

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 30 January 2013

Present:

Councillors    WJ Davies  
                      A Leech  
                      S Niblock  
                      I Williams

82     **APPOINTMENT OF CHAIR**

**Resolved -**

(1)     That Councillor W J Davies be appointed Chair to consider the application regarding Bertha Macs together with Councillors M Hornby and A Leech.

(2)     That Councillor S Niblock be appointed Chair to consider the applications regarding MNS Food and Wine and News and Mojo's, together with Councillors M Hornby and I Williams.

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

Members of the Sub-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.

Councillor S Niblock declared a personal interest in respect of item 5 on the agenda - Application to Review a Premises Licence - Mojo's, 3 Dee Lane, West Kirby, by virtue of having considered the application at the Interim Steps hearing on 28 December 2012.

84     **APPLICATION TO REVIEW A PREMISES LICENCE - BERTHA MACS, 16 BEBINGTON ROAD, NEW FERRY**

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 Bertha Macs, 16 Bebington Road, New Ferry, 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 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 appropriate 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 electricity and gas at the premises having been illegally abstracted. Merseyside Police had also advised that complaints had been received from residents relating to anti-social behaviour in respect of the premises.

Further to the application being made to review the Premises Licence, two separate applications had been made to transfer the Premises Licence and to change the Designated Premises Supervisor which had been granted as no objections had been received from the Police.

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

Councillor S Niblock attended the meeting together with Mr Craig, Chair of the New Ferry Residents Association, who was present as a witness.

Ms Santo, current Premises Licence Holder and Designated Premises Supervisor was also in attendance.

The Licensing Manager reported that all documentation had been sent and received. She also advised that Miss Santo had not been the Premises Licence Holder when the application for the review had been made.

Sergeant Jenkins reported that further investigations were being carried out into the illegal abstraction of electricity and gas at the premises. He advised that the Premises Licence Holder and Designated Premises Supervisor had changed since the application had been made and that no link had been found between Ms Santo and the ongoing criminal investigation. Sergeant Jenkins informed Members that since he had submitted the application and requested that the Premises Licence be revoked, he now believed this would not be appropriate and asked that a number of conditions be placed on the Premises Licence.

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

Councillor Niblock requested that Mr Craig address the Sub-Committee as a witness. Members sought legal advice regarding this request during a short adjournment.

The meeting reconvened, all parties advised there was no objection to Mr Craig being called as a witness and he therefore addressed the Sub-Committee.

Mr Craig referred to the complaints he had received from local residents and traders and that the main issue was the bi-folding doors at the premises remaining open and patrons of the premises being abusive to passers by.

Councillor Niblock informed Members that there had been issues at the premises regarding public nuisance and that this was exacerbated when the bi-fold doors at the premises were open. He believed that Ms Santo would run the premises well, however he suggested that conditions be placed upon the Premises Licence in order to reduce the public nuisance, namely that the bi-folding doors remain closed and that smokers use the designated area to the rear of the premises.

Ms Santo reported that she had many years experience within the licensing trade, was well known and respected in the area and had no connection with the offences of illegal abstraction of gas and electricity at the premises. She advised that she would be content to accept the conditions proposed by Merseyside Police and informed Members there had been no issues whilst the premises had been under her control. She understood the issues raised by Councillor Niblock and suggested putting a screen in place so that people could not walk out onto the street. Miss Santo also submitted a petition in support which was considered by Members further to all parties consenting and advised Members that she was willing to work with the local community and Merseyside Police.

Miss Santo 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 at Bertha Macs, 16 Bebington Road, New Ferry, and the representations made by Councillor Niblock, Ward Councillor and his witness Mr Craig and the Designated Premises Supervisor and Premises Licence Holder, Miss Santo.

In determining the review application we 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 historically the gas and electricity supplies at the premises had been unlawfully tampered with and breaches of the Premises Licence had occurred. Members had regard to the concerns of Merseyside Police in respect of the licensing objectives of public safety and crime prevention regarding this, however they also noted that the current Designated Premises Supervisor and Premises Licence Holder had not been involved in this and that she had been at the premises since December 2012. Members understood that the Police and the Ward Councillor were no longer seeking a revocation of the premises but had requested that a number of conditions be placed on the Premises Licence to deal with the issues of crime and disorder and public nuisance.

Members noted and encouraged the willingness of the Designated Premises Supervisor to work closely with local residents and the Police.

**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 be modified as follows:**

- **CCTV installed at the premises must be in accordance with the specification issued by the Licensing Authority. Tapes and visual images recorded must be retained for a period of 31 days and access to the system must be made available to Licensing Officers and Responsible Authorities on request.**
- **No persons under the age of 18 shall be permitted in the premises.**
- **The premises must operate a Challenge 25 Policy and must display the appropriate posters.**
- **The bi-folding doors must remain closed at all times.**
- **Customers must use the designated smoking area situated at the rear of the premises.**
- **The premises must become a member of the Pub Watch Scheme.**

**85 APPLICATION TO VARY A PREMISES LICENCE - MNS FOOD AND WINE AND NEWS, 105 ROYDEN ROAD, UPTON**

The Acting Director of Law, HR and Asset Management reported upon an application that had been received from Maheswaran Krisnapillai to vary a Premises Licence in respect of MNS Food and Wine and News, under the provisions of the Licensing Act 2003.

The variation requested was outlined within the report.

The applicant 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. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the licence be granted.

Merseyside Police had made a representation to the application as they considered that crime and disorder and public nuisance would increase in the vicinity of the premises should the application be granted. The representation also referred to the fact that an illegal immigrant had been found working at the premises which led to a review of the premises on 27 January 2012 and that the conditions imposed by the Sub-Committee were not being complied with when the premises were inspected by Police Licensing Officers in July 2012. Members were informed that the conditions were now being complied with.

Mr Jordan attended the meeting on behalf of the applicant who was not in attendance.

Sergeant P Jenkins, Constables R Jones and P Coley, Merseyside Police, were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that Mr Jordan had submitted some training material which was considered by Members further to the agreement of Merseyside Police.

Sergeant Jenkins advised that he wished to submit some photographic evidence which was also considered by Members with the consent of Mr Jordan.

Mr Jordan addressed the Sub-Committee and advised Members that there were a number of issues he had not been aware of in respect of the premises. He advised that should the variation be granted, a full training programme would be implemented. He informed Members that there was no evidence of underage sales or proxy sales at the premises and that no objections had been received from local residents.

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

Sergeant Jenkins referred to the objection he had submitted which highlighted the history of the premises. He referred to the statement submitted by Inspector Griffiths who had attended the premises after having received anonymous information regarding an incident that took place at the shop involving a member of staff chasing young people with a baseball bat that was kept behind the counter of the premises. Sergeant Jenkins reported that there had been 117 recorded incidents of anti-social behaviour in the immediate location during the last year and that the area was considered a 'hotspot'. Sergeant Jenkins requested that the application regarding the extended hours be refused.

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

Members gave careful consideration to the application to vary the Premises Licence at MNS Food and Wine and News, 105 Royden Road, Upton, and the representations made by Sergeant Jenkins of Merseyside Police and Mr Jordan on behalf of the applicant. Members noted that the applicant did not attend.

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 considered a written statement from Inspector Griffiths, the Neighbourhood Inspector of Merseyside Police, who had considerable experience working in the local area where the premises were situated. Members heard evidence that in the expert view of Merseyside Police, the availability of alcohol for the extended hours applied for would result in an increase in crime and disorder and public nuisance and therefore seriously undermine the Licensing Objectives.

In support of the written representation, Members were advised that between 1 January and 31 December 2012, there had been 117 recorded incidents of anti-social behaviour in the immediate location and that the premises were situated in a residential area which was considered a 'hotspot' by Merseyside Police. Inspector

Griffiths also had cause to attend the premises on 22 January 2013 when he found a baseball bat behind the counter and which he subsequently removed. In determining the matter Members also had regard to the fact that the premises had been subject to a review in January 2012.

**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 to extend the hours at the premises be refused.**
- (3) That the request to remove the non standard timings for Christmas Day and Good Friday be granted.**
- (4) That the proposed plan of the premises to increase the licensed area be granted.**

**86 APPLICATION TO REVIEW A PREMISES LICENCE - MOJO'S, 3 DEE LANE, WEST KIRBY.**

Councillor S Niblock declared a personal interest in respect of this matter, by virtue of having previously considered the application at the Interim Steps hearing on 28 December 2012.

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 Mojo's, 3 Dee Lane, West Kirby, under the provisions of the Licensing Act 2003.

The premises have a Premises Licence which allows the licensable activities as set out in the report.

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 appropriate if it found that the review did not require it to take any steps appropriate to promote the licensing objectives.

The application had been submitted by Merseyside Police and the Licensing Sergeant had stated that the grounds for review were in relation to the prevention of crime and disorder, public nuisance and public safety following incidents of violent assaults taking place within the immediate vicinity of the premises.

Further to the application for a review being submitted, a Summary Review of the Premises Licence had been submitted following a separate incident of serious disorder and Members considered on 28 December 2012 that it would be an appropriate interim step to suspend the Premises Licence pending the determination of the Review. A Review Hearing took place on 18 January 2013 when it was determined that the conditions of the Premises Licence be modified as set out within the report.

Merseyside Police had since made a submission that due to the modifications of the Premises Licence they did not consider it appropriate to take any further action to address their concerns in respect of the Premises Licence.

The matter was heard in the absence of Merseyside Police and the Licence Holder. This submission had been communicated to the Premises Licence Holder and it had been agreed by both parties that the matter could be considered in their absence.

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 had regard to the fact that Merseyside Police did not consider it was appropriate to take any further action to address their concerns.

**Resolved - That no further action be taken.**