

# LICENSING ACT 2003 SUB-COMMITTEE

Friday, 20 July 2012

Present:

Councillors R Gregson  
M Hornby  
S Niblock

16 **APPOINTMENT OF CHAIR**

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

17 **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.

18 **APPLICATION TO REVIEW A PREMISES LICENCE - PUNCH BOWL, 77 MARKET STREET, HOYLAK**

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 Punch Bowl, 77 Market Street, Hoylake, under the provisions of the Licensing Act 2003.

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

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, Merseyside Police, attended the meeting.

Mr A Lyons, Director, Altcom 404 Limited was also in attendance.

The Licensing Manager reported that all documentation had been sent and received and that there had been a transfer of the Premises Licence since the application had been received from Merseyside Police and that Mr Lyons was in attendance to represent the Premises Licence Holder.

Sergeant Jenkins requested to submit photographic evidence of the gas meter at the premises. Mr Lyons had no objection to this and the photographs were therefore considered by Members.

Sergeant Jenkins reported that there was an ongoing criminal investigation into the illegal abstraction of gas at the premises which presented a danger to the public and compromised the licensing objectives of crime and disorder and public safety. Sergeant Jenkins gave details of the circumstances surrounding the discovery of the gas being illegally abstracted. Sergeant Jenkins advised Members that the premises were currently for sale and requested that the Designated Premises Supervisor be removed and that Mr Lyons agree to an undertaking that all checks with both gas and electricity would be made and that details of the relevant suppliers be available to any authorised officer.

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

Mr Lyons stated that he was in agreement with Sergeant Jenkins and would comply with the requests he had put forward.

Members gave careful consideration to the application made by Sergeant Jenkins on behalf of Merseyside Police to Review the Premises Licence at The Punch Bowl, 77 Market Street, Hoylake, and the representations made by Mr Lyons, Director of Altcom 404 Limited.

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 accepted the evidence provided by Merseyside Police that the gas supply at the premises had been unlawfully tampered with and noted that Merseyside Police had concerns in respect of the licensing objectives of public safety and crime prevention regarding this.

Members noted that the Premises Licence had been transferred from Emma Jones to Altcom 404 Limited since the application for review had been received.

Members further noted that the Premises Licence Holder undertook to disclose details of any proposed new tenant to Merseyside Police to ensure they were content with the said tenant.

Members also noted that the Premises Licence Holder undertook to accurately record the meter readings for the utilities prior to the occupancy of any new tenant and make those readings available to any responsible authority or utility company as 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 current Designated Premises Supervisor be removed.**

19 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE - OZZYS CAFE KEBAB SHOP, 8 ST ANNE STREET, BIRKENHEAD**

The Director of Law, HR and Asset Management reported upon an application that had been received from Mrs J Dogan for a Premises Licence in respect of Ozzys Café Kebab Shop, 8 St Anne Street, Birkenhead, under the provisions of the Licensing Act 2003.

The application was for the grant of a new Premises Licence for the hours outlined within the report.

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 a local resident. The representation related to noise nuisance and anti-social behaviour caused by youths which was currently a problem within the vicinity of the premises. A copy of the representation was available.

Ward Councillor, Phil Davies had also made a representation which supported the concerns expressed by the local resident.

The applicant, Mrs Dogan, attended the meeting together with her representative, Mr Mearns.

The local resident who had objected to the application did not attend the meeting. Councillor Davies was unable to attend.

The Licensing Officer confirmed that all documentation had been sent and received and that a petition had also been received to which the applicant had no objection to being shown to Members. The applicant also requested to submit a letter which was distributed to Members.

Mr Mearns explained the reasoning behind the application. He advised that Mrs Dogan had taken over the business and invested a considerable sum of money in the premises. He informed Members that the premises had become popular with local people and referred to the petition that had been submitted in support of the

application. He addressed the concerns raised by the local resident and believed that all the allegations referred to were not directly linked to the premises.

Mr Mearns and Mrs Dogan responded to questions from Members of the Sub-Committee and Mr Abraham, Legal Advisor to the Sub-Committee.

The Chair advised that although the local resident did not attend the meeting, Members had considered the written representations submitted.

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 Statutory Guidance issued under section 182 of the Licensing Act 2003.

Members had regard to representations made from the Ward Councillor and local residents which related to general concerns of public nuisance within the vicinity of the premises including litter and traffic issues.

Members also had regard to the fact that no evidence was presented that directly linked the premises to public nuisance.

Members heard evidence as to how the premises would be managed including arrangements relating to the closing of the premises and litter collection and considered the representations made by the applicant in respect of ensuring that the premises would be operated in a responsible manner.

Members had regard to the fact that there were no representations from Merseyside Police, Environmental Health or any other responsible authority.

Members stressed that advice must be sought from Planning (Development Control) in respect of the existing Planning Restrictions on the premises.

**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 Ozzys Café Kebab Shop, 8 St Anne Street, Birkenhead, be granted with the following hours:**

**Late Night Refreshment**

**Sunday to Saturday 23:00 to 00:00**

**Hours Open to the Public**

**Monday to Saturday 08:00 to 00:00**

**Sunday 15:00 to 00:00**

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 Pacific Hotel, 476 Price Street, Birkenhead, under the provisions of the Licensing Act 2003.

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

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. Merseyside Police also found cannabis plants within the flat above the premises to which access could only be gained through the premises.

Sergeant P Jenkins, Merseyside Police, attended the meeting.

The Licensing Manager reported that all documentation had been sent and received, however, no notification of attendance had been received from the Premises Licence Holder.

Sergeant Jenkins explained the current situation at the premises. He advised Members that the premises were currently closed and that there was an ongoing criminal investigation in the matter. He also reported that he had received no response from the Premises Licence Holder.

The Licensing Manager informed Members that this matter was originally listed to be considered on 28 June 2012, however, this meeting was re-arranged to take place today and that the Premises Licence Holder was advised that the matter was adjourned to this date.

The Chair reported that in the interest of the public, Members of the Sub-Committee would proceed with the matter.

Sergeant Jenkins outlined the application for review. He reported upon a visit made to the premises on 1 May 2012 by officers of the Police Licensing Unit and Revenue Protection Officers from British Gas where it was discovered that the gas meter had been 'reversed' and the gas was being stolen. It was also discovered that the electricity supply had been diverted to the upper floors of the premises and upon

forced entry to the upper floor a cannabis farm was discovered. Sergeant Jenkins therefore requested that the Premises Licence be revoked.

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

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence at The Pacific Hotel, 476 Price Street, Birkenhead.

Although the respondent did not attend the meeting, Members considered paragraph 20, sub paragraph (2) of the Licensing Act 2003 Hearings Regulations 2005 in determining that it was nevertheless in the public interest that the matter proceed. Members noted that the application had been previously listed to be considered on 28 June 2012, but that notification was sent to Mr Hughes informing him that the meeting had been cancelled and would be adjourned to today's date and that further notification was sent regarding the hearing today but that no response had been received to communications (including telephone calls) from the Licensing Department or Merseyside Police.

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, in particular, paragraphs 11.27 - 11.30.

Members accepted the evidence provided by Merseyside Police that the gas supply at the premises had been unlawfully tampered with and that gas had been stolen. Members also accepted that Merseyside Police had major concerns in respect of public safety regarding this and that the electrical supply at the premises had been interfered with and used to assist in the growing and cultivation of cannabis within the building.

**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 Pacific Hotel, 476 Price Street, Birkenhead be revoked.**