

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 6 March 2013

Present:

Councillors	S Niblock	M Hornby
	J Salter	D Mitchell

91 **APPOINTMENT OF CHAIR**

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

92 **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.

No such declarations were made.

93 **APPLICATION FOR A PREMISES LICENCE - 46 HOYLAKE ROAD, BIRKENHEAD**

The Acting Director of Law, HR and Asset Management reported upon an application that had been received from Mr Oykun Kemal for the grant of a Premises Licence in respect of 46 Hoylake Road, Birkenhead, under the provisions of the Licensing Act 2003.

The premises had not previously been licensed and the hours applied for were set out within the report. Following discussions with Merseyside Police, the applicant had agreed to a number of conditions being attached to the Premises Licence should the application be granted.

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, petitions had been received signed by 47 local residents who were against the application. The local residents had concerns relating to the cumulative impact of licensed premises within the vicinity of the premises and anti-social behaviour. Copies of the petitions were available.

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

Mrs P Hussein, Solicitor, attended the meeting together with the applicant.

Mr Salam, a signatory of the petition objecting to the application was also in attendance.

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

Mrs Hussein addressed the Sub-Committee and advised Members that the applicant had taken out a five year lease on the premises which until now had been derelict. She believed that the application was modest and in line with other off licences. Mrs Hussein reported that all stock would be situated behind a glass counter and that the applicant was aware of the Challenge 25 Policy and that further to discussions with Merseyside Police he had agreed that certain conditions be attached to the Premises Licence should the Licence be granted.

Mrs Hussein and the applicant responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr Salam addressed the Sub-Committee and informed Members that there were already a number of outlets in the vicinity which sold alcohol and questioned the need for another premises allowed to sell alcohol. Mr Salam advised Members that there had been a number of incidents of crime and disorder in the area and that he had experienced problems with youths in the area.

Mr Salam responded to questions from Members of 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.

In determining the matter Members had regard to the concerns of residents expressed through a petition and oral representations made by Mrs Hussein on behalf of the applicant and also Mr Salam, a signatory to the petition who objected to the application.

Members of the Licensing Act 2003 Sub-Committee had regard to the concerns of residents expressed through a petition in respect of the necessity for another outlet in the area selling alcohol and access to alcohol by young people. Members considered paragraph 13.18 of the Guidance which confirmed that the 'need' for premises was not a matter for the licensing authority in discharging its licensing functions.

Members also gave consideration to the fact that there were no representations from the Responsible Authorities, in particular, Merseyside Police and that following consultation with Merseyside Police the applicant had agreed to a number of conditions being attached to the Premises Licence to prevent the sale of alcohol to persons under 18 years of age if the application was granted, including staff training, electronic till prompts and the implementation of a Challenge 25 Policy.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

**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 46 Hoylake Road, Birkenhead be granted with the following hours:**

**Supply of Alcohol**

**Monday to Saturday 08:00 to 23:00  
Sunday 08:00 to 22:30**

**Hours Open to the Public**

**Monday to Saturday 08:00 to 23:00  
Sunday 08:00 to 22:30**

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

- **The Designated Premises Supervisor must hold a minimum Level 2 Award for Designated Premises Supervisors.**
- **All employees must complete training on the prevention of the sale of alcohol to persons under the age of 18 years before being authorised to sell alcohol. Training must be provided by a recognised training provider or Trading Standards. Refresher training must be conducted with all staff by the Designated Premises Supervisor at least every 6 months. Written records of this training must be kept at the premises and made available to an Authorised Officer upon request.**
- **CCTV must be installed at the premises at least in accordance with the specification issued by the Licensing Authority.**
- **The premises must maintain and keep a refusals log which must be checked regularly by the Premises Licence Holder/Designated Premises Supervisor who must sign the log after each check. All staff must be trained to ensure that they are aware what a refusals log is and where it is kept. The refusals log must be made available to an Authorised Officer on request.**
- **The Premises must adopt a Challenge 25 policy and display appropriate posters and signage. All staff must be trained on this policy and a record of this training must be kept and be made available to an Authorised Officer on request.**
- **A till prompt system must be installed and maintained at the premises in order to alert staff to check the age of any purchaser attempting to buy alcohol.**

**APPLICATION TO VARY A PREMISES LICENCE - HOYLAKE SERVICE STATION, 48 BIRKENHEAD ROAD, HOYLAKE**

The Acting Director of Law, HR and Asset Management reported upon an application that had been received from Rontec Watford Limited to vary a Premises Licence in respect of Hoylake Service Station, 48 Birkenhead Road, Hoylake, 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.

Five local residents who were against the application had submitted representations which related to concerns that anti-social behaviour may increase within the vicinity of the premises if the variation was granted. Local residents had concerns relating to noise late at night which had been expressed through a petition signed by 122 local residents. Copies of the representation and petition were available.

A representation had been received in support of the application from a local resident who considered that the licensing objectives would not be undermined should the application be granted.

Mr Lowe from Rontec Limited attended the meeting together with his legal representative Mr Botkai.

Councillor Hale, Ward Councillor was also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that authorisation had been given by a local resident for Councillor Hale to speak on their behalf.

The Licensing Manager also confirmed that there was an existing planning restriction on the premises.

Mr Botkai addressed the Sub-Committee and advised Members that the company had applied to vary the licence in order that the premises may provide hot drinks and also to provide alcohol at all times. He advised Members that the application was in line with Section 182 of the Home Office Guidance and the Council's Statement of Licensing Policy. He informed Members that the store had sold alcohol for a number of years and no complaints had been received. He pointed out that no representations had been received from any of the Responsible Authorities and that the representations that had been received were based on fear of what may happen as there was no evidence that the premises had compromised the licensing objectives of crime and disorder or public nuisance. He proposed that residents could contact himself or the company should any problems arise in the future.

Mr Botkai responded to questions from Members of the Sub-Committee and Councillor Hale. He was asked why a request had been made to remove the

condition listed in Annexe 3 of the Premises Licence, however, he responded that he would be content for this condition to remain on the Licence.

Councillor Hale expressed his concerns regarding noise nuisance late at night. He explained that there was no public transport available in the vicinity after 11.30 pm which resulted in patrons of local bars causing noise disturbance when walking home. He advised that the premises were situated in a primarily residential area and believed the problems of noise nuisance would be exacerbated should the application be granted. He believed the application was inappropriate and requested that it be refused.

Councillor Hale responded to questions from Members of 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 of the Licensing Act 2003 Sub-Committee gave consideration to representations made by Councillor Hale, Ward Councillor, who spoke on behalf of a petitioner with regard to the potential for noise and disturbance occurring throughout the night should the application to vary be granted.

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 gave consideration to how the premises would be managed and noted that the application to remove the condition within Annexe 3 of the Premises Licence had now been withdrawn.

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

Members encouraged liaison between the Ward Councillors, residents and the applicant.

**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 in respect of Hoylake Service Station, 48 Birkenhead Road, Hoylake, be varied as follows:**

**Sale by Retail of Alcohol**

**Sunday to Saturday                      24 Hours**

**Hours Open to the Public**

**Sunday to Saturday                      24 Hours**

**Late Night Refreshment**

**Sunday to Saturday            23:00 to 05:00**

**(3)        That the request to remove the conditions within Annexe 2 in light of the conditions detailed within the Operating Schedule be agreed.**