

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 1 March 2012

Present:

Councillors    E Boulton  
                      S Niblock  
                      H Smith

113    **APPOINTMENT OF CHAIR**

**Resolved** – That Councillor S Niblock be appointed Chair for this meeting.

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

Members were asked to consider whether they had 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.

115    **NEWS 4 YOU, 264-266 CONWAY STREET, BIRKENHEAD**

The Director of Law, HR and Asset Management reported upon an application that had been received from Mr T Verma for the grant of a Premises Licence in respect of News 4 You, 264-266 Conway Street, Birkenhead, under the provisions of the Licensing Act 2003.

The premises previously held a Premises License. This was revoked on 20 October 2011 following an application made by Merseyside Police to review the licence.

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

**Sale by Retail of Alcohol**

Sunday to Saturday    07:00 to 23:00

**Hours Open to the Public**

Sunday to Saturday                    07:00 to 23:00

Mr Verma 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.

In respect of this application a representation had been made by Merseyside Police and the Licensing Sergeant advised that the granting of the application would undermine the licensing objectives due to the recent history of the premises and the

number of relevant convictions the proposed Premises Licence Holder/Designated Premises Supervisor currently had recorded against him.

Representations had also been received from a local resident and Stronger Communities Initiative Assembly. The representations related to high levels of anti-social behaviour caused by youths within the immediate vicinity of the premises due to the previous availability of alcohol at the premises.

A representation had also been received from Birkenhead and Tranmere Ward Councillors which supported the concerns from local residents.

The applicant, Mr Verma attended the meeting together with his representative, Mr Douglas.

Sergeant P Jenkins, Constable P Coley and Councillor Jean Stapleton were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that all parties had given consent that Councillor Stapleton may make representations at the hearing. The applicant requested permission to submit a petition in support of the application. Sergeant Jenkins and Councillor Stapleton had no objections to this, therefore the petition was distributed to Members.

Mr Douglas addressed the Sub-Committee and asked Members to consider this application without reference to the history of the premises when under previous ownership. He also requested that Members disregard issues that had occurred in the premises situated in Liverpool as it had been confirmed by Trading Standards that Mr Verma had not been responsible. He advised Members that Mr Verma had no connections with previous owners and had been operating from the premises for two and a half months as a convenience store.

Mr Douglas addressed the points raised by Merseyside Police and local residents and felt that there were no grounds for objection to the application. With regards to previous convictions incurred by his client, he asked Members to consider that Mr Verma had not had his Personal Licence revoked in Court and believed he was therefore entitled to hold the position of Designated Premises Supervisor. Mr Douglas referred to paragraphs 4.28 to 4.31 of the Statutory Guidance issued under the Licensing Act 2003 and pointed out that his client's convictions did not go against any of the Licensing Objectives. He referred to the petition submitted which contained 326 names in support of the application and reiterated that this was a new application, therefore his client had no connection with previous problems regarding the history of the premises. Mr Douglas referred to the Thwaites case and submitted that there was no evidence to support refusal of the application. He reminded all parties of the review procedure should any of the licensing objectives be undermined and asked that the application be granted.

The applicant and his legal representative responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Adviser to the Sub-Committee and Sergeant Jenkins.

Sergeant Jenkins outlined his formal objections to the application for the grant of a Premises License. He accepted that Mr Verma had not been involved in the

underage sale made at a premises in Liverpool where he had been Designated Premises Supervisor. He discussed objections in line with the Licensing Objectives. He explained that given the criminality that had been associated with these premises, Merseyside Police would not sanction these premises to be licensed again unless they were run by trustworthy, responsible and competent people. He made clear that the well being of the local community must take precedence over enterprise and made reference to Mr Verma's convictions and questioned his integrity.

Councillor Jean Stapleton then made representations on behalf of local residents. She confirmed that she was also speaking on behalf of her ward colleagues, Councillors Phil Davies and Brian Kenny. She reported on the improvement of the quality of life for local residents since the licence had been revoked at these premises in October 2011. Councillor Stapleton believed that anti social behaviour in the area would be exacerbated and asked Members to seriously consider the negative impact the premises would have on the local community should the application be granted. Councillor Stapleton requested that the application be rejected.

Sergeant Jenkins and Councillor Stapleton responded to questions from Mr Douglas.

Mr Douglas and Mr Verma responded to further questions from Members of the Licensing Act Sub-Committee and Sergeant Jenkins

Members gave careful consideration to the application made by Mr Tajinder Verma for a Premises Licence in respect of the premises News 4 U, 264-266 Conway Street, Birkenhead. Members read and listened carefully to the written and oral representations made by Mr Verma and Mr Douglas on his behalf.

Members also considered the representations made in writing and orally at the hearing by officers from Merseyside Police as well as representations from the Ward Councillor, Councillor Jean Stapleton who had spoken on behalf of the local community and the Stronger Communities Initiative Assembly and a local resident.

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 the fact that he had shown a disregard for the law in relation to alcohol related matters. The applicant was asked to demonstrate what his responsibilities were under the Licensing Act 2003 and how the licensing objectives would be upheld by him should the Premises Licence be granted. Members were not satisfied by his responses and considered that he was unable to demonstrate that he had the understanding or level of competency to deal with issues pertinent to this particular area as described by Merseyside Police and the Ward Councillor.

Members also heard evidence from the Ward Councillor in particular regarding anti-social behaviour within the vicinity of the premises and that there had been a dramatic reduction in such incidents since the previous Premises Licence had been revoked.

Sergeant Jenkins confirmed this and it was his professional opinion that if the licence was granted such incidents would increase and thus undermine 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 application for a Premises Licence in respect of News 4 You, 264-266 Conway Street, Birkenhead be refused.**

**116 SUNLIGHT RESTAURANT AND BAR, 2C BROMBOROUGH ROAD, BEBINGTON**

The Director of Law, HR and Asset Management reported upon an application that had been received from Anne Fleming for the grant of a Premises Licence in respect of Sunlight Restaurant and Bar, 2C Bromborough Road, Bebington, under the provisions of the Licensing Act 2003.

The premises currently had a Premises Licence with the hours as set out within the report.

An operating schedule had been submitted setting out how the business would be conducted/managed in accordance with the four licensing objectives and that the proposals set out in the schedule may become conditions of the licence should the application be granted. A copy of the full application was available.

In respect of this application four representations had been received from local residents. A representation had also been received from Church Farm Owners Association together with a petition signed by 23 residents of Church Farm and Ormerod Court. The representations related to anti-social behaviour which was currently a problem within the vicinity of the premises which residents considered could increase if the application was granted. Concerns had also been raised regarding noise from entertainment coming from the premises at a late hour.

The applicant, Anne Fleming, attended the meeting together with Mr R Fleming, Designated Premises Supervisor and Ms L Williams and Mr P Buck in support.

Councillor Walter Smith and Mr G Ranshaw, Vice Chairman of Church Farm Owners Association, were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that residents had requested that Councillor W Smith speak on their behalf. It was agreed by all parties photographs may be considered by Members of the Sub-Committee and these were distributed accordingly. The Licensing Manager also confirmed that the applicant had amended the hours applied for following the concerns of local residents and informed all parties of the amended hours.

Mrs Fleming addressed the Sub-Committee and explained that the application was for a restaurant and bar and that there was no intention to change the current operation of the premises. She explained that the premises was family run and that she wanted to provide background music for people dining at the premises.

Mrs Fleming responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Adviser to the Sub-Committee and Mr Renshaw.

Mr Renshaw stated that he had no objections to a licensed restaurant being operated at these premises, however, he raised his concerns regarding live music. He informed Members that the premises were situated in a quiet residential area and that he was opposed to live music being permitted.

Councillor Walter Smith then made representations on behalf of local residents. He reported that he had never received any complaints regarding the premises but that residents were extremely concerned regarding live bands being permitted to play at the premises and the level of noise becoming a disturbance. He also raised concerns regarding noise disturbance of people leaving the premises at a later hour. Councillor Smith requested that the application be refused.

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

Mrs Fleming understood the concerns of local residents and assured Members she would assist in any way to keep noise levels at a minimum. She also requested that residents liaise with her should they experience any problems.

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 representations from Mrs Fleming, the applicant and considered written and oral representations from Mr Renshaw, local resident as well as the Ward Councillor on behalf of local residents.

Members noted the concerns raised were principally in respect of public nuisance caused by noise emanating from the premises in the form of live music.

Members also had regard to the fact that there were no representations from the responsible authorities, in particular Environmental Health and that there had been no complaints regarding noise nuisance in the past.

Members noted that it was not the intention of the applicant to change the nature in respect of which the premises currently operated.

**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 Sunlight Restaurant and Bar, 2C Bromborough Road, Bebington, be granted with the hours as amended:**

### **Sale by Retail of Alcohol**

<b>Monday to Thursday</b>	<b>08:00 to 23:00</b>
<b>Friday and Saturday</b>	<b>08:00 to 23:30</b>
<b>Sunday</b>	<b>08:00 to 22:30</b>

### **Hours Open to the Public**

<b>Monday to Thursday</b>	<b>08:00 to 23:30</b>
<b>Friday and Saturday</b>	<b>08:00 to 23:30</b>
<b>Sunday</b>	<b>08:00 to 22:30</b>

### **Regulated Entertainment (Live Music)**

<b>Sunday to Thursday</b>	<b>12:00 to 22:30</b>
<b>Friday and Saturday</b>	<b>12:00 to 23:30</b>

### **Regulated Entertainment (Recorded Music)**

<b>Monday to Thursday</b>	<b>12:00 to 23:00</b>
<b>Friday and Saturday</b>	<b>12:00 to 23:00</b>
<b>Sunday</b>	<b>12:00 to 22:30</b>

### **Entertainment Facilities (Facilities for Making Music)**

<b>Sunday to Thursday</b>	<b>12:00 to 22:30</b>
<b>Friday and Saturday</b>	<b>12:00 to 23:30</b>

### **Entertainment Facilities (Facilities for Dancing)**

<b>Sunday to Thursday</b>	<b>12:00 to 22:30</b>
<b>Friday and Saturday</b>	<b>12:00 to 23:00</b>

### **Non-Standard Timings**

**The following non-standard timings have been granted for all of the above Licensable Activities and Late Night Refreshment (to start from 23:00) and Hours Open to the Public:**

<b>New Years Eve</b>	<b>12:00 to 01:00</b>
<b>Christmas Day</b>	<b>12:00 to 18:00</b>
<b>Good Friday</b>	<b>12:00 to 23:00</b>

**(3) That, in addition to the appropriate conditions proposed in the operating schedule, the following conditions be attached to the Premises Licence:**

- A sign must be prominently displayed advising customers that they may only smoke on the patio area at the side of the premises**
- All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency and except for access and egress.**

- There must be placed at all exits from the premises, in a place where they can be seen and easily read by the public, notices requesting customers to leave the premises and area quietly.

(4) Members noted that the operator encouraged customers to remain in the premises whilst waiting for taxis and that there would be ongoing dialogue between the applicant and local residents regarding any issues that may arise in the future.