

LICENSING ACT SUB COMMITTEE

Thursday, 21 September 2023

Present: Councillors A Hodson
C Cooke
B Hall

16 APPOINTMENT OF CHAIR

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

17 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Licensing Act 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.

18 APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - SUE'S BAR, 25 ARGYLE STREET, BIRKENHEAD CH41 6AA

The Director of Law and Governance reported upon an application that had been received from Merseyside Police to Review the Premises Licence in respect of Sue's Bar, 25 Argyle Street, Birkenhead, CH41 6AA under the provisions of the Licensing Act 2003.

The Licensing Manager outlined the report and advised that the Licensing Sub-Committee may, having regard to the application for the Review 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; or
- 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.

It was reported that the premises currently hold a Premises Licence allowing the licensable activities as set out within the report.

It was reported that the application to review the Premises Licence had been made by Merseyside Police on the grounds of reports of serious incidents and violent disorder occurring at the premises as well as frequent breaches of the conditions attached to the Premises Licence. Merseyside Police considered that the current operation of the premises undermined the licencing objectives, in particular the prevention of crime and disorder and public safety.

In respect of the review application, a representation had been received from the Licensing Authority who supported the application to review the Premises Licence by Merseyside Police.

A representation had been received from Environmental Health who advised that they had issued the premises with a Section 80 Environmental Protection Act 1990 Abatement Notice for Statutory Noise Nuisance which was currently in force.

A representation had also been received from a local resident which related to anti-social behaviour being caused by customers of the premises. Copies of all representations had been provided to Members.

Merseyside Police were represented at the Hearing by a Police Sergeant and a Licensing Officer, the Licensing Authority was represented by the Licensing Operations Manager and Environmental Health were represented by an Environmental Protection Officer.

The Licensing Manager confirmed that all documentation had been sent and received and that the Premises Licence Holder had made a written submission and had advised they would not be in attendance.

The Police Licensing Officer advised that she was in attendance to represent Merseyside Police who had submitted the Review application. The Officer provided details to the Sub-Committee in respect of 16 incidents which had occurred at or near to the premises over a period of 12 months. These included incidents of violence, individuals taking drugs, individuals being drunk in the premises as well as reports of drinks being spiked. Merseyside Police also informed the Sub-Committee of breaches of the conditions attached to the Premises Licence and their serious concern regarding the uncooperative nature of the Premises Licence Holder who is also the Designated Premises Supervisor at the premises.

Merseyside Police reported upon details of the incidents that had occurred at the premises from 4 September 2022 to 2 September 2023 which included reports of insufficient details being written in the incident log book and incidents not being reported to the Police, the Premises Licence Holder

refusing to assist Merseyside Police in their investigation of incidents, violent incidents that had taken place at the premises resulting in individuals being seriously injured, individuals taking drugs at the premises, staff and door staff not acting diligently and an individual having their drink spiked at the premises. It was also reported that the Premises Licence Holder had been uncooperative and in breach of a licence condition that required CCTV images to be kept for a period of 31 days.

The Sub-Committee were informed that the Premises Licence Holder had been issued with a warning letter from Merseyside Police and it had also been necessary for the Police to seize the premises' CCTV hard drive, in order to view CCTV footage. The premises had also been placed on an Action Plan.

The Police Licensing Officer referred to Inspector Kennedy's statement in which he expressed serious concerns regarding the management of the premises which had resulted in demands on paramedics, emergency response staff, community policing officers as well as licensing police officers. It was reported that it was his view that the premises were not being managed in a safe manner and that it would only be a matter of time before further serious incidents occurred at the premises.

Merseyside Police summarised their concerns that the operation of the premises was undermining the licensing objectives in respect of the prevention of crime and disorder due to the number of violent incidents at or associated with the premises, the lack of intervention by door staff as well as the obstructive and uncooperative nature of the Premises Licence Holder. Members were informed that Merseyside Police had tried to support the Premises Licence Holder and had sought to do this through an Action Plan that had been issued to them on 13 July 2023. Merseyside Police further reported that they had put forward a number of conditions to the Premises Licence Holder but that they did not agree with the Action Plan and would not amend the licence to include the conditions proposed by Merseyside Police.

The Sergeant and the Police Licensing Officer responded to questions from Members of the Sub-Committee and the legal advisor to the Sub-Committee.

The Licensing Manager referred to a statement which had been submitted by the Premises Licence Holder who disputed that they had been uncooperative with Merseyside Police when they sought to obtain CCTV footage from the premises. The Premises Licence Holder further submitted that they subsequently upgraded the CCTV at a cost of £2,500.00. The Premises Licence Holder disputed that the incident that took place on 25 November 2022 had any connection with the premises. In respect of the report that door staff were sniffing drugs whilst on duty the Premises Licence Holder submitted that no evidence had been identified from CCTV to support this claim which was accepted by Merseyside Police. In respect of the incident reported to

have taken place on 25 June 2023 it was submitted by the Premises Licence Holder that this did not take place in the vicinity of the premises.

Members of the Sub-Committee were referred to further submissions made by the Premises Licence Holder who did not accept the allegations made by a local resident that they used tenants' bins and that customers were able to leave the premises with glasses resulting in them being smashed in the entry. The Premises Licence Holder further disputed that the premises could have caused a noise nuisance on 17 May 2023 as there had been no entertainment taking place on that date.

The Environmental Protection Officer provided evidence that following complaints received and their subsequent investigation that they had cause to issue a Noise Abatement Notice on 3 August 2023 regarding noise nuisance arising from music and amplified voices. This Notice required the noise to be abated within 7 days. It was noted that the Noise Abatement Notice was not subsequently appealed. Environmental Health further reported that observations made on 15 September 2023 did not identify any noise nuisance.

The Licensing Authority informed the Sub-Committee of a complaint they had received regarding noise nuisance emanating from the premises which resulted in a joint visit to the premises with an Environmental Protection Officer on 15 July 2023. The Licensing Authority informed Members of the Sub-Committee that they received a complaint regarding an incident that occurred at the premises, previously referred to by Merseyside Police. The Licensing Authority presented images of the scene produced by the complainant. The Licensing Operations Manager advised that the Licensing Authority supported the Review application made by Merseyside Police as they considered that the most recent complaints demonstrated that the licensing objectives were being undermined. The Licensing Authority further submitted that premises that operate in an irresponsible manner must not be allowed to continue to do so.

The Licensing Operations Manager responded to questions from Members of the Sub-Committee.

Members of the Sub-Committee were informed that when the Premises Licence Holder provided their written submissions, they informed the Licensing Authority that they were closing the premises and would be handing the keys to the landlord and that this has been confirmed in a signed agreement.

In determining the Review application Members had regard to the licensing objectives, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003 and also gave consideration to the application made by Merseyside Police, the supporting

representations made by the Licensing Authority, Environmental Health, the local resident and the written submissions made by the Premises Licence Holder.

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 Sue's Bar, 25 Argyle Street, Birkenhead, CH41 6AA be revoked.**