

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 10 October 2013

Present:

Councillors D Roberts
 J Salter
 H Smith

26 **APPOINTMENT OF CHAIR**

Resolved – That Councillor H Smith be appointed Chair for this meeting.

27 **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.

28 **APPLICATION FOR A PREMISES LICENCE: CHAMBERS BAR AND GRILL, 25 ARGYLE STREET, BIRKENHEAD**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Chambers (Wirral) Limited for a Premises Licence in respect of Chambers Bar and Grill, 25 Argyle Street, Birkenhead, 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.

A representation had been received from Merseyside Police. The representation related to the prevention of crime and disorder. A copy of the representation was available. A response to the representation had been submitted by the legal representative of the applicant and was also available.

Mrs J Lynch, Company Director of Chambers (Wirral) Limited, attended the meeting together with her legal representative Mr N Smith. Mr McNulty, a friend of the applicant was also in attendance.

Sergeant S Barrigan and Constable P Coley attended the meeting on behalf of Merseyside Police (Licensing Division).

The Licensing Manager confirmed that all documentation had been sent and received and that Sergeant Barrigan had agreed to the applicant submitting photographic evidence in support of the application.

Mr Smith addressed the Sub-Committee and informed Members that Mrs Lynch was the sole director of Chambers (Wirral) Limited. He outlined Mrs Lynch's background and advised Members that she had worked in a number of licensed premises in Liverpool over the last 30 years, however she now wished to pursue her own career within the licensing industry. Mr Smith informed Members that the premises had been renovated by Mrs Lynch and her two sons and that the emphasis would be food sales with seating for approximately 60 people. Mr Smith referred to various financial records to demonstrate how the financing of the premises had been obtained and explained that reclaimed materials had been used in the refurbishment namely bricks which had been given to Mrs Lynch free of charge, she had also sourced materials from car boot sales and second hand shops. He reported that the applicant intended to run the premises in a professional manner and would have an EPOS till system installed. He confirmed that Mrs Lynch had recently obtained a Personal Licence and intended to become the Designated Premises Supervisor at the premises. Mr Smith advised that Mrs Lynch's son, Peter Lynch, was not the applicant and that he had never been charged or convicted of a relevant offence. Mr Smith suggested that there was no credible relevant evidence to indicate that granting the application would undermine the licensing objectives and therefore submitted that the application be granted.

Mrs Lynch and her representative responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and Sergeant Barrigan.

Sergeant Barrigan reported that Merseyside Police had made a representation against the application on the grounds that the licensing objective of the prevention of crime and disorder would be seriously undermined. He reported that there had been a long history of crime and disorder at the premises when it had previously traded as Sonny's on the Square and that enforcement action had been taken. Sergeant Barrigan advised that the history of the premises caused significant concern and that it was the view of Merseyside Police that criminal activity would continue should the Premises Licence be granted. He advised that Mr Lynch had attended a meeting at Wallasey Police Station on 1 August 2013 to discuss the premises re-opening as Chambers, however, it had subsequently been discovered that the previous Premises Licence had lapsed and therefore it was not possible to apply for a variation to enable the business to operate as they wanted it to. Mr Lynch then attended a further meeting on 16 August 2013. He had been requested to provide proof of finance in relation to the money invested in the refurbishment of the premises at this meeting and the previous meeting. Sergeant Barrigan advised that it had been concluded that Mr Lynch was to be regarded as the applicant as he had signed the application in his capacity as Managing Director of Chambers (Wirral) Limited and also as the tenant of the premises on the lease document. It was further reported that Mr Lynch had been arrested on 12 September 2013. Sergeant Barrigan submitted that Mr Lynch's connection to the premises would significantly increase the probability of criminal activity occurring at the premises and seriously undermine the licensing objective of the prevention of crime and disorder and that there would be no conditions that could be attached to the Licence that would satisfy

Merseyside Police that the licensing objectives would be upheld and urged that the application be refused.

Sergeant Barrigan responded to questions from the applicant's solicitor, Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr D K Abraham, advised Members to disregard the incidents which related to Sonny's on the Square.

Mr Smith believed that appropriate conditions would mitigate any of the licensing objectives being undermined and outlined his response to the representation submitted by Merseyside Police.

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 did not take into consideration the historic evidence presented by Merseyside Police in relation to when the premises operated as Sonny's on the Square when they determined the matter.

Members were advised that the name of the applicant was Chambers (Wirral) Limited and the sole Director of the Company was Mrs Joan Lynch. The signature provided on the application form on behalf of the company was that of Mr Peter Lynch, son of Mrs Lynch. Members were advised that Mrs Lynch was supported by her son, Mr Peter Lynch, in this business venture. Members were informed that Mr Lynch took a lead role in the refurbishment of the building and had been involved in the application process. This was demonstrated through a number of facts which had not been disputed.

Members heard evidence from Merseyside Police that due to current investigations being undertaken in respect of Mr Peter Lynch, the granting of the application for a Premises Licence would seriously undermine the Licensing Objective of Crime and Disorder.

Members accepted the evidence provided by Merseyside Police that Mr Lynch was arrested on 12 September 2013 and was currently on bail until 16 December 2013 and that Merseyside CID were investigating into how the refurbishment of the premises had been financed. Whilst financial information had been provided to Members it had not been possible to verify direct links between income, expenditure and the refurbishment of the premises.

The Solicitor representing the applicant had asked Members to disregard matters in respect of the investigations being undertaken by Merseyside Police as Mr Lynch had not been charged with any of the offences and furthermore that the offences were not relevant under The Licensing Act 2003. The relevant offences to which Mr Smith made reference related to applications for Personal Licences and the Sub-Committee were not limited to these considerations in respect of applications for Premises Licences. Whilst there had been no convictions in respect of these matters, Members had regard to the strong view of Merseyside Police that should the Premises Licence be granted, this would seriously undermine the Licensing Objective regarding the Prevention of Crime and Disorder.

Mr Smith, Solicitor representing Mrs Joan Lynch made significant representations to the Sub-Committee to demonstrate that Mr Lynch was not the applicant. Members accepted that the applicant was Chambers (Wirral) Limited, however they were satisfied that Mr Lynch had taken a lead role in the development of the premises and in discussions with Merseyside Police regarding the operating of the premises.

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 Chambers Bar and Grill, 25 Argyle Street, Birkenhead, be refused.