

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 4 April 2013

Present:

Councillor

Councillors S Niblock  
J Salter

H Smith

In attendance:

Apologies

99 **APPOINTMENT OF CHAIR**

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

100 **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.

101 **APPLICATION TO VARY A PREMISES LICENCE - THE BOOT, 55 WALLASEY ROAD, WALLASEY**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Gary Laycock to vary a Premises Licence in respect of The Boot, 55 Wallasey Road, Wallasey, under the provisions of the Licensing Act 2003.

The variation requested was outlined within the report.

The applicants 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.

In respect of the application, a representation had been received from Central Liscard Residents Association together with a petition signed by 53 local residents. Representations were also made by Ward Councillors, Bernie Mooney and Jeanette Williamson. Copies of the representations were available.

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

Mr Gary Laycock, Premises Licence Holder attended the meeting together with Ms Sarah Williams, Designated Premises Supervisor.

Mr David Hale, Mrs Pauline Hale and Mr George Sampson (Representatives from CLARA) were in attendance together with local resident, Mr Jones and Councillor Jeanette Williamson, representing her Ward.

The Licensing Manager confirmed that all documentation had been sent and received and Mr and Mrs Williams had submitted written representations in which they had requested be read out on their behalf as they were unable to attend the meeting due to work commitments. The Chair agreed to hear their submissions at an appropriate part of the hearing.

Mr Laycock addressed the Sub-committee and informed Members about his varied experience in running licensed premises. He advised the Committee that he is applying for extended hours in order to seek parity with other premises in the area who have extended hours and explained that his customers had been leaving his establishment to visit bars that were open later, thus affecting his business and causing noise disturbance in the area. Mr Laycock applicant informed the Committee that he was seeking to vary the condition on the beer garden in order to prevent customers from smoking at the front of the premises, therefore reducing noise.

Mr Laycock responded to questions from Members of the Sub-Committee, Mr K Abraham, Legal Advisor to the Sub-Committee, members of CLARA, a local resident and a Ward Councillor

Margaret O'Donnell, Licensing Manager, read out further representations on behalf of local residents, Mr and Mrs Williams, who were unable to attend. Representations were with regard to noise created by customers leaving the premises and associated littering.

Councillor Jeanette Williamson, Ward Councillor addressed the meeting on behalf of local residents. She stated that the area is largely residential and urged the Committee to have regard to the close proximity of neighbours who are required to get up early for work.

Mr David Hale made representations on behalf of CLARA. He raised concerns particularly about the noise emanating from the premises and also advised that some residents are currently on the edge of what they can cope with.

Mr Sampson addressed the Committee as secretary of CLARA and also as a local resident. He explained that there had been damages to cars in the local area caused by customers when leaving surrounding bars. He stated that if the establishment was to be granted extended hours the residents would suffer as a result.

Mr Jones addressed the Committee on behalf of his daughter, who had submitted written representations. He stated that he had monitored the premises closely and listed incidents of drunk and disorderly behaviour. He also reported drug activity in the alley way at the rear of the premises. He informed the Sub Committee that customers smoking at the front of the premises are often intimidating to people walking past.

Mr Hale and Mr Jones responded to questions from Mr Laycock, Mr Abraham and 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 considered the representations from local residents and Ward Councillors regarding public nuisance emanating from the premises and caused by customers leaving the premises at a late hour.

Members considered evidence from residents that should the application be granted, this could create further disturbances at a later hour than was already being caused by customers leaving and congregating outside the premises.

Members considered that the Licensing Objective in respect of the Prevention of Public Nuisance would be undermined should the application be granted in its entirety. Members noted the evidence from local residents in respect of the fire doors to the side of the premises being left open which caused noise disturbance and also the concerns expressed in respect of people smoking at the front of the premises.

Members noted that whilst the applicant sought to provide consumers with greater choice and flexibility, it was also an important consideration that this be balanced carefully against the duty to promote the licensing objectives, in particular, the prevention of public nuisance. Members had regard to the location of this particular premises which is situated in a residential area.

Members had regard to the fact that there were no representations from any of the Responsible Authorities.

### **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:**

**1. That the hours be amended as follows:**

#### **Sale by Retail of Alcohol**

Sunday to Wednesday	10:00 to 23:30 (unchanged)
Thursday	08:00 to 23:30 (unchanged)
Friday and Saturday	08:00 to 01:00

#### **Hours Open to the Public**

Sunday to Wednesday	10:00 to 00:00 (unchanged)
Thursday	08:00 to 00:00 (unchanged)
Friday and Saturday	08:00 to 01:30 (unchanged)

### **Regulated Entertainment (Recorded Music, Performance of a Play, Exhibition of films and Indoor Sporting Events)**

Sunday to Wednesday 10:00 to 23:30 (unchanged)  
Thursday 08:00 to 23:30 (unchanged)  
Friday and Saturday 08:00 to 01:00

### **Regulated Entertainment (Live Music)**

Sunday to Wednesday 12:00 to 23:30 (unchanged)  
Thursday 12:00 to 23:30 (unchanged)  
Friday and Saturday 12:00 to 01:00

### **Late Night Refreshment**

Sunday to Thursday 23:00 to 00:00 (unchanged)  
Friday and Saturday 23:00 to 01:00 (unchanged)

### **Non-Standard Timings**

The following non-standard timings have also been granted:

The above Licensable Activities and Hours Open to the Public are permitted from 08:00 on New Years Eve until 08:00 on New Years Day. (unchanged)

### **Sale by Retail of Alcohol**

10:00 to 01:00 on Friday and Saturday of Bank Holiday Weekends (unchanged) and any day preceding a Bank Holiday (excluding Christmas Day)

10:00 to 02:00 on Christmas Eve and Boxing Day

### **Live Music**

08:00 to 01:00 on Friday and Saturday of Bank Holiday Weekends (unchanged)  
12:00 to 00:30 on any day preceding a Bank Holiday (excluding Christmas Day)

### **Recorded Music**

08:00 to 01:00 on Friday and Saturday of Bank Holiday Weekends (unchanged)  
12:00 to 01:00 on any day preceding a bank holiday (excluding Christmas Day)  
10:00 to 02:00 on Christmas Eve and Boxing Day

### **Performance of a Play, Exhibition of films and Indoor Sporting Events**

08:00 to 01:00 on Friday and Saturday of Bank Holiday Weekends, Christmas Eve and Boxing Day (unchanged)

### **Late Night Refreshment**

23:00 to 01:00 on Friday and Saturday of Bank Holiday Weekends, Christmas Eve and Boxing Day (unchanged)

### **Hours Open to the Public**

08:00 to 02:00 on Friday and Saturday of Bank Holiday Weekends (unchanged)

10:00 to 01:30 on any day preceding a Bank Holiday (excluding Christmas Day)

10:00 to 02:30 on Christmas Eve and Boxing Day

**2. A buzzer warning light is to be affixed to the fire door to the side of the premises to alert staff that the door has been opened.**

**3. The condition to clear the beer garden by 9pm is to be removed and replaced with the following condition- That there must be no consumption of food or drinks in the beer garden after 10pm.**

**4. Non standard timings applied for be granted.**

### 102 **APPLICATION FOR A PREMISES LICENCE - THE MOBY DICK, 1 VILLAGE ROAD, WEST KIRBY**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Neil McDonnell for the grant of a premises licence in respect of The Moby Dick, 1 Village Road, West Kirby under the provisions of the Licensing Act 2003.

The application for the grant of a new Premises Licence was set out in 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.

Eight representations had been received from local residents relating to noise nuisance caused by customers at a late hour. Concerns were also raised regarding the use of the outside area with the potential of noise being caused by customers. A representation had also been received from Ward Councillor, Geoffrey Watt. A copy of the representations were available.

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

Mr Neil McDonnell, Premises Licence Holder attended the meeting together with his legal representative Mr Andrew Bartley.

Local residents; Mr Robinson, Ms Booth and Mr and Mrs Gorrod attended the meeting along with Geoffrey Watt, Ward Councillor

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

Mr Bartley addressed the Sub-Committee on behalf of his client. He informed Members about the family nature of the business and their policy of adults only being able to access the Childrens garden if they are supervising children. Members were informed that the applicant is seeking a licence for the supply of alcohol on and off the premises, performance of recorded music and late night refreshment. Mr Bartley advised that the premises is a themed restaurant and all tables are waitress service only in order to preserve the family nature. Members were also made aware of the planning restrictions currently in place in respect of the premises.

Mr Bartley and Mr McDonnell responded to questions from Members of the Sub-Committee, Mr K Abraham, Legal Advisor to the Sub-Committee, Councillor Watt and local residents.

Mr and Mrs Gorrod, local residents addressed the Committee. They explained to Members their close proximity to the premises and raised concerns about the levels of noise created from the children's garden.

Councillor Geoffrey Watt addressed the meeting on behalf of local residents who had come to him to express their concerns about the levels of noise. He stated that if this application were to be approved it has potential for large disturbance to neighbours.

Mr Robinson, local resident addressed the committee and conveyed his concerns about the potential for disturbance to local residents and had concerns about customers parking on neighbouring streets on occasions when the car park is full.

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 local residents and a Ward Councillor regarding concerns in respect of public nuisance emanating from the premises and the outside area. Members considered evidence from residents that should the application be granted as applied for, this could create disturbance, in particular in respect of the use of the outside area.

Members noted the proposed way in which premises would be managed and had regard to the applicants wish to preserve the premises as a family orientated establishment, with its focus mainly being on food.

Members had regard to the location of this particular premises, which is situated in a residential area. In determining the matter Members balanced carefully the duty to promote the Licensing Objectives, in particular, the prevention of public nuisance with the applicant's intention to provide customers with a family orientated experience at the premises.

Members also had regard to the fact that there were no representations from any of the Responsible Authorities.

**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 licence be granted as follows;**

**Sale by Retail of Alcohol**

Sunday to Thursday 10:00 to 23:30

Friday and Saturday 10:00 to 00:00

**Hours Open to the Public**

Sunday to Thursday 09:00 to 00:00

Friday and Saturday 09:00 to 00:30

**Regulated Entertainment (Recorded Music)**

Sunday to Thursday 10:00 to 23:00

Friday and Saturday 10:00 to 23:30

**Late Night Refreshment**

Sunday to Thursday 23:00 to 23:30

Friday and Saturday 23:00 to 00:00

**(3) The Licensing Act 2003 Sub-Committee determined that in addition to the appropriate conditions proposed in the operating schedule the following conditions be applied to the licence:**

**1. The Terraced area, south west of the premises, (to the rear of the premises) must be cleared of customers by 22:30. The Terraced area, south of the premises, (to the side of the premises) must be cleared of customers by 23:00. The speakers located within this terraced area must be switched off by 22:30.**

**2. Adults are not to be allowed to be in the Children's Magic Garden unless they are supervising children. Notices must be displayed in respect of this.**

**3. The Children's Magic Garden must be a no smoking area. Notices must be displayed in respect of this.**

**4. Drinking vessels must not be taken beyond the licensed area.**

**5. Bottles or broken glasses must not be disposed of between the hours of 9:00pm and 9:00am so as not to cause a disturbance to residents in the vicinity of the premises.**