

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 18 July 2012

Present:

Councillors    D Mitchell  
                     S Niblock  
                     D Roberts

12    **APPOINTMENT OF CHAIR**

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

13    **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.

14    **APPLICATION FOR THE GRANT OF A PREMISES LICENCE - POULTON POP IN, POULTON ROAD, WALLASEY**

This application was withdrawn prior to the hearing.

15    **APPLICATION TO REVIEW A PREMISES LICENCE - FAIRFIELD HOTEL, 292 OLD CHESTER ROAD, ROCK FERRY**

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 Fairfield Hotel, 292 Old Chester Road, Rock Ferry, 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 due to gas at the premises being illegally abstracted.

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

Mr B Peace, Area Manager, GRS Pubs Investment and Mr J Anderson, Solicitor were also in attendance.

The Licensing Manager reported that all documentation had been sent and received and that the Designated Premises Supervisor was in attendance together with her solicitor, Mr Johnson who wished to make a request to the Sub-Committee that he make representations on her behalf.

Mr D K Abraham, Legal Advisor to the Sub-Committee referred to Regulation 2, 6(1) and Schedule 2 of the Licensing Act 2003 (Hearings Regulations) 2005 and clarified to Members that the Designated Premises Supervisor was not a party to the proceedings and therefore not in a position to make representations.

The Chair informed Mr Johnson that his request to make representations on behalf of the Designated Premises Supervisor was refused further to the legal advice provided.

Sergeant Jenkins reported that there was an ongoing criminal investigation in this matter and asked that the matter be heard in private.

A short adjournment took place while Members considered the request made by Sergeant Jenkins.

The meeting reconvened and the Chair advised that with reference to Regulation 14(2), the meeting would be held in private.

Sergeant Jenkins reported that he had been in close liaison with GRS Pubs Investments and that they had confirmed that a Notice to Quit had been served on the tenant Mr O’Gorman. Sergeant Jenkins reported that there was an ongoing criminal investigation into the illegal abstraction of gas at the premises and gave the circumstances surrounding the discovery of the gas being illegally abstracted. Sergeant Jenkins reported that GRS Pubs Investments had taken steps to address his concerns regarding the management of the premises and as a result of this he was now only seeking the removal of the Designated Premises Supervisor.

Sergeant Jenkins responded to questions from Members of the Sub-Committee.

Mr Anderson, Solicitor reported that GRS Inns did not contest the application made by Merseyside Police to remove the Designated Premises Supervisor. He advised that devised a checklist to ensure the Area Manager checks the gas supply upon visiting the premises and that a further check is made by the Property Manager. He advised that he was in agreement with the proposals put forward by Merseyside Police and submitted that this would be a proportionate approach.

Mr Anderson responded to questions from Members of the Sub-Committee.

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.

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence and the representations made in writing and orally at the hearing by Mr Peace and Mr Anderson representing the Premises Licence Holder, GRS Pub Investments Limited.

Members accepted the evidence provided by Merseyside Police that the gas supply at the premises had been unlawfully tampered with.

Members gave consideration to the fact that GRS Pub Investments Limited were willing to work with Merseyside Police to ensure compliance with Licensing Legislation and uphold the Licensing Objectives and had no objection to the removal of the Designated Premises Supervisor as submitted by Merseyside Police. Members had regard to the fact that GRS Pub Investments Limited stated that regular checks would be undertaken at the premises and that these checks would include an audit system to ensure that gas and electricity supplies at the premises would be provided legitimately.

Members noted that the present tenant had been served with a Notice to Quit.

**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 Kerry O'Gorman be removed as Designated Premises Supervisor.**