

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 29 February 2012

Present:

Councillors	S Niblock	D McCubbin
	J Salter	M Hornby
	H Smith	

109 **APPOINTMENT OF CHAIR**

Resolved -

(1) That Councillor S Niblock be appointed Chair to consider the application regarding 46 Hoylake Road, Bidston, together with Councillors M Hornby and D McCubbin.

(2) That Councillor J Salter be appointed Chair to consider the application regarding QT, 3-7 Wilbraham Street, Birkenhead, together with Councillors S Niblock and H Smith.

110 **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.

111 **46 HOYLAKES ROAD, BIDSTON, CH41 7BX**

The Director of Law, HR and Asset Management reported upon an application that had been received from Javad Rezai Mahoi Abady for the grant of a Premises Licence in respect of 46 Hoylake Road, Bidston, under the provisions of the Licensing Act 2003.

The application for the grant of a Premises Licence was for the following hours:

Sale by Retail of Alcohol

Monday to Saturday	12:00 to 04:00
Sunday	12:00 to 03:00

Hours Open to the Public

Monday to Saturday	12:00 to 04:00
Sunday	12:00 to 03:00

The applicant was required to submit an operating schedule setting out how they would conduct/manage their business 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 licence be granted.

A representation had been received from Merseyside Police. The Licensing Sergeant had advised that the granting of the application would undermine the Licensing Objectives. Merseyside Police stated that the area in which the premises were located suffers from high levels of crime and anti-social behaviour. They also considered that increasing the availability of alcohol in the area through granting the application would increase the problems of crime and anti-social behaviour.

A representation had also been received from Trading Standards. The Trading Standards Officer advised that the granting of the application would undermine the Licensing Objectives. Trading Standards and Merseyside Police also referred to the applicant having a history in respect of disregarding the law.

A petition had been received signed by 36 local residents. The petition related to concerns that there would be an increase in anti-social behaviour and underage drinking should the application be granted.

The applicant attended the meeting together with his Barrister, Mr M Stanger, to outline the application.

Sergeant P Jenkins, Constable P Coley and Local Area Inspector R McGregor, were in attendance together with Mr A Bushell, Trading Standards and Ward Councillor, Councillor Harry Smith.

The Licensing Manager confirmed that all documentation had been sent and received including a case summary received from Mr Stanger.

Mr Stanger advised Members that the application was for a general store with the facility to sell alcohol. He reported that the applicant had applied for the hours stated as he wished to offer something that was currently unavailable in the area, however, after having considered the concerns of local residents, he wished to amend his application in line with the hours operated by other premises.

Members sought clarification of the hours requested by the applicant and Mr Stanger reported that the applicant would be content to amend the application with the hours as follows:-

Hours Open to the Public

Monday to Saturday	12:00 to 23:00
Sunday	12:00 to 22:00

Mr Stanger reported that there were no grounds to suggest that the premises would cause any difficulties regarding the four licensing objectives and that the applicant would co-operate with the relevant authorities.

Mr Stanger and the applicant responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Sergeant Jenkins reported that he had serious concerns regarding the licensing objective of crime and disorder being compromised should the application be granted. He reported upon a number of offences committed by the applicant from 2005 to 2011 and referred to a Custody Record pertaining to the arrest of the applicant in January 2010. Sergeant Jenkins reported that it was the belief of Merseyside Police that the applicant had a history of dishonesty and other criminal behaviour and to have such a person involved in the running of a licensed premises would risk the four licensing objectives being seriously compromised. Sergeant Jenkins also reported that the premises were situated in an area of social and economic deprivation which suffered from high levels of anti-social behaviour and crime, much of which was alcohol fuelled.

Sergeant Jenkins responded to questions from Mr Stanger, Members of the Sub-Committee and Mr D K Abraham.

Mr A Bushell reported that he formally objected to the granting of the application. He advised Members that a large quantity of counterfeit clothing and electrical items had been found at the applicant's house following a search of the premises. He also reported upon the applicant's link to a licensed premises in Liverpool which had been closed down following a serious assault at the premises. He informed Members that Trading Standards deemed that the applicant had a history of criminality, dishonesty and violence and that it would not be appropriate for him to be involved in a licensed premises. He also reported that Trading Standards believed that one or more of the licensing objectives would be seriously compromised should the application be granted.

The applicant responded to questions from Mr A Bushell.

Mr Bushell responded to questions from Mr Stanger and Mr D K Abraham.

Inspector McGregor reported on the high levels of anti-social behaviour and violence in the area and advised Members that a high proportion of this was related to alcohol. He expressed his concerns regarding a further opportunity being available for young people to purchase alcohol in the area and also reported that a number of business premises in the area had been used for organised crime. He believed that anti-social behaviour would increase should the application be granted. He advised Members that he was concerned about the integrity of the applicant.

Councillor H Smith reported that he was speaking on behalf of the Ward Councillors and the local community. He requested that the application be rejected. He referred to the petition that had been submitted and the issues raised by local residents. He advised Members of problems of alcohol related crimes in the area, violence caused by alcohol and problems of underage drinking and anti-social behaviour.

Councillor Smith responded to questions from Members of the Sub-Committee and Mr Stanger.

Mr D K Abraham questioned the applicant regarding his involvement in other premises and his experience of alcohol sales to which the applicant gave his responses.

Members gave careful consideration to the application made by Mr Javad Rezai Mahoi Abady for a Premises Licence in respect of 46 Hoylake Road, Bidston. Members read and listened to the verbal and oral representations made by him and on his behalf by Mr Stanger, his legal counsel.

Members also considered the representations made in writing and orally at the hearing by officers from Merseyside Police and Trading Standards as well as representations from the Ward Councillor, Councillor Harry Smith.

In determining the 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.

Members heard evidence from Merseyside Police that they had serious concerns should a Premises Licence be granted to the applicant due to his integrity and in particular his involvement and or association in criminal activity.

Members also heard evidence regarding the current level of anti-social behaviour within the vicinity of the premises.

Members noted in particular the concerns of Inspector McGregor that should a licence be granted it was his professional opinion that this would lead to an increase in crime and disorder in the area and therefore undermine the licensing objectives.

Members also had concerns that when the applicant was questioned on a number of issues at the hearing, his responses were evasive and inconsistent.

The applicant, when questioned, showed no understanding of the responsibilities under the Licensing Act 2003, despite indicating that he had involvement in licensed premises for a number of years. The applicant confirmed that he had undertaken a management role in Liverpool of a nightclub premises where its licence had been revoked due to violent crime. Members considered evidence from Inspector McGregor who had considerable experience working in the local area where the premises were situated.

Members also gave consideration to representations by the Ward Councillor with regard to the concern of the neighbourhood regarding anti-social behaviour and underage sales.

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 46 Hoylake Road, Bidston, Birkenhead be refused.

112 **QT, 3-7 WILBRAHAM STREET, BIRKENHEAD, CH41 2QA.**

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 QT, 3-7 Wilbraham 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, public safety and the prevention of public nuisance following unlicensable activities taking place at the premises and a number of serious breaches that had been identified at the premises.

A representation had also been received from the manager of the Central Hotel on behalf of hotel residents. The representation related to public nuisance by way of music emanating from the premises late at night.

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

Mr P Smith, owner of the premises was in attendance.

Mr P Turner, Manager, Central Hotel also attended the meeting.

The Licensing Officer reported that all documentation had been sent and received and that a letter had been received from the current Premises Licence Holder stating that she would have no further connection to the premises.

Sergeant Jenkins reported that there had been a change since Merseyside Police had initially asked for a revocation of the Premises Licence in that Mr Smith had informed him that he would be taking on the role of Premises Licence Holder and would uphold the conditions of the current licence and also incorporate a condition

regarding noise nuisance in view of the representations received from the Central Hotel. Sergeant Jenkins reported that he would therefore be content for Mr Smith to become Premises Licence Holder for these premises.

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

Mr Smith reported that he would undertake the running of the premises and assured Members that there would be no problems in the future. He informed Members he had taken the noise problem into consideration and advised he would visit the Central Hotel and liaise with Mr Turner.

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

Mr Turner reported upon ongoing problems regarding noise nuisance and suggested that the doors be kept closed and asked about the possibility of a noise level being set by Environmental Health.

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 from Merseyside Police that whilst Chanelle Skelly was in control of the premises unlicensed activities were being conducted at the premises and a number of breaches were identified following a number of visits made to the premises by Merseyside Police.

Members also considered evidence from Paul Turner, Premises Licence Holder of the Central Hotel, regarding noise from regulated entertainment coming from the premises which causes a nuisance to residents of his Hotel.

In determining the matter Members took into account that since the detection of the unlicensed activities and breaches of the Premises Licence conditions, Ms Skelly had been removed of her responsibilities and that the owner of the premises, Peter Smith would take over as Premises Licence Holder. Members had regard to representations made by Merseyside Police that they were content that Ms Skelly is no longer involved in the premises.

Members therefore considered that the modification of conditions to the 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:**

- **All external doors and windows must be kept closed when regulated entertainment is being provided except in the event of an emergency and access to or egress from the premises.**
- **A noise limiter device must be installed in the premises and set to a level, in consultation with officers from Environmental Health Department.**
- **The Licence holder or his representative must conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and must take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record must be made of those assessments in a log book kept for that purpose and must include, the time and date of the checks, the person making them and the results including any remedial action.**