

## LICENSING ACT 2003 SUB-COMMITTEE

Friday, 9 August 2013

Present: Councillor WJ Davies (Chair)  
Councillors T Norbury P Williams

### 8 APPOINTMENT OF CHAIR

**Resolved** – That Councillor Bill Davies be appointed Chair for this meeting.

### 9 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.

### 10 APPLICATION TO VARY A PREMISES LICENCE - THE OBSERVATORY, OXTON ROAD, BIRKENHEAD

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Sinnathamby Elangaiventhan to vary a Premises Licence in respect of The Observatory, Oxtan Road, Birkenhead.

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 made available.

In respect of the application, a representation had been received from a local resident who was against the application together with a petition signed by 279 local residents. Ward Councillor Brian Kenny also made representations on behalf of himself and Councillors Jean Stapleton and Phil Davies.

Representations were also received from Merseyside Police and Public Health.

Mr Sinnathamby Elangaiventham, Premises Licence Holder attended the meeting together with Mr Richard Williams, legal representative.

Sergeant S Barrigan attended the meeting together with Ward Councillors Brian Kenny and Jean Stapleton and gave apologies for Ward Councillor Phil Davies who was unable to attend.

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

Mr Williams addressed the Sub Committee on behalf of his client. He explained that the premises had previously been run as a public house and it was now the intention of his client to operate the premises as a convenience store. Members heard that Mr Elangaiventhan held a Premises Licence in an off licence in another Authority for two years. Members were informed that the premises was currently unoccupied and it was situated next to derelict waste land. Mr Williams and his client believed that to leave the area unused would impose more of a problem and it would be in the interest of the public to use the premises as a convenience store.

Mr Williams and Mr Elangaiventhan responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee, Sergeant Barringham and Ward Councillors.

Sergeant Barrigan addressed Members and spoke of his concerns that should another off licence open in the area this would increase the availability of alcohol and exacerbate the current problems caused by street drinkers in the area. Crime figures were presented to Members showing evidence of high levels of alcohol related crime in the area. Members were informed that due to significant alcohol related problems a request was being made by the Licensing Authority to consider the adoption of a Special Cumulative Impact Policy and a Designated Public Places Order for the immediate area surrounding The Observatory.

Sergeant Barrigan responded to questions from members of the Sub- Committee and Mr K Abraham, Legal Advisor to the Sub-Committee.

Councillor Brian Kenny addressed the Members on behalf of local residents. He informed them that his constituents had reported various incidents of anti social behaviour in the area and that many problems had emulated from high levels of individuals drinking alcohol on the streets. He reported that there were four other off licences in the immediate area and residents were of the view that opening an additional premises would exacerbate the situation.

Councillor Stapleton addressed Members both in her capacity as Ward Councillor and local resident. Councillor Stapleton informed Members that residents had many concerns about the introduction of an additional off licence and listed incidents of anti social behaviour. Councillor Stapleton raised concerns regarding the protection of children from harm in relation to intimidating behaviour from individuals drinking on the street.

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 took into consideration the direct evidence provided by Ward Councillors who stated that they had received complaints on a daily basis from people living in the area as well as businesses who had experienced the impact of alcohol related anti social behaviour within the vicinity of the premises. Members heard directly from Councillor Stapleton, who was also a local resident, of her personal experiences and observations of alcohol related anti social behaviour within the vicinity of the

premises and her concerns that an increase in the availability of alcohol would make alcohol more accessible to street drinkers.

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.

In determining the application Members assessed the steps put forward by the applicant to address the representations made, however Members determined that 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 to be attached to a 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 The Observatory, Oxton Road, Birkenhead be refused.**