

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 2 May 2013

Present:

Councillors S Niblock
 A Sykes
 I Williams

109 **APPOINTMENT OF CHAIR**

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

110 **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.

111 **APPLICATION FOR A PREMISES LICENCE - 65/67 OXTON ROAD, BIRKENHEAD**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Sinnathamby Elangaiventhan for a Premises Licence in respect of 65/67 Oxtan Road, Birkenhead, under the provisions of the Licensing Act 2003.

The hours requested were outlined within the report and it was further reported that the premises were currently closed and had previously traded as a Public House.

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.

Representations had been received from three local residents and one from a local business. A petition signed by 201 local residents had also been received. The representations related to public nuisance being caused by street drinkers within the vicinity of the premises and concerns that the public nuisance would increase should the application be granted.

A representation had also been received from Birkenhead and Tranmere Ward Councillors which supported the concerns of local residents.

Merseyside Police had also made a representation which related to a number of factors that caused them to believe that the licensing objectives would be

undermined should the application be granted. Copies of all the representations and the petition were available.

The applicant attended the meeting with his representative Mr Birch. Councillors Kenny and Stapleton, Ward Councillors, were also in attendance.

Sergeant S Barrigan and Constable P Coley, Police Licensing also attended the meeting.

The Licensing Manager confirmed that all documentation had been sent and received and that further documentation had been submitted by Merseyside Police to which all parties had agreed and in response to a question from the Chair, also confirmed that the current licence had not been surrendered.

The applicant's representative addressed the Sub-Committee and explained that the applicant wanted to run a convenience store with alcohol being 20% of the display. He reported that the premises would be well fitted and equipped and that the applicant did not wish to cause any problems in the vicinity. He referred to the licensing objectives and explained how he believed these would be upheld should the licence be granted. He proposed that a number of conditions be added onto the Premises Licence which he believed should address the issues raised in the representations and offered that a condition be placed on the Premises Licence not to sell cider over 7% ABV. He referred to the representations presented and did not dispute the fact that there were problems in the area regarding street drinkers and anti social behaviour, however, he believed no evidence had been presented as to why the application should not be granted.

The applicant's representative responded to questions from Members of the Sub-Committee, Councillors Kenny and Stapleton and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Councillor Kenny spoke on behalf of residents and Ward Councillors and strongly opposed the application. He referred to the serious problems of street drinkers in the area who were verbally abusive and intimidating and reported that residents regularly raised complaints in this respect. He believed that existing problems would be exacerbated should the application be granted. Councillor Kenny urged that the application be refused.

Councillor Stapleton spoke on behalf of Ward Councillors and residents and expressed her concerns regarding the current issues in the area regarding street drinkers and anti social behaviour and believed that the situation would be made worse should the application be granted. Councillor Stapleton implored Members of the Sub-Committee to refuse the application.

Sergeant Barrigan made objections to the application on the grounds that he believed the licensing objectives would be undermined should the application be granted. He reported that the premises were situated in Wirral's number one hotspot for anti-social behaviour and gave details of the number of incidents reported in the area and in the immediate vicinity that were alcohol related. He commented upon the fact that no offer had been made by the applicant to sell single cans or not to sell lager over 7% ABV. He referred to the Licensing Policy and the Guidance issued under Section 182 of the Licensing Act 2003 and advised the Sub-Committee that he

believed the issues of street drinking would be exacerbated should the application be granted and requested that the application be refused. He also believed that there would be no conditions that could be placed on the Premises Licence that would address his concerns.

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

All parties vacated the meeting due to a fire alarm.

The meeting reconvened and the Chair confirmed that no Members of the Sub-Committee had discussed any part of the application whilst outside of the meeting.

Mr Birch urged the Sub-Committee to address concerns by placing conditions upon the Premises Licence.

In determining the application, the Licensing Act 2003 Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy, in particular paragraph 7.4, and the Statutory Guidance issued under Section 182 of the Licensing Act 2003, in particular paragraph 13.32.

Members of the Licensing Act 2003 Sub-Committee considered the representations made by the applicant through his representative Mr Birch. Members also considered the representations made by Ward Councillors, Local Residents and Merseyside Police regarding anti social behaviour caused by street drinking in the vicinity of the premises.

Members accepted the evidence of Merseyside Police relating to historic and current high levels of alcohol related anti-social behaviour and crime and disorder that has occurred and continues to occur within the vicinity of the premises including 38 incidents related to street drinking in Tetbury Street and 31 incidents related to Oxton Road between April 2012 to March 2013.

Members noted that the serious problem of anti social behaviour caused by street drinkers in the area was not in dispute. Members had regard to the evidence provided by Sergeant Barrigan that the availability of alcohol at these premises would result in an increase in crime and disorder and public nuisance which would seriously undermine the licensing objectives and that there were no appropriate conditions that could address this issue.

Members considered the representations made on behalf of local residents by the two Ward Councillors concerning public nuisance and anti social behaviour through street drinking. Members heard directly from Councillor Stapleton, also a local resident, of her personal experiences and observations of anti social behaviour within the vicinity of the premises and her concerns that an increase in the availability of alcohol could drive down the price of alcohol in the area and subsequently make alcohol more accessible to street drinkers.

Members heard representations made on behalf of the applicant, including the steps that would be taken to prevent the sale of alcohol to persons under the age of 18 and persons who were known to be street drinkers. In determining the application Members assessed the steps put forward by the applicant to address the

representations made. However, Members considered and accepted the evidence provided by Merseyside Police, namely that increasing the availability of alcohol at this particular location would undermine the Licensing Objectives and that there were no appropriate conditions that could be attached to the Premises Licence that would promote the Objectives.

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 65/67 Oxton Road, Birkenhead, be refused.