

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 3 March 2010

Councillors D Knowles
A Taylor

R Wilkins

1 APPOINTMENT OF CHAIR

RESOLVED:

That Councillor Alan Taylor be appointed Chair for this meeting.

2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had any personal or prejudicial interests in connection with any item(s) on this agenda, and, if so, to declare them and state what they were.

No such declarations were made.

3 GOLDEN PHOENIX

The Director of Regeneration reported upon an application received from Xiao-Yan Wu for the grant of a Premises Licence in respect of The Golden Phoenix, 136 Greasby Road, Greasby under the provisions of the Licensing Act 2003.

The premises currently have a premises licence which allows Late Night Refreshment and have been trading as a hot food takeaway. The application under consideration was for the grant of a Premises Licence, as follows:

Supply of Alcohol

Sunday to Thursday	16:30 to 23:30
Friday and Saturday	16:30 to 01:00

Hours Open to the Public

Sunday to Thursday	16:30 to 00:30
Friday and Saturday	16:30 to 02:00

Late Night Refreshment

Sunday to Thursday	23:00 to 00:30
Friday and Saturday	23:00 to 02:00

The applicant had already agreed to certain conditions with Merseyside Police, as outlined later in the report.

In respect of this application, 11 representations against the application were received from Local Residents. The representations related to potential anti-social behaviour from customers of the premises at a late hour. A petition had also been submitted by Greasby Frankby Irby Action Team, signed by 20 local residents who were also against the application due to past public nuisance being caused by groups of people within the vicinity of the premises. Copies of the representations and the petition considered and noted.

Mr Michael Jones, Solicitor representing Xiao-Yan Wu, attended the meeting, with the Xiao-Yan Wu (Amy Wu) and her General Manager, Jason Wu, together with Sergeant Peers, who attended as a witness for the applicant to outline the reasons for the proposed conditions being put forward.

Mr Michael Jones spoke on behalf of the applicant, 'Amy' Wu, and informed members that she had been involved with Take Away businesses for nearly 5 years, was married with a young child and had been in the country some 8 years. She worked hard and also taught part-time at a local school. She was content to go along with the police representations. As far as the application was concerned, she had applied for the Premises Licence to have the advantage of an alcohol sales facility, but this would only be used for deliveries with a food order. Mr Jones indicated that he would call Sergeant Peers as a witness to speak on the proposed conditions and thanked him for attending in that capacity.

Mr Jones reiterated that the applicant had a Premises Licence but only to cover late night refreshments and a new one was sought to allow alcohol to be delivered with a meal when requested. He outlined the hours requested for the sale of alcohol to accompany meals and assured Members of the applicant's undertaking to continue to keep the premises supervised at all times, report any instances of note to the Police, and keep a log of events. She did not propose to sell alcohol to customers over the counter, only to go out with deliveries and staff would be required to adhere to the 'Think 25' policy and check identity.

Sergeant Peers informed Members as to why the conditions were requested and that they had had to be adjusted slightly. This was initially treated as a new application because the sale of alcohol was a new scenario.

He had checked with local Inspector Griffiths, who had informed him of only one instance of anti-social behaviour involving that premises that had been reported to Police, in 2006, and it was the applicant who had called the Police. He therefore considered them to be responsible citizens. He reported that Greasby had suffered ongoing anti-social behaviour regarding alcohol etc but a great deal of work had been done in the area. He was now satisfied that things were better and much less of a problem than before but proxy sales did remain an issue. However, premises could trade and offer alcohol as ancillary to a meal and there were at least half a dozen already doing so on Wirral with no problems. He had therefore put forward the conditions to control that method. The conditions would impose requirements for alcohol to be delivered with food as an ancillary to a minimum order value of £10, not food with alcohol, and could not be delivered to young persons. The orders would be paid for upon delivery and not by credit card and it would therefore be possible to check compliance with the conditions.

Sergeant Peers informed Members that he considered the premises to be very clean and well-supervised.

Members then examined the conditions put forward by Sergeant Peers point by point and debated their concerns regarding the strength and volume of the alcohol to be supplied, the necessity of the hours proposed, the training of staff etc as they were most concerned to ensure particularly that young people were protected and the 'Think 25' policy being adhered to by the applicant and staff, with evidence of a passport, photo ID driving licence or other formal evidence of date of birth always being required.

Members of the Committee were asked if they had further concerns or questions and Councillor Wilkins asked about the objections received via the petition and, in particular, the concerns of the next-door neighbour regarding noise of the potato machine and extractor. The applicant answered that they had always considered themselves to be on good terms with that particular neighbour who had never voiced such concerns to them in person and undertook to speak to them and professed themselves willing change their operating schedule if this would remove the problem.

The applicant was asked what their staff policy would be at point of delivery/sale if they had to refuse a customer on the grounds of 'Think 25' and the customer had then declared that they did not therefore want the order at all. The applicant stated that it would be their policy to take back all the order unequivocally. They would not want to lose their licence. Their staff were well-used to deliveries, having made them for the past three years and they had many regular customers and no problems. They were asked what proportion of the total sales were delivered at present and the applicant replied that the number was about 50/50.

Councillor Peter Reisdorf attended the meeting to speak on behalf of local residents and informed Members that there had been problems in Greasby – a Section 30 Order - and although he had noted the proposal as now put forward with amended conditions, the residents had expressed their concerns about a further alcohol outlet in the village. Greasby Village was not a recognised shopping area on the Urban Development Plan (UDP) but within the village centre there were 3 pubs, a restaurant and café bar so there were concerns about a further alcohol outlet and it was considered to be undesirable.

The Chair asked for any further questions and there appeared to be an issue regarding Planning matters but this was considered to be the subject of a separate application and outside the remit of the Sub-Committee. The applicant was asked if she was aware of any planning restrictions and Mr Jones stated that he would instruct his clients to speak to the Planning Department in the near future to clarify the position.

In summing up, Mr Jones reiterated that his client was a genuine applicant, anxious to comply with all restrictions, did not want any alienation with residents and people next door and would comply with any licence the Committee considered granting. They would undertake staff training and stay within the law.

In summing up, Councillor Reisdorf advised that there was a feeling that this would just be another problem for the villagers to face. Their experience in the past

regarding the sale of alcohol leading to anti-social behaviour in the early hours had not been a good one and they did not want another premises selling alcohol.

Members listened carefully to the applicant and the objections raised by members of the public. They noted the issues raised by the Police and taking all matters into account, agreed to grant the application with conditions listed below.

They understood and accepted all the concerns of local residents about past anti-social behaviour but having heard from the Police that the problem had been reduced, considered that the conditions attached to the licence would mitigate those concerns.

They would refer any neighbour having a problem regarding the noise emanating from the premises to the Environmental Health Officer.

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 Licensing Act 2003. and the advice of the Council's Legal Officer.

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 following conditions be attached to this Premises Licence:**
 - No alcohol to be sold over the counter in the premises.**
 - No alcohol to be on display to the public within the shop area and notices must be on display stating the no alcohol is for sale over the counter.**
 - Alcohol will only be available to be sold as an ancillary to a food order with a minimum value of £10.00.**
 - Delivery will only be made to dwellings and other buildings. No delivery will be made to a person in the open air.**
 - When a telephone order is taken for food with an ancillary supply of alcohol, the 'Think 25' policy must be made clear.**
 - A 'Think 25' policy must be adhered to and any person appearing to be under the age of 25 at the point of delivery/sale must be asked for ID before delivery is made.**
 - The only acceptable forms of ID are a passport, driving licence or other PASS accredited ID.**

- **All staff to undertake training provided by Trading Standards in respect of the prevention of the sale of alcohol to persons under 18.**
3. **The applicant be advised that the Sub-Committee recommends that she seeks the advice of Police regarding the security of alcohol both in the premises and in the delivery vehicle.**
 4. **That the applicant be recommended to consider adopting a good neighbour policy by not operating noisy machinery so as not to cause a nuisance to neighbours.**