

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 22 February 2012

Present:

Councillors    S Niblock  
                      E Boulton  
                      R Wilkins

105    **APPOINTMENT OF CHAIR**

**Resolved - That Councillor R Wilkins be appointed Chair for this meeting.**

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

Members were asked to consider whether they had any personal or prejudicial interests in connection with any items on the agenda, and, if so, to declare them and state what they were.

No such declarations were made.

107    **LIFESTYLE, 82-84 TOWN MEADOW LANE, MORETON CH46 7TB**

The Director of Law, HR and Asset Management reported upon an application that had been received from Merseyside Police for the review of a Premises Licence in respect of Lifestyle, 82-84 Town Meadow Lane, Moreton, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence which allows the licensable activities as set out in the report.

A copy of the Premises Licence setting out the hours and conditions attached to the licence 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 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.
- Revoke the Licence.

The Licensing Authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The application had been submitted by Merseyside Police and the Licensing Sergeant advised that the grounds for review were in relation to the protection of children from harm following the sale of alcohol to a person under the age of 18 years during a test purchase operation at the premises and in relation to the premises being linked to criminal activity, namely counterfeit alcohol and cigarettes found at the premises.

A representation had been received from Trading Standards which supported the application made by Merseyside Police.

A representation had also been received from Ward Councillor, Chris Blakeley who advised that the grounds for the representation were in relation to alcohol fuelled anti-social behaviour from young children within the vicinity of the premises.

Sergeant P Jenkins and Constable P Coley, Merseyside Police, attended the meeting.

Mr A Bushell, Trading Standards Officer, was also present.

Ms G Sherratt, Licensing Matters, was in attendance and represented Mr R Bhullar, Mrs H Bhullar and Mr G Bhullar, Designated Premises Supervisor and Premises Licence Holder, who were also in attendance.

The Licensing Officer reported that all documentation had been sent and received and that further documentation had been circulated prior to the meeting.

Sergeant Jenkins outlined the application for review. He reported that new circumstances had arisen since the application had been submitted in that the premises was in the process of being demolished. In light of this he advised that after having initially sought a revocation of the Premises Licence he would now be seeking that conditions be attached to the Premises Licence with an undertaking from the Premises Licence Holder that these conditions be incorporated into the Operating Schedule when the business moved into their new premises. He gave details regarding the underage sale made at the premises on 24 November 2011 and referred to the alcohol and cigarettes which had counterfeit labels. He also made reference to another premises owned by Mr G Bhullar where another underage sale had been made and illegal immigrants discovered which he believed strongly suggested that criminal activities had occurred.

Mr A Bushell stated that he supported Merseyside Police in their view and agreed that the proposed conditions set out by Merseyside Police should be attached to the Premises Licence.

Sergeant Jenkins and Mr A Bushell responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Ms G Sherratt reported that Mr G Bhullar had owned the premises for over 20 years and no previous incidents had occurred. She referred to the allegations that illegal immigrants had been employed at another premises owned by Mr Bhullar and stated that these allegations were not accepted. She advised Members that Mr Bhullar accepted that an underage sale had been made and that illicit alcohol had been found at the premises. Ms Sherratt informed Members that the proposed conditions

set out by Merseyside Police were fully accepted and gave an undertaking that these conditions would be incorporated into the new Premises Licence.

Ms Sherratt responded to questions from Members of the Sub-Committee, Mr Abraham, Legal Advisor to the Sub-Committee and Sergeant Jenkins.

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 relevant guidance issued under Section 182 of the Licensing Act 2003.

Members of the Sub-Committee considered evidence presented by Merseyside Police and Trading Standards regarding the sale of alcohol to an underage person which took place at the premises and illicit alcohol and tobacco found at the premises. Members also considered representations made by the Ward Councillor.

In determining the matter, Members gave consideration to the fact that the premises were subject to demolition works due to take place within the next 6 months and acknowledged that Merseyside Police had recognised this in seeking conditions rather than a revocation of the Premises Licence. Members noted that the Premises Licence Holder had given an undertaking that in an application for a new Licence, the conditions sought by Merseyside Police and Trading Standards would be incorporated into their Operating Schedule and subsequently become conditions of a new licence.

Members therefore considered that the modification of conditions to the Premises Licence was a proportionate response and necessary for the promotion of the Licensing Objectives.

**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 conditions of the Premises Licence be modified as follows:**

- 1. The Designated Premises Supervisor must hold a minimum Level 2 Award for Designated Premises Supervisors as from 1 April 2012.**
- 2. All employees involved in the sale of age restricted products must complete training which covers roles and responsibilities, the law relating to age restricted products, due diligence systems and consequences if breaches occur. Initial training may be provided by Trading Standards or another recognised training provider. Refresher training should be conducted with all staff by the Designated Premises Supervisor at least every 6 months. Written records of this training must be kept at the premises and made available to an Authorised Officer upon request.**
- 3. The premises must have an electronic till prompt to remind employees to use the 'Challenge 25' policy when an age restricted product is scanned.**

4. **CCTV must be installed at the premises at least in accordance with the specification issued by the Licensing Authority. Tapes and visual images recorded shall be retained for a period of 31 days and must be handed to the Police on request and made available to an authorised officer.**
5. **The premises must maintain and keep a refusals log which must be checked regularly by the Premises Licence Holder/Designated Premises Supervisor who must sign the log after each check. All staff must be trained to ensure that they are aware what a refusals log is and where it is kept. The refusals log must be made available to an Authorised Officer on request.**
6. **The Premises must adopt a Challenge 25 policy and display appropriate posters and signage. All staff must be trained on this policy and a record of this training must be kept and be made available to an Authorised Officer on request.**
7. **Details of all new staff must be presented to Wirral Police Licensing Unit in order that their details, if necessary, be passed to the UK Border Control Agency for their information and in order that the requisite checks may be conducted. Any documentation pertaining to such persons must also be presented to Merseyside Police for examination and any necessary checks.**
8. **All alcohol purchased for the premises must be obtained from an established bona fide wholesaler and receipts must be made available to an Authorised Officer. Alcohol must not be purchased from unsolicited mobile suppliers.**

108 **THE NORTH STAR, 294 LAIRD STREET, BIRKENHEAD CH41 8ER**

The Director of Law, HR and Asset Management reported upon an application that had been received from Merseyside Police for the review of a Premises Licence in respect of The North Star, 294 Laird Street, Birkenhead, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence which allows the licensable activities as set out in the report.

A copy of the Premises Licence setting out the hours and conditions attached to the licence 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 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.
- Revoke the Licence.

The Licensing Authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The application had been submitted by Merseyside Police and the Licensing Sergeant advised that the grounds for review were in relation to the prevention of crime and disorder and public safety following a Police Licensing Operation undertaken at the premises that identified illegal activity taking place at the premises.

An anonymous representation had also been received which related to a number of issues including criminal activity taking place within the premises and anti-social behaviour and noise being caused by customers of the premises.

Sergeant P Jenkins and Constable P Coley, Merseyside Police, attended the meeting.

Mr G Wilson, the proposed Premises Licence Holder and Mr J Diable, the current Premises Licence Holder were also in attendance together with their legal representative, Mr C Johnson.

The Licensing Officer reported that all documentation had been sent and received and that further documentation had been circulated prior to the meeting.

Sergeant Jenkins outlined the application for review. He reported upon a visit made to the premises on 23 December 2011 by officers of the Police Wirral Licensing Unit and the Tactical Team where an unregistered gas meter was discovered. He advised Members of the inherent danger such a gas supply could cause and the fact that this was a criminal offence. Sergeant Jenkins also referred to a number of incidents that had occurred in or within the vicinity of the premises since February 2010. Sergeant Jenkins advocated Members of the Sub-Committee to revoke the Premises Licence.

Sergeant Jenkins responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and Mr C Johnson.

Mr Johnson reported that Mr Diable had become Premises Licence Holder at the end of 2011 but has previously not been involved in running the premises. He reported that the current Designated Premises Supervisor had attained a level 2 award in Drugs Awareness, that the premises had a drugs safe installed, that the CCTV had been updated and that there was no gas supply at the premises. Mr Johnson requested Members to invoke conditions upon the Premises Licence and not revoke the Licence.

Mr Johnson responded to questions from Members of the Sub-Committee, Mr Abraham, Legal Advisor to the Sub-Committee and Sergeant Jenkins.

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence at the North Star, 294 Laird Street, Birkenhead and the representations made by Mr Johnson, legal representative as well as those from Mr Diable, the current Premises Licence Holder and former tenant and Mr Wilson, the proposed Premises Licence Holder and current tenant of the premises.

In determining the Review application, Members of the Licensing Act 2003 Sub-Committee 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, in particular paragraphs 11.23 - 11.28.

Members of the Licensing Act 2003 Sub-Committee accepted the evidence provided by Merseyside Police that the gas supply at the premises had been unlawfully tampered with and that there had not been a recognised supply of gas to the premises since 2006. Members noted that the state of the gas supply found on the premises as of 23 December 2011 would have been evident to those connected with the premises and yet no action was taken to address the matter. Members had regard to the fact that Merseyside Police had major concerns in respect of public safety regarding this.

Members also had regard to the report from Merseyside Police that a cannabis farm had been discovered in the flat above the licensed premises following a Police raid.

Members heard representations from Mr Diable, the current Premises Licence Holder, and his admission that he had not taken his role of Premises Licence Holder seriously and had limited knowledge of the existing conditions of the Licence.

Members further noted that Mr Diable has been involved with a number of licensed premises across Wirral. Members had concerns that Mr Diable merely saw his status as being a name on the Licence and did not recognise the responsibilities of a Premises Licence Holder.

Members considered that the crime prevention and public safety objectives were being undermined through the premises being used to further criminal activity and considered it necessary for the promotion of the licensing objectives, in particular the prevention of crime and disorder and public safety to revoke the Premises Licence.

In light of the above, Members considered that placing conditions on the Premises Licence would not be appropriate.

**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 The North Star, 294 Laird Street, Birkenhead be revoked.**