

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 12 September 2013

Present:

Councillors	T Norbury	A Hodson
	H Smith	T Harney
	E Boulton	

14 **APPOINTMENT OF CHAIR**

Resolved –

(1) That Councillor T Norbury be appointed Chair to consider the application regarding The Courtyard together with Councillors A Hodson and H Smith.

(2) That Councillor T Norbury be appointed Chair to consider the application regarding The Royal Oak together with Councillors E Boulton and T Harney.

15 **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.

16 **APPLICATION TO VARY A PREMISES LICENCE - THE COURTYARD, 7-9 ROSE MOUNT, OXTON, CH43 5SG**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr J Mitchell to vary a Premises Licence in respect of The Courtyard, 7-9 Rose Mount, Oxtton, under the provisions of the Licensing Act 2003.

The variation requested was outlined within the report.

Members were advised that in accordance with The Live Music Act 2012, Live Music was no longer considered as the provision of regulated entertainment at a premises open for the supply of alcohol if it takes place between 08:00 and 23:00, the Live Music is unamplified or the Live Music is amplified and takes place in the presence of an audience of no more than 200 persons.

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.

Six representations had been received from local residents who considered that the granting of the application would increase noise nuisance coming from the premises and nuisance being caused by customers of the premises who congregated outside the premises. Representations had also been received from Ward Councillors, Patricia Williams and Alan Brighouse. The representations supported the concerns expressed by local residents.

A representation had also been received from Environmental Health. The representation related to concerns of noise nuisance from entertainment being provided at the premises due to the close proximity of residential properties. Copies of all the representations were available.

Mr J Mitchell, applicant attended the meeting together with Mr K Burrows, Designated Premises Supervisor and their representative Mr M Nickson.

Councillors P Williams and A Brighouse, Ward Councillors were also in attendance together with Mr Lennon, local resident.

Mr T Zorn, Environmental Health Officer (Pollution Control) attended the meeting.

The Licensing Manager confirmed that all documentation had been sent and received and that Mr Lennon would be speaking for himself and on behalf of other residents.

Mr Lennon requested to submit an additional document, however this was not accepted by Mr Nickson and was therefore not taken into consideration by Members of the Sub-Committee.

Mr Nickson addressed the Sub-Committee and explained that the application reflected evolution of the premises from a restaurant where alcohol must be ancillary to meals to more of a brasserie style operation. He advised Members that the premises would always be primarily a restaurant and that there would be no changes to the hours of operation. He informed Members that the condition proposed by Environmental Health stating that 'any music shall be inaudible at the site boundary of the neighbouring properties' had been agreed to and the premises would not turn into a bar or night club. He further proposed another condition be added to the Premises Licence that 'the sale of alcohol for consumption on the premises will be primarily but not exclusively for those patrons that are taking a meal within the premises' and hoped that this would reassure local residents. He believed that many of the concerns of local residents were historical and related to Oxton in general and pointed out that objections must be relevant and any conditions imposed must be necessary to promote the licensing objectives. Mr Nickson also advised Members that the application to vary the Premises Licence was in response to a suggestion from Merseyside Police and that they were in support of the application.

Mr Nickson responded to questions from Members of the Sub-Committee, Councillors P Williams and A Brighouse, Mr Lennon and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr T Zorn, Environmental Health Officer advised Members that he was satisfied that the proposed condition would control any noise emanating from the premises.

Mr Lennon addressed the Sub-Committee and advised Members of the proliferation of applications recently made in Oxton village and their impact on the village. He explained that Oxton was a residential village that co-existed with a vibrant commercial and trading centre but was not a town centre. He informed Members of the numbers of existing licensed premises within close proximity to each other. He believed that there had been a significant increase in incidents of criminal and anti-social behaviour which coincided with the evolution of premises into public bars. Mr Lennon expressed concerns regarding the obstruction and noise caused by smokers outside the front of the premises and the behaviour of customers leaving the premises. He also believed that local businesses should maintain mutual co-operation with residents and that a public bar in this location would be to the detriment of the residents of Oxton.

Mr Lennon responded to questions from the applicant.

Councillor P Williams expressed the concerns of local residents regarding the premises operating as a bar. Councillor Williams believed that the location of the premises was unsuitable due to the narrow pavement at the front of the premises where smokers were congregating and creating a noise nuisance. Councillor Williams requested that the applicant adhered to the current conditions imposed upon their Premises Licence and withdrew their application for a variation.

Councillor A Brighouse expressed concerns regarding the premises being perceived as a bar and also expressed concerns regarding the behaviour of customers leaving the premises and incidents of anti-social behaviour. He welcomed the meeting that had taken place between the applicant and residents prior to the Licensing Act 2003 Sub-Committee and recognised that the applicant's intention was to run the business similarly to how it was currently being run. Councillor Brighouse requested that conditions be applied to the Premises Licence to address the issues of local residents including a restriction on the size of the bar area, a limitation on the number of people standing and a limit on the percentage of the floor area to be used for drinking.

Councillors P Williams and A Brighouse responded to questions from the applicant 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 considered the representations made by the applicant and his representative. Members also had regard to the representations made by local residents and Ward Councillors Pat Williams and Alan Brighouse relating to concerns that by granting the application the premises would operate primarily as a bar and that this would increase the level of public nuisance which they considered was currently being caused by the premises.

The applicant submitted that there was no intention to change the operation of the premises through this application and that the primary purpose is to operate as a restaurant. It was further submitted that the granting of the application would allow some individuals to have a drink at the premises without necessarily having a meal.

Members had regard to the fact that there were no representations from Merseyside Police and heard from the applicant that they had been invited by Merseyside Police to make the application. In considering the application Members had regard to the condition proposed by the Environmental Health Officer which had been accepted by the applicant.

In coming to their decision, Members took into account the lack of direct evidence that customers of the premises had been responsible for the reported nuisance being experienced by local residents.

Members considered the representations made in respect of how the premises would be operated which would allow some people to drink without having to have a meal whilst maintaining the restaurant as the main business of these premises.

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.

Members recognised the attempt made by the applicant to liaise with local residents and encouraged ongoing dialogue.

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 to vary the Premises Licence in respect of The Courtyard, 7-9 Rose Mount, Oxton, be approved with the following hours:

Sale by Retail of Alcohol (unchanged)

Monday to Saturday 11:00 to 00:00
Sunday 12:00 to 23:30

Hours Open to the Public

Monday to Saturday 11:00 to 00:30
Sunday 12:00 to 00:00

Late Night Refreshment (unchanged)

Monday to Saturday 23:00 to 00:00
Sunday 23:00 to 23:30

Regulated Entertainment

Monday to Saturday 11:00 to 00:00

Sunday 12:00 to 23:30

Non-Standard Timings

All of the above Licensable Activities have been extended to Refreshment to commence from 23:00 and an additional condition (to the Public):

09:00 to 01:00 - Christmas Eve

09:00 to 01:00 - Boxing Day

09:00 to 01:00 - Sunday prior to a Bank Holiday Monday

09:00 to 02:00 - New Years Eve

(3) That the following condition be removed from the Premises Licence:

- **The sale of alcohol must be ancillary to the sale of food.**

(4) That the following conditions be placed on the Premises Licence:

- **The sale of alcohol for consumption on the premises will be primarily but not exclusively for those patrons that are taking a meal within the premises**
- **Sound from regulated entertainment must be inaudible at the site boundary of the neighbouring residential properties**
- **The Licence holder or his representative must conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and must take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record must be made of those assessments in a log book kept for that purpose and must include, the time and date of the checks, the person making them and the results including any remedial action. This log must be made available on request to an Authorised Officer.**

17 APPLICATION TO VARY A PREMISES LICENCE - THE ROYAL OAK, 39 LISCARD VILLAGE, LISCARD

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Marston's plc to vary a Premises Licence in respect of The Royal Oak, 39 Liscard Village, Liscard, under the provisions of the Licensing Act 2003.

The variation requested was outlined within the report.

Members were advised that in accordance with The Live Music Act 2012, Live Music was no longer considered as the provision of regulated entertainment at a premises open for the supply of alcohol if it takes place between 08:00 and 23:00, the Live

Music is unamplified or the Live Music is amplified and takes place in the presence of an audience of no more than 200 persons.

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.

A representation had been received from Central Liscard Residents Association. The representation related to a history of anti-social behaviour associated with these premises and the belief that this would increase should the application be granted which would result in the Licensing Objectives of Crime and Disorder and Public Nuisance being undermined.

Representations had also been received from Ward Councillors, Janette Williamson and Bernie Mooney. The representations supported the concerns expressed by Central Liscard Residents Association. Copies of the representations were available.

Mr P Murphy, Area Manager, attended the meeting together with Mr P Roberts, Marston's plc and Ms P Thomas, Designated Premises Supervisor.

The Licensing Manager confirmed that all documentation had been sent and received and that Mr Hale, Chair of Central Liscard Residents Association was unable to attend the meeting.

Mr P Robson addressed the Sub-Committee and explained that the premises currently operated as a public house until midnight but that customers were leaving early to attend neighbouring premises which held later licences at weekends. He believed that there was a demand from local residents for later hours and listed a number of other premises in the area which had operated later hours at the weekend. Mr Robson advised Members that the application contained a request for late night refreshment in order that the premises may be able to provide a cup of tea or coffee. Mr Robson informed Members that the Designated Premises Supervisor had a great deal of experience within the trade and that there had been no problems since she had taken over the premises in 2010. He also reported that the premises had traded with late hours without any issues under the use of Temporary Event Notices. Mr Robson pointed out that no representations had been made by any of the responsible authorities and that the objections made by other parties were based on fear of what may happen without any real evidence. He also encouraged residents to contact the Designated Premises Supervisor should they have any concerns and requested that the application be granted.

Mr Marston and Ms Thomas 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 considered the representations made by the applicant and also had regard to the representations made by David Hale, Chair of Central Liscard Area Residents Association and Ward Councillors, Bernadette Mooney and Janette Williamson.

In considering the representations, Members had regard to the fact that there was no direct evidence provided that the premises were currently operating in a way that undermined the licensing objectives. Members had regard to the fact that whilst there was reference to a disproportionate amount of anti social behaviour in one of the written representations, there was no evidence provided in respect of this or indeed any evidence to connect these premises with anti social behaviour. Members further considered that this was supported by the lack of representations from any of the Responsible Authorities, in particular Merseyside Police.

Members noted the reference within one of the representations relating to employment and economic needs, however, did not take these into consideration in determining this application as they were not relevant considerations for the Sub-Committee.

In determining the application Members took into consideration the good record of the present management of the premises which was evidenced through the lack of complaints reported to any of the Responsible Authorities.

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.

In light of the above we have resolved to grant the application to vary the Premises Licence in respect of The Royal Oak, 39 Liscard Village, Wallasey as applied for.

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 to vary the Premises Licence in respect of The Royal Oak, 39 Liscard Village, Liscard be approved with the following hours:

Sale by Retail of Alcohol

Monday to Thursday	10:00 to 00:00
Friday and Saturday	10:00 to 01:00
Sunday	11:00 to 00:00

Hours Open to the Public

Monday to Thursday	10:00 to 00:30
Friday and Saturday	10:00 to 01:30
Sunday	11:00 to 00:30

Regulated Entertainment

Monday to Thursday	10:00 to 00:00
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Friday and Saturday	10:00 to 01:00
Sunday	11:00 to 00:00

Late Night Refreshment

Sunday to Thursday	23:00 to 00:00
Friday and Saturday	23:00 to 01:00