

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 18 September 2013

Present:

Councillors	S Niblock	D Roberts
	T Norbury	H Smith

22 **APPOINTMENT OF CHAIR**

Resolved –

(1) That Councillor H Smith be appointed Chair to consider the matter regarding Pebbles together with Councillors T Norbury and D Roberts.

(2) That Councillor S Niblock be appointed Chair to consider the matter regarding Birkenhead School together with Councillors T Norbury and H Smith.

23 **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.

24 **APPLICATION FOR A PROVISIONAL STATEMENT - PEBBLES, NORTH PARADE, HOYLAK**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Pebbles (Hoylake) Limited for a Provisional Statement in respect of Pebbles, North Parade, Hoylake, under the provisions of the Licensing Act 2003.

Members were advised that where a premises are being or about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, a Provisional Statement is required to be submitted. If a Provisional Statement is granted, the applicant is required to apply for a Premises Licence before the premises can provide licensable activities.

Members were further advised that when a person applies for a Premises Licence in respect of premises for which a Provisional Statement has been made, representations by Responsible Authorities and other persons would be excluded in certain circumstances which were outlined within the report.

The hours requested were 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.

Representations had been received from nine local residents. Three petitions had also been received signed by 77 local residents who were against the application. The representations and petitions related to concerns that public nuisance from entertainment coming from the premises would be caused if the application was granted and concerns regarding increased traffic within the vicinity of the premises would also cause a nuisance.

A representation had also been received from Ward Councillor, John Hale. The representation supported the concerns expressed by local residents. Copies of the representations and petition were available.

Mr M Brassey, the applicant's agent attended the meeting together with Mr G Watson, the Director of Pebbles. Also in attendance were local residents Mr J McGinley, Mr A Peters, Ms R Morris and Mrs S Boston.

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

Mr Brassey addressed the Sub-Committee and advised Members that the application had been submitted as a result of an ongoing project which had been started eight years previously when the current building had been closed down. Mr Brassey informed Members that the applicant wished to convert the building into a high class café/bistro and that the premises had received full planning approval including a condition that had been imposed regarding strict opening hours in that the premises would close at dusk between 1 September and 31 March. Mr Brassey advised that a survey had been undertaken with local residents regarding the Premises Licence and that some residents had concerns regarding noise disturbance and disturbance to wildlife. He reported that the applicant had experience of running a similar style premises in another area and that the sale of alcohol was needed to make the business viable. Mr Brassey also informed Members that he was intending to provide live music which would not be amplified for example a school choir or folk singer. Mr Brassey reported that certain measures would be in place at the premises including an age verification policy, staff training, due diligence, installation of CCTV and no late opening hours. He also informed Members that there would be no bar area and that drinks would be served at the tables.

Mr Brassey responded to questions from the local residents, Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr McGinley advised Members that local residents enjoyed a peaceful and quiet neighbourhood and that he had no objections to the premises operating as a café, however, he did object to the premises being allowed to sell alcohol as he had concerns regarding noise and disturbance, public nuisance and increased traffic.

Mr Peters reported that a number of residents of Hoyle Court objected to the application due to their close proximity to the premises and their right to the peaceful enjoyment of their properties. He also expressed concerns regarding the lack of consultation with residents.

Ms Morris expressed concerns that the alcohol free zone may be ignored and her fears regarding potential drunkenness and loud noise from customers of the premises. Ms Morris also considered that there were already enough licensed premises in the area.

Mrs Boston informed Members that changes to the environment would be caused should the application be granted and expressed concerns regarding waste storage at the premises and public nuisance caused by noise nuisance. Mrs Boston questioned the need for another licensed premises in the area.

Mr Brassey responded to questions from local residents.

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 local residents and supported by the ward Councillor which related particularly to noise emanating from the premises when entertainment would be taking place at the premises and concerns regarding the potential for public nuisance and crime and disorder that may be caused by customers attending and leaving the premises.

Members gave particular consideration to the way in which the business would operate as a high class café/bistro and the fact that there were no representations from any of the Responsible Authorities, in particular Merseyside Police and Environmental Health and also that the applicant had advised that a number of conditions would be attached to the Provisional Statement should it be granted, including staff training, CCTV and the implementation of a Challenge 25 Policy.

In determining the application Members noted that the matters raised by residents related to concerns and perceptions, however, there was no direct evidence presented that the licensing objectives would be undermined should the application be granted.

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 for a Provisional Statement in respect of Pebbles, North Parade, Hoylake, be granted with the following hours:

Sale by Retail of Alcohol for consumption on the Premises

Sunday to Saturday 08:00 to 21:30

Hours Open to the Public

Sunday to Saturday 08:00 to 21:30

Regulated Entertainment

Sunday to Saturday 12:00 to 21:30

(3) In addition to the conditions proposed, the following conditions will be attached to the Provisional Statement:

- **Bottles or glasses must not be disposed of from the premises between the hours of 21:00 and 09:00 so as not to cause a disturbance to residents in the vicinity of the premises.**
- **Recorded music is not permitted to be played in the outside area of the premises – for clarification, the outside area relates to the decked area.**
- **The decked area must be secured so as not to allow people to use this area when the premises are closed.**

Members also noted that customers will be directed to the decking area to smoke.

25 APPLICATION FOR A PREMISES LICENCE - BIRKENHEAD SCHOOL, 58 BERESFORD ROAD, OXTON

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Birkenhead School for a Premises Licence in respect of Birkenhead School, 58 Beresford Road, Oxton, under the provisions of the Licensing Act 2003.

The hours requested were 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.

Representations had been received from seven local residents. The representations related to noise nuisance caused by persons leaving the premises at a late hour at times when functions had taken place at the premises under Temporary Event Notices. Copies of the representations were available.

Mr K Watson, Catering Manager and Mr M Turner, Bursar, attended the meeting. Also in attendance were Mr J Lyons, Mr R and Mrs C Hurst and Mr W and Mrs I Meldrum, local residents.

The Licensing Manager confirmed that all documentation had been sent and received. Mr Turner, Mr Lyons and Mrs Hurst made a request to submit additional documentation. All parties agreed that this would be considered at the appropriate time.

Mr Turner outlined the application. He explained that there was no intention for events to be any different than previous events and that he was fully in support of the licensing objectives being upheld. He reported that he was also a local resident in Kingsmead Road South. Mr Turner advised Members that the events were held

across a number of venues at the premises and agreed that no event would continue beyond midnight. He also advised that he had withdrawn the request for Non Standard Timings that had originally been applied for. Mr Turner had not been aware of any noise emanating from the premises during events, however, he agreed that noise should be retained within the grounds of the premises. Mr Turner advised Members that the events were held for the benefit of pupils and parents and requested that the application be granted in order that the number of events would not be restricted in the future.

Mr Turner responded to questions from the local residents, Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mrs Meldrum expressed her concerns regarding parking issues in the area and people being denied access to their driveways and reported that the York stone on the pavement needed protecting. Mrs Meldrum was concerned that the premises may hold events every evening and advised that the noise emanating from the premises when entertainment took place was untenable at times.

Mrs Hurst advised Members that she had concerns regarding noise nuisance caused by car engines and doors banging, raised voices and music late at night and that residents experienced difficulties with traffic and people parking over driveways.

Mr Lyons expressed concerns regarding parking problems in the area and also had concerns that should the application be granted there was the potential for events to be held every evening and the potential for anti social behaviour from people leaving the premises and noise nuisance late at night.

Mr Turner responded to questions from local residents.

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 noted that the applicant no longer wished to pursue the request for Non Standard Timings.

Members also heard representations from local residents regarding public nuisance namely music emanating from the premises, inconsiderate parking in the vicinity of the premises and disturbance caused by customers leaving functions held at the premises under Temporary Events Notices.

Members considered the representations from residents that should the application be granted, this could create further disturbances more frequently than was already being caused by people attending and leaving the premises and noted the concerns in respect of doors and windows being left open and people smoking at the rear of Bushell Hall.

Members had regard to the fact that there were no representations from any of the Responsible Authorities, in particular Merseyside Police or Environmental Health.

Members considered the issues regarding parking were principally a matter to be dealt with through Traffic Enforcement legislation.

Members had regard to paragraph 9 of the Guidance which directed them to determine matters based on an assessment of evidence on both the risks and benefits either for or against making a determination whether to grant a Premises Licence.

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 for a Premises Licence in respect of Birkenhead School, 58 Beresford Road, Birkenhead, be granted with the following hours:

Sale by Retail of Alcohol

Monday to Saturday 18:00 to 23:30

Hours Open to the Public

Monday to Saturday 18:00 to 00:00

Sunday 18:00 to 21:00

Regulated Entertainment (Performance of Plays)

Monday to Saturday 18:00 to 22:00

Regulated Entertainment (Live Music and Recorded Music)

Monday to Saturday 18:00 to 23:00

Late Night Refreshment

Monday to Saturday 23:00 to 00:00

(3) That the following conditions be attached to the Premises Licence:

- All external doors and windows must be kept closed within the venue where regulated entertainment is being provided except in the event of an emergency and access to or egress from the premises.**
- 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. Records of these assessments must be maintained and made available to an Authorised Officer on request.

- **There must be dedicated Marshalls in place to direct traffic prior to the start of functions at the premises and for 20 minutes after the function has commenced. Marshalls must also be in place to direct traffic at the end of the function. Marshalls must be easily identifiable wearing fluorescent tabards.**
- **Those attending functions must be advised of the restrictions of parking within the vicinity of the school and to adhere to parking arrangements at the school.**
- **Individuals who wish to smoke must be directed to use the designated smoking area.**

Members encouraged the applicant to advise residents when events would be terminated at midnight and provide a contact number to local residents should any problems arise during events.