether the Licensing Authority would be justified in departing from its' CIA in light of the individual circumstances of the case
- whether the granting of the application would undermine the licensing objectives and that conditions would be ineffective in preventing the problems identified within the CIA area

The Members of the Licensing Panel accepted the evidence of Merseyside Police that the premises is located in an area that is identified as a hotspot for anti-social behaviour linked to individuals frequenting the area and seeking to purchase cheap alcohol and utilise the daily offers available from various stores. In considering this evidence Members considered the impact that these premises could have on the current issues highlighted by Merseyside Police. Members also had regard to the business model presented and the measures put forward that could become conditions of the Premises Licence.

In coming to their decision, Members of the Licensing Panel gave consideration to the fact that the driving force behind the business would be the operation of a Post Office which relied upon an additional offer being available in order for it to be viable. Consideration was given to the retail experience of the applicant and the support that would be provided to the premises through the 'Go Local' brand which could be withdrawn if concerns were identified through regular meetings with the owner of the premises. Members of the Licensing Panel subsequently concluded that the premises could operate and be managed in a way that would not add to the cumulative impact within the CIA area identified within the Council's Statement of Licensing Policy. It was the view of the Licensing Panel that this was an exceptional application which justified the Licensing Panel departing from its' CIA. In considering the concerns raised by Merseyside Police in respect of the applicant's operating schedule the Licensing Panel took into consideration Section 10 of the Statutory Guidance with particular reference to paragraph 10.5 and considered that the conditions proposed could be worded appropriately to give strength to their meaning and provide a robust structure for the business to operate without undermining the licensing objectives.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

**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 2 Princes Pavement, Birkenhead CH41 2XY, be granted with the following hours:**

**Sale by Retail of Alcohol (For consumption 'Off' the Premises)**

**Sunday to Saturday 08:00 to 18:00**

**Hours Open to the Public**

**Sunday to Saturday      08:00 to 18:00**

**(3) That the following amendments to the proposed conditions submitted within the operating schedule be made:**

- CCTV must be installed at the premises and coverage be provided in the form of a recordable system capable of providing clear quality images in all lighting conditions. Cameras must encompass both inside the premises and the vicinity immediately outside the premises. The CCTV equipment must be maintained in good working order in accordance with the manufacturer's instructions. The system must record in real time and operate at all times the premises are open to the public. The recordings must be kept available for a period of 31 days and made available to Merseyside Police or an Authorised Officer as soon as practicable and in any case within 48 hours of a request, in accordance with relevant Data Protection Legislation. The recording equipment must be kept in a secure environment under the control of the Premises Licence Holder or other responsible named individual. There must be sufficient members of trained staff available on the premises to be able to download or view CCTV evidence with the minimum of delay at the reasonable request of Merseyside Police or an Authorised Officer.**
- The premises must maintain a refusal log book in which it is recorded each time the sale of alcohol is refused and a record made of the reason for the refusal. The refusal log book must be reviewed on a weekly basis by the Designated Premises Supervisor who must sign the log book showing that a review has taken place and a record of any action necessary as a result of the review. The refusal log book must be made available upon request to Merseyside Police or an Authorised Officer.**
- The premises must maintain an incident log book. The incident log book must be reviewed on a weekly basis by the Designated Premises Supervisor who must sign the log book showing that a review has taken place and a record of any action necessary as a result of the review. The incident log book must be made available upon request to Merseyside Police or an Authorised Officer.**



- **The display of alcohol on the premises must not exceed 15% of the net retail floor area of the premises.**
- **Prior to being authorised to sell alcohol, staff employed at the premises must receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Refresher training must be provided to staff at least every three months. The training records of staff must be maintained and kept up to date and made available for inspection upon request of Merseyside Police or an Authorised Officer or in the case of online training within 48 hours.**

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## LICENSING ACT COMMITTEE

**Wednesday, 7 June 2023**

<b>REPORT TITLE:</b>	<b>APPOINTMENT OF MEMBERS TO THE LICENSING ACT SUB-COMMITTEE</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

### REPORT SUMMARY

The purpose of this report is for the Licensing Act Committee to:

- i) note the process for appointing Members to the Licensing Act Sub-Committee, the Terms of Reference of which have been approved by Council; and
- ii) agree that the Director of Law and Governance (Monitoring Officer) be given delegated authority to convene Licensing Act Sub-Committees for the purposes of carrying out the Council's functions to deal with applications, determinations and reviews of licences permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005. Up to two (2) further members of the Licensing Act Committee may attend as observers.

This matter affects all Wards within the Borough.

### RECOMMENDATIONS

The Licensing Act Committee is recommending to:

- (1) note the Terms of Reference of the Licensing Act Sub-Committee, as referred to in paragraphs 1.1 and 1.2 of this report and that each Licensing Act Sub-Committee be comprised of three Members drawn from the fifteen Members of the Licensing Act Committee with the Chair appointed on the day of each meeting.
- (2) give delegated authority to the Director of Law and Governance (Monitoring Officer), in consultation with the Chair and Spokespersons to convene Licensing Act Sub-Committees as and when required for the purposes of carrying out the Council's functions to deal with applications, determinations and reviews of licences permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005. Up to two (2) further members of the Licensing Act Committee may attend as observers.
- (3) continue the term of membership until such time as a new Licensing Act Committee is appointed.

## **SUPPORTING INFORMATION**

### **1.0 REASON FOR RECOMMENDATIONS**

- 1.1 The Terms of Reference of the Licensing Committee as contained in the Constitution (approved by Council on 24 May 2023), requires the Committee to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and responsible for making decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005.
- 1.2 The Terms of Reference allow for the convening of Licensing Act Sub-Committees of three (3) members of the Licensing Act Committee, with responsibility for the Council's functions to deal with applications, determinations and reviews of licences, permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The terms of reference of Licensing Act Sub-Committees, and the relevant rules of procedure are set out within the Constitution of the Council. As such no other options can be considered.

### **3.0 BACKGROUND INFORMATION**

- 3.1 Licensing Act Sub-Committees are convened to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and responsible for making decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005.
- 3.2 The setting up and running of Sub-Committees is an administrative function managed by the Council's Democratic Services and it is proposed to Members that they delegate authority to the Director of Law and Governance (Monitoring Officer) to convene such Sub-Committees as and when required in consultation with the Chair and Spokespersons.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no direct financial implications arising directly from this report.

### **5.0 LEGAL IMPLICATIONS**

- 5.1 The provision to establish a Licensing Act Committee and Sub-Committee are set out in the Licensing Act 2003, which states that each Licensing Authority must have a Licensing Act Committee of at least ten but not more than fifteen Members. There is no provision for the appointment of deputies. Each Sub-Committee appointed to deal with specific applications under the Licensing Act 2003 and the Gambling Act 2005 must be made up of no more than three Members drawn from the pool of Members appointed to the Licensing Act Committee.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

6.1 There are no resource implications arising directly from this report.

## **7.0 RELEVANT RISKS**

7.1 There is a requirement under the Council's Constitution that the appointed fifteen (15) Members of the Council to the Licensing Act Committee, will be those same Members as are appointed to the Regulatory and General Purposes Committee (whose appointments must be in accordance with the proportionality rules). There shall be no power to co-opt.

## **8.0 ENGAGEMENT/CONSULTATION**

8.1 It is for the political groups to decide who they wish to nominate to the Licensing Act Committee.

## **9.0 EQUALITY IMPLICATIONS**

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. This report has no impact on equalities.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

10.1 The recommendations contained within this report are expected to have no impact on emissions of Greenhouse Gases.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

11.1 There are none arising directly from the content of this report.

**REPORT AUTHOR:** **Anne Beauchamp**  
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## **APPENDICES**

None

## **BACKGROUND PAPERS**

The Council's Constitution: Part 3B Committee Terms of Reference

## **TERMS OF REFERENCE**

This report is being considered by the Licensing Act Committee in accordance with Section 9.3 of its Terms of Reference.

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Council</b>	<b>6 September 2021</b>
<b>Council AGM Meeting</b>	<b>25 May 2022</b>
<b>Council AGM Meeting</b>	<b>24 May 2023</b>

## **Licensing Act Committee – Terms of Reference**

The principal role of the Licensing Act Committee is to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and responsible for making decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005.

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