

# LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 30 October 2013

Present:

Councillors	S Niblock	M Sullivan
	H Smith	I Lewis

## 32 APPOINTMENT OF CHAIR

Resolved –

(1) That Councillor S Niblock be appointed Chair to consider the matter regarding Otto Lounge, together with Councillors H Smith and M Sullivan.

(2) That Councillor S Niblock be appointed Chair to consider the matter regarding Bebington Service Station, together with Councillors I Lewis and H Smith.

## 33 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.

## 34 APPLICATION FOR A PREMISES LICENCE - OTTO LOUNGE, UNIT 8, 139-141 TELEGRAPH ROAD, HESWALL

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Loungers Limited for a Premises Licence in respect of Otto Lounge, Unit 8, 139-141 Telegraph Road, Heswall, 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 14 local residents. The representations related to concerns of noise nuisance that may be caused by persons leaving the premises at a late hour which was currently a problem within the vicinity of the premises and had been made in respect of the original application. Residents had subsequently been advised of the amendments to the application and those that had responded had asked that their representations be taken into consideration.

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

Mr Rosser, agent for the applicant, attended the meeting together with Mr Behan, the proposed Designated Premises Supervisor.

Mr Harrison, local resident was also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that a number of residents had requested that Mr Harrison speak on their behalf. The Licensing Manager also advised that Councillor Rowlands was unable to attend the meeting and requested that his written representations be taken into consideration. The Licensing Manager confirmed that the hours requested for opening were from 8.00 am.

Mr Rosser addressed the Sub-Committee and outlined the application. He advised that the Lounge Group owned a series of café/bar restaurants which were very well run, food driven, family friendly establishments. He informed Members that there were 30 Lounges around the country, all of which had Premises Licences and had been run without experiencing any problems with regard to the licensing objectives. He reported that the hours had been reduced in line with planning and that a number of conditions had been proposed which he believed would meet the concerns of local residents and the licensing objectives. Mr Rosser also advised that the premises had been operating for the past two weeks under Temporary Events Notices and no problems had been experienced.

Mr Rosser and Mr Behan responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and Mr Harrison.

Mr Harrison advised Members that the concerns of local residents were regarding the later hours from 8.00 pm to midnight. He informed Members that problems were currently experienced with another licensed premises in the vicinity and advised that the objections were based on past experience. Mr Harrison reported that he also had concerns regarding the bi-fold doors at the front of the premises in that he believed noise nuisance would be caused if these were left open and requested that they be closed after 9.00 pm. He also expressed concerns that customers may stand outside drinking which would create noise and disturbance to local residents.

Mr Harrison responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to 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 heard representations in support of the application from Mr Rosser, the applicant's agent and Mr Behan, proposed Designated Premises Supervisor,

Members also considered representations from Mr Harrison on behalf of local residents, regarding their perceived concerns in respect of public nuisance which

may be caused by people leaving the premises and noise emanating from the premises beyond 11.00 pm.

Members considered the representations made by the applicant and his representative in respect of how the premises would be operated and how the licensing objectives would be maintained. Members had particular regard to the fact that the premises would be operating as a food led premises with substantial meals available during the times when alcohol would be sold and that the premises would be family orientated. Members also noted that the premises would operate within the restricted hours imposed pursuant to planning permission.

Members had regard to the fact that the applicant had reduced the hours applied for and that many of the concerns raised by local residents related to the original hours applied for beyond 11.00 pm. Members also had regard to the fact that there were no representations from any of the Responsible Authorities, in particular, Merseyside Police and Environmental Health.

In determining the matter Members recognised the fact that any disturbance caused to local residents could lead to a review of the Premises Licence. Members also had regard to the lack of direct evidence 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 Premises Licence in respect of Otto Lounge, Unit 8, 139-141 Telegraph Road, Heswall, be granted with the following hours:**

**Sale by Retail of Alcohol**

**Sunday to Saturday 10:00 to 23:00**

**The applicant has indicated that the sale of alcohol will be for consumption on the premises only.**

**Hours Open to the Public**

**Sunday to Saturday 08:00 to 23:30**

**Late Night Refreshment**

**Monday to Saturday 23:00 to 23:30**

**35 APPLICATION TO VARY A PREMISES LICENCE - BEBINGTON SERVICE STATION, KINGS ROAD, HIGHER BEBINGTON**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Rontec Watford Limited to vary a Premises Licence in respect of Bebington Service Station, Kings Road, Higher Bebington, under the provisions of the Licensing Act 2003.

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 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 who advised that should the application be granted this would lead to an increase in alcohol related anti-social behaviour. A copy of the representation was available.

Mr Lowe from Rontec Limited attended the meeting together with his legal representative Mr Botkai.

Sergeant Barrigan and Constable Jones were also in attendance.

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

Mr Botkai addressed the Sub-Committee and advised Members that the opening hours requested were from 06:00 am until 12:00 midnight and not 24 hours and that he was content for this to be reflected in the hours of operation of the premises. He informed Members that the application had been submitted in order that the hours permitted to sell alcohol at the premises would match the opening hours. Mr Botkai referred to the Statutory Guidance which stated that this should generally be permitted unless there was good reason for it to be restricted. He also referred to paragraph 8.4 of the Council's Licensing Policy which was in line with the Statutory Guidance. Mr Botkai stated that no representations had been received from Trading Standards, Environmental Health, local residents or businesses in the area. He referred to the representations provided by Merseyside Police, however, he submitted that the representations were not directly linked to the premises but referred to the area in general. He advised Members that Rontec were responsible retailers who operated a Challenge 25 Policy and undertook staff training. Mr Botkai believed there was no evidence that the application would be contrary to the licensing objectives and requested that the application to vary the Premises Licence be granted.

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

Sergeant Barrigan advised that Merseyside Police had made representations against the application as they believed that the increase in availability of alcohol could lead to an increase in alcohol related anti social behaviour which would undermine the licensing objective of the prevention of crime and disorder. Sergeant Barrigan reported that the police beat in which the premises were located was a hotspot for alcohol related anti social behaviour involving adults and young people. He expressed concern regarding the extra hour that alcohol would be available compared to other premises in the vicinity and requested that the application to vary the Premises Licence in respect of these premises be refused.

Sergeant Barrigan responded to questions from Members of the Sub-Committee and Mr D K Abraham.

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 Mr Botkai on behalf of the applicant, Rontec Watford Limited.

Members noted that the applicant was no longer pursuing the variation to increase the opening hours of the premises to 24 hours.

Members had regard to the representations of Sergeant Barrigan from Merseyside Police regarding his concerns that the licensing objectives would be undermined should the application to vary be granted.

Members had regard to the fact that there were no representations from any of the other Responsible Authorities, local residents or Ward Councillors.

Members noted that the evidence provided by Merseyside Police related to a Police beat area within which the premises was located and that no evidence had been provided that there had been any underage sales at the premises or incidents of anti social behaviour directly linked to the premises or that the store was a focus of crime and disorder.

In determining the matter Members had regard to the lack of direct evidence that the licensing objectives would be undermined should the application for a variation of the Premises Licence be granted.

Members had particular regard to the Statutory Guidance and the Council's Licensing Policy in respect of premises being allowed to supply alcohol during normal trading hours unless there was good evidence not to.

Members gave consideration to the proposed variation to the conditions attached to the Licence set out in the operating schedule and how the premises would be operated in line with the new conditions.

**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 a Premises Licence in respect of Bebington Service Station, Kings Road, Higher Bebington be granted with the following hours:**

**Sale by Retail of Alcohol**

**Sunday to Saturday 06:00 to 00:00**

**Hours Open to the Public**

**Sunday to Saturday 06:00 to 00:00**

**Late Night Refreshment**

**Sunday to Saturday 23:00 to 00:00**

**(3) That the request to remove the conditions within Annexe 2 and replace them with the conditions proposed within the variation application be agreed.**