

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 25 July 2012

Present:

Councillors	S Niblock	H Smith
	D Roberts	C Povall
	J Salter	

21 **APPOINTMENT OF CHAIR**

Resolved -

(1) That Councillor J Salter be appointed Chair to consider the application regarding the North Star together with Councillors S Niblock and C Povall.

(2) That Councillor H Smith be appointed Chair to consider the application regarding Kwiksave together with Councillors S Niblock and D Roberts.

22 **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.

23 **APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE - NORTH STAR, 294 LAIRD STREET, BIRKENHEAD**

The Director of Law, HR and Asset Management reported upon an application that had been received from Mr C Fox to Transfer 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 allowed the licensable activities as set out within the report.

An Objection had been received from Merseyside Police in respect of the application to Transfer the Premises Licence. The Licensing Sergeant considered that should the application be granted, the crime prevention objective would be undermined due to an assault which took place at the premises during the time when unlicensed activities had been taking place. A copy of the objection was available.

The applicant, Mr C Fox, attended the meeting with his legal representative Ms Ford.

Sergeant Jenkins was also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received.

Ms Ford requested to submit a further letter. Sergeant Jenkins had no objections to this and therefore the letter was considered by Members.

Ms Ford addressed the Sub-Committee and explained that the application was solely for the transfer of the Premises Licence to Colin Fox. She advised Members that Mr Fox had no connection to Mr Wilson, the current Premises Licence Holder and that he was a builder and therefore would have limited involvement in the premises. She reported upon the reason for the delay in the lease being signed over to Mr Fox which was due to his solicitor being on leave. She informed Members that Mr Fox had invested a lot of money in the premises and that the issues regarding the premises in the past were not connected to Mr Fox. She reported that Mr Fox had been unaware of the Closure Notice on the premises when the premises opened on 16 June 2012 and that he would not have permitted this or any unlicensed activities to take place had he been aware of the Closure Notice. She referred to the alleged sexual assault that had occurred at the premises on 17 June 2012 and requested that Members attach the appropriate weight to the alleged incident as she believed the information available regarding this was considerably limited. Ms Ford believed that it was not necessary or appropriate to prevent the transfer being granted and assured Members that Mr Fox now understood his responsibilities and would work closely with Merseyside Police should the transfer be granted.

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

Sergeant Jenkins advised Members and that he would be seeking revocation of the Premises Licence when the premises came to review and that the review application had been submitted prior to the application for a transfer. He referred to the paragraphs 8.99 and 8.100 of the guidance issued under Section 182 of the Licensing Act 2003. Sergeant Jenkins reported that there was an ongoing criminal investigation into the allegation of a sexual assault that had taken place at the premises. He advised Members that the premises were problematic and had a dire history and that Mr Fox had no knowledge of the licensing objectives or the conditions of the Premises Licence. Sergeant Jenkins requested that the application for a transfer of the Premises Licence be rejected.

Members gave careful consideration to the application made by Mr Fox for the Transfer of a Premises Licence in respect of the North Star, 294 Laird Street, Birkenhead. Members listened carefully to the representations made by Mr Fox and Ms Ford, his legal representative.

Members considered the representations made in writing and orally by Sergeant Jenkins.

In determining the application Members had regard to the prevention of crime and disorder objective, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003, in particular paragraph 8.99.

Members heard evidence from Merseyside Police that they had serious concerns that the Transfer of the Premises Licence to Mr Fox would undermine the crime

prevention objective. Merseyside Police gave evidence that when the premises was subject to a Closure Notice, it had operated in breach of the conditions of the Licence and that an alleged serious sexual offence had taken place at the premises which was currently being investigated by Merseyside Police and that these incidents had taken place since Mr Fox had been connected to the premises.

Members were not satisfied that the applicant, Mr Fox, was able to demonstrate that, as the holder of a Premises Licence, he would operate the premises in accordance with the Licensing Objectives in particular the Prevention of Crime and Disorder.

Members were not satisfied with the responses given by Mr Fox when he 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 Transfer of the Premises Licence be granted.

Members also noted that the applicant did not intend to take an active role in the running of the premises, that the lease had not yet been transferred to his name and furthermore that he intended to transfer the Licence to a future Designated Premises Supervisor.

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 by Mr Fox for the Transfer the Premises Licence to him in respect of the North Star, 294, Laird Street, Birkenhead be refused.

24 APPLICATION FOR THE GRANT OF A PREMISES LICENCE - KWIKSAVE, 103 POULTON ROAD, WALLASEY

The Director of Law, HR and Asset Management reported upon an application that had been received from Mohammed Rafaqat for the grant of a Premises Licence in respect of Kwiksave, 103 Poulton Road, Wallasey, under the provisions of the Licensing Act 2003.

The premises previously held a Premises Licence to allow the hours as set out within the report. The application for the grant of a Premises Licence was for the supply of alcohol and hours open to the public from 8 am to 11 pm seven days per week.

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.

In respect of this application, three representations had been received from local residents. The representations related to youths causing anti-social behaviour which they considered was currently a problem within the vicinity of the premises. Copies of the representations were available.

No representations had been received from any of the Responsible Authorities.

Mr M Ali attended the meeting together with his representative, Mr P Douglas.

The Licensing Manager confirmed that all documentation had been sent and received and confirmed that notice had been sent to the residents who had made representations and that one of the residents had indicated he would be in attendance but had failed to attend.

Mr Douglas addressed the Sub-Committee. He referred to the representations opposing the application and reported that they were very closely linked and had a vested interest in the application being refused. He advised Members that Mr Ali had spoken to the Police Licensing Sergeant prior to submitting his application and that Sergeant Jenkins had been satisfied with the application and was content that the licensing objectives had been addressed. Mr Douglas reported that the local community would benefit from the premises being granted a Premises Licence and that no residents had raised any objections. Mr Douglas informed Members that the representations received had been made by the Premises Licence Holder of another business located near to the Kwiksave premises and were from Members of the same family. Mr Douglas requested that the application be granted.

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

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 considered the written and oral representations made by the applicant and his representative Mr Douglas.

Members also considered the written representations of the objectors who did not attend in person.

Members had regard to the fact that there were no representations from the Responsible Authorities, in particular, Merseyside Police.

In determining the matter Members had regard to the lack of direct evidence that the licensing objectives would be undermined should the application be granted.

Members considered representations made by the applicant in respect of how the premises would be managed to uphold 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 Kwiksave be granted with the following hours:

Supply of Alcohol

Sunday to Saturday 08:00 to 23:00

Hours Open to the Public

Sunday to Saturday 08:00 to 23:00

(3) That the following condition be attached to the Premises Licence:

- **That all staff authorised to sell alcohol must attend training delivered either by Wirral Trading Standards or a training provider who can deliver accredited training in relation to under-aged sales and a record of this training must be made available to an authorised officer on request and that refresher training be provided every 6 months and a record of this training must be kept.**