

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 15 March 2013

Present:

Councillors	A Leech	H Smith
	S Niblock	D Mitchell

95 **APPOINTMENT OF CHAIR**

Resolved -

- (1) That Councillor S Niblock be appointed Chair for this meeting.
- (2) That Councillors S Niblock, D Mitchell and H Smith consider the item in respect of News Days.
- (3) That Councillors S Niblock, A Leech and H Smith consider the item in respect of Seven Acres Service Station.

96 **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.

97 **APPLICATION TO VARY A PREMISES LICENCE - SEVEN ACRES SERVICE STATION, PENSBY ROAD, THINGWALL**

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 Seven Acres Service Station, Pensby Road, Thingwall, 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.

Twelve 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. Concerns had also been raised regarding youths having access to alcohol which residents considered was currently a problem at these premises. Two petitions had also been received

signed by 150 local residents. Copies of the representation and petition were available.

Representations had also been received from Ward Councillors Mike Sullivan and Mark Johnston who supported the representations received from local residents. Copies of the representations were available.

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

Councillor Johnston, Ward Councillor was also in attendance together with Ms Jackson and Ms Swindles, local residents.

The Licensing Manager confirmed that all documentation had been sent and received and advised that the application had been amended since it had been submitted and that the application to vary the Premises Licence was for the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 06:00 to 12 midnight

Hours Open to the Public

Sunday to Saturday 24 Hours (unchanged)

Late Night Refreshment

Sunday to Saturday 23:00 to 12 midnight

Mr Botkai addressed the Sub-Committee and explained that the application to vary the Premises Licence was now for an extra hour for the sale of alcohol and to extend the late night refreshment from 11.00 pm to 12 midnight. Mr Botkai advised that he was aware of the planning restrictions on the premises and that a planning application was pending to extend the hours that the premises were open until midnight. Mr Botkai referred to the Council's Statement of Licensing Policy and pointed out that no representations had been received from any of the Responsible Authorities including Merseyside Police. He considered that the concerns raised by local residents were in respect of the premises opening 24 hours but that the hours requested had since been considerably reduced. He considered that representations were often based on fear of what may happen as there was no evidence that the sale of alcohol at the premises would result in an increase of drink drivers. 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 Johnston.

Councillor Johnston expressed his concerns regarding the licensing objectives of crime and disorder and public safety. He informed Members that most of the evidence gathered in objecting to the application was based on the hours applied for

originally, however, he believed there was strong evidence which linked alcohol sales to anti-social behaviour. He advised that the area was a hotspot for the congregation of youths. He also advised that there was no night time economy in the area beyond 11.00 pm and that the premises was situated in a residential area.

Councillor Johnston responded to questions from Members of the Sub-Committee.

Ms Swindles expressed concern regarding the noise levels in the area and feared that people may congregate and drink alcohol in the vicinity of the premises. She also expressed concern regarding the elderly residents in the area.

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 Mr Botkai who represented Rontec Watford Limited and noted that the application had now been amended.

Members considered the representations of the Ward Councillor, Councillor Johnston as well as oral representations from Ms Swindles on behalf of local residents, who maintained their objections to the amended application.

Members had regard to the fact that there were no representations from any of the Responsible Authorities. Members were advised that the area had been identified as a hotspot by Merseyside Police for crime and disorder but noted that there were no specific representations by Merseyside Police in respect of the original application.

In determining the matter Members had regard to the lack of direct evidence in respect of the premises that the licensing objectives would be undermined should the amended application for a variation of the Premises Licence be granted. In particular Members noted that the premises were well managed and that Councillor Johnston confirmed that there were no issues at the premises regarding underage sales.

Members encouraged liaison between the Ward Councillors, residents and the applicant regarding any issues that should arise and suggested that the applicant provide a contact number for Ward Councillors to assist.

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 in respect of Seven Acres Service Station, Pensby Road, Thingwall, be varied as follows:

Sale by Retail of Alcohol

Sunday to Saturday **06:00 to 12 midnight**

Hours Open to the Public

Sunday to Saturday **24 Hours**

Late Night Refreshment

Sunday to Saturday **23:00 to 12 midnight**

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

98 **APPLICATION TO REVIEW A PREMISES LICENCE - NEWS DAYS, 47 OXTON ROAD, BIRKENHEAD**

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 News Days, 47 Oxtan Road, Birkenhead, 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 due to an illegal immigrant being found working at the premises.

Sergeant S Barrigan and Constable P Coley attended the meeting.

Also in attendance were Mr Srikanthan, Premises Licence Holder and Designated Premises Supervisor and his representative Mr Singleton.

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

Sergeant Barrigan outlined the circumstances surrounding the illegal immigrant having been found working at the premises. He advised that this had also resulted in

a second illegal immigrant being detained at the location. He informed Members that both these individuals had since been deported from the country. Sergeant Barrigan believed that Mr Srikanthan had shown a disregard for the law and the responsibilities that come from being a Premises Licence Holder and Designated Premises Supervisor. He advised that Mr Srikanthan had committed offences in relation to the licensing objective of crime and disorder despite having only held the Premises Licences for a short period of time and after being advised, at his initial interview, with members of the Merseyside Police Licensing Team of issues regarding illegal immigrants and counterfeit alcohol.

Sergeant Barrigan initially requested that a number of conditions be placed on the Premises Licence.

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

Mr Singleton reported that he accepted all the proposed conditions requested by Merseyside Police and that Mr Srikanthan would undertake training as soon as possible. He believed there had been a number of discrepancies but that this had been due to him not having taken his responsibilities seriously. He requested that the conditions suggested by Merseyside Police be attached to the Premises Licence.

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

Sergeant Barrington expressed his concerns having heard the representations made and the responses given by Mr Srikanthan to Members of the Sub-Committee. Despite having originally sought conditions to be attached to the Premises Licence he requested that Members now considered it appropriate that there be a revocation of the Premises Licence.

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence at News Days, 47 Oxtan Road, Birkenhead and the representations made in writing and orally at the hearing by officers from Merseyside Police as well as Mr Srikanthan, the current Premises Licence Holder and Designated Premises Supervisor and his representative Mr Singleton.

In determining the review application we had regard to the licensing objectives in particular the prevention of crime and disorder, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003, in particular, paragraphs 9.12, 11.20 and 11.24 - 11.28.

Members accepted the evidence provided by Merseyside Police that during a routine visit to the premises on 24 January 2013 an illegal immigrant was found employed at the premises whose UKBA registration card highlighted that he was forbidden from taking employment in the UK. This was at a time when Mr Srikanthan, the Designated Premises Supervisor/Premises Licence Holder had gone to London where he operates another business.

In this regard Members gave particular consideration to paragraph 11.27 and 11.28 of the Guidance which identifies that the use of a licensed premises for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter is to be treated particularly seriously and that the revocation of the licence should be seriously considered.

Mr Srikanthan had attended the Police Station eight days previously when he was advised of his responsibilities under the Licensing Act 2003 which included a discussion regarding illicit and counterfeit alcohol and immigration issues that had been found at other licensed premises in the area. Members therefore considered that Mr Srikanthan had not taken seriously his responsibilities which come with being a Premises Licence Holder and Designated Premises Supervisor.

Members noted the information provided by Merseyside Police that the premises are situated in an area identified as a hotspot for anti-social behaviour in Wirral and that there is an issue with street drinking in the location.

Members took into account the view of Merseyside Police that whilst they had initially considered that conditions may have addressed their concerns as a consequence of the representations made by the Licence Holder, they now considered that the revocation of the Licence was the most appropriate step to be taken.

Members considered paragraph 9.12 and the role of Merseyside Police as a Responsible Authority and that they are an essential source of advice and information on the impact and potential impact of licensable activities particularly in respect of the crime and disorder objective.

The Premises Licence Holder presented no evidence to the Sub-Committee to demonstrate that the concerns of Merseyside Police would be addressed through the modification of conditions of the Licence.

In light of the above Members considered that placing conditions on the Premises Licence would not be appropriate as Mr Srikanthan had ignored the concerns and advice given by Merseyside Police on 16 January 2013. Members were not convinced that Mr Srikanthan had taken his responsibilities seriously and that a similar incident would not be repeated in the future.

Members therefore considered it appropriate for the promotion of the licensing objective of crime and disorder, to revoke the Premises Licence.

Resolved - That the Premises Licence in respect of News Days, 47 Oxtan Road, Birkenhead, be revoked.