

# LICENSING ACT 2003 SUB-COMMITTEE

Friday, 17 August 2012

Present:

Councillors	S Niblock	M Hornby
	J Salter	A Sykes

25 **APPOINTMENT OF CHAIR**

Resolved -

- (1) That Councillor S Niblock be appointed Chair for this meeting.
- (2) That Councillor S Niblock consider the application regarding Liberty with Councillors J Salter and M Hornby.
- (3) That Councillor S Niblock consider the application regarding The Black Horse with Councillors J Salter and A Sykes.

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

Members of the Committee were asked to declare any disclosable pecuniary and non pecuniary interests, in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

27 **APPLICATION TO REVIEW A PREMISES LICENCE - LIBERTY, 3-3A GRANGE ROAD, WEST KIRBY**

The Acting 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 Liberty, 3-3A Grange Road, West Kirby, under the provisions of the Licensing Act 2003.

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

A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

The Acting 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 unlicensed activities taking place at the premises which had resulted in a serious assault.

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

Mr C Saverimutto, Designated Premises Supervisor and Premises Licence Holder was also in attendance.

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

Sergeant Jenkins reported that Mr Saverimutto had received and accepted a caution for unlicensed activities and had therefore, in his opinion, admitted that unlicensed activities had taken place at the premises. Sergeant Jenkins referred to the statements included within his submissions of the people involved in the incident on 27 May 2012 and provided the details regarding the incident when a male was injured due to unlicensed activities having taken place at the premises. Sergeant Jenkins referred to further breaches of the Premises Licence and believed that Mr Saverimutto had demonstrated a lack of knowledge of his responsibilities as Designated Premises Supervisor. Sergeant Jenkins therefore requested that the conditions of the Premises Licence be modified and provided some suggested conditions that he wished to be placed upon the Premises Licence.

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

Mr Saverimutto believed that the Premises Licence had been brought to review due to an unfortunate set of circumstances. He referred to the incident that had occurred outside the premises on 27 May 2012 and stated that he had accepted the caution as the perpetrators of the assault had been drinking in the premises beyond the hours permitted on the Premises Licence. He believed that some unfounded allegations had been made regarding underage persons drinking at the premises and noise from 18<sup>th</sup> birthday parties as there was no evidence of this. He also stated that there had been no history of violence at the premises previously and presented photographs of the premises in support. Mr Saverimutto requested that the condition suggested by Sergeant Jenkins that no 18<sup>th</sup> birthday parties be held at the premises would be inappropriate and unfair as the premises was a popular venue for 18<sup>th</sup> birthday parties and he believed they were well managed. Mr Saverimutto apologised that the incident had occurred and also stated that he would willingly implement a Challenge 25 Policy at the premises and work together with the responsible authorities to ensure that the licensing objectives would be upheld.

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

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence at Liberty, 3-3A Grange Road, West Kirby and the representations made in writing and orally at the hearing by officers from Merseyside Police as well as Mr Saverimutto, the Premises Licence Holder and Designated Premises Supervisor.

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 there had been a serious incident that occurred within the vicinity of the premises on 27 May 2012 following unlicensable activities taking place at the premises and that Mr Saverimutto had accepted this and was issued with a formal caution in respect of unlicensable activities.

Members noted that Mr Saverimutto supported the benefits of training staff in respect of their responsibilities under licensing legislation.

Members recognised Mr Saverimutto's willingness to have in place effective measures to prevent the sale of alcohol to under 18's including a written protocol for 18<sup>th</sup> birthday parties.

**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 in respect of Liberty, 3-3A Grange Road, West Kirby, be modified as follows:**

- **The Designated Premises Supervisor at these premises must hold a Level 2 Award for Designated Premises Supervisors as from 1 October 2012.**
- **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 under-aged sales by 1 October 2012 and a record of this training must be made available to an authorised officer on request.**
- **Staff working at the premises must receive regular updated training in respect of preventing the sale of alcohol to persons under 18 years of age and training records must be kept and maintained**
- **A Challenge 25 Policy must be in force at the premises and must be maintained. Signage must be prominently displayed regarding this policy.**
- **From 1 October 2012 there must be a Personal Licence Holder on duty at all times when alcohol is being sold.**

28 **APPLICATION TO REVIEW A PREMISES LICENCE - THE BLACK HORSE HOTEL, SCHOOL HILL, HESWALL**

The Acting 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 Black Horse Hotel, School Hill, Heswall, under the provisions of the Licensing Act 2003.

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

A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

The Acting 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 appropriate 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 the current Designated Premises Supervisor, having assaulted a Police Officer at the premises. The Licensing Sergeant also advised that the Designated Premises Supervisor had previously been arrested on two other occasions for assault at these premises.

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

Mr T Strictly, Business Manager, Punch Taverns plc was also in attendance together with Mr Coen, Solicitor representing Punch Taverns plc as the Premises Licence Holder.

The Designated Premises Supervisor was present together with his Solicitor, Mr Boag.

The Licensing Manager reported that all documentation had been sent and received and explained that the party to the hearing was the Premises Licence Holder but that the Designated Premises Supervisor and his representative were other persons at the hearing and in this capacity provided Members with the opportunity to ask questions of them.

Sergeant Jenkins reported upon an offence that had occurred on 25 November 2011 when the Designated Premises Supervisor had assaulted a Police Constable whilst he was executing his duty. As a result of this, Sergeant Jenkins believed there was clear evidence that the Designated Premises Supervisor had compromised the licensing objectives of prevention of crime and disorder and public safety and therefore considered that the problem was the Designated Premises Supervisor himself rather than the premises. Sergeant Jenkins also stated that the Designated Premises Supervisor had been arrested for violence on two other occasions and therefore requested Members to remove him as Designated Premises Supervisor and that Punch Taverns Ltd give an undertaking that he would not be employed in any capacity in which he would have contact with clientele.

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

Mr Coen informed Members that he represented Punch Taverns Ltd who were the Premises Licence Holder. He reported that Punch Taverns had entered into a lease with the Designated Premises Supervisor and that they did not employ him. He explained that although Punch Taverns Ltd acknowledged the concerns of the Police, they were subject to the constraints of the lease between themselves and the Designated Premises Supervisor until June 2013. Mr Coen referred to paragraphs 11.25 and 11.26 of the relevant guidance issued under Section 182 of the Licensing Act 2003. He referred to the fact that the Designated Premises Supervisor Personal Licence had not been suspended or revoked at the Magistrates' Court and referred to Section 1.29 of the Licensing Act 2003 regarding Personal Licences. He submitted that Members should not seek to go behind the decision of the Court and also that Punch Taverns Ltd was a responsible company.

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

A short adjournment took place during which time Members discussed Regulation 17 of the Licensing Act 2003 (Hearings) Regulations 2005.

The meeting reconvened and Members requested whether Mr Boag had any response to the statement given by Merseyside Police.

Mr Boag addressed the meeting and expressed concerns regarding the facts surrounding the assault. He stated that the Designated Premises Supervisor had accepted that he was guilty of assault on a Police Officer and gave details of the events that had occurred surrounding the assault. He made reference to the fact that the Designated Premises Supervisor had been found not guilty of assault on a motorcyclist at the Magistrates' Court.

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

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.

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, in particular to paragraphs 9.12, 11.25 and 11.26

Members of the Licensing Act 2003 Sub-Committee accepted the evidence provided by Merseyside Police that on 16 May 2012, the Designated Premises Supervisor pleaded guilty to assaulting a Police Officer. This offence occurred when the Officer attended the premises to assist another Officer who had arrested the Designated Premises Supervisor on suspicion of assaulting a male motorist within the vicinity of the premises. Members also gave consideration to a number of witness statements provided by Merseyside Police which made reference to the Designated Premises Supervisor.

Members had particular regard to the concern of Merseyside Police that should Mr Mitchell not be removed as the Designated Premises Supervisor the Licensing Objective in relation to Crime and Disorder would be undermined and that public safety would be put at risk.

Members gave consideration to comments made by Mr Boag, on behalf of Mr Mitchell and accepted that in 2009 Mr Mitchell was found not guilty of a violent offence, however, Members accepted the evidence and advice of Merseyside Police that if the Designated Premises Supervisor was not removed this would seriously undermine the Licensing Objectives, in particular Crime and Disorder and Public Safety.

**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 Designated Premises Supervisor be removed.**