

## LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 24 April 2014

### Present:

Councillors J Salter  
H Smith

G Ellis  
M Hornby

### 53 APPOINTMENT OF CHAIR

#### Resolved –

**(1) That Councillor M Hornby be appointed Chair to consider the matter regarding 56 King Street, Wallasey together with Councillors G Ellis and H Smith.**

**(2) That Councillor H Smith be appointed Chair to consider the matter regarding 43 Woodchurch Road, Birkenhead together with Councillors M Hornby and J Salter.**

### 54 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.

### 55 APPLICATION FOR A PREMISES LICENCE - 56 KING STREET, WALLASEY

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Selvarasa Selvakumaran for a premises licence in respect of the premises located at 56 King Street, Wallasey, under the provisions of the Licensing Act 2003.

The hours requested were outlined in 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. Following discussions with Merseyside Police, the applicant had agreed to certain conditions being imposed on the Premises Licence should the application be granted.

Representations had been received from four local residents and a petition had been received signed by 83 local residents. . The representations and petition related to concerns that anti-social behaviour and under age drinking will increase if the application were to be granted. Copies of the representations and petition were available.

A representation had also been received from Ward Councillor, Bernie Mooney. The representation supported the concerns expressed by local residents. A copy of the representation was available.

The applicant attended the meeting together with his representative, Mr Jordan.

Local Residents, Mr Kershaw, Mr Gilmore and Mr Kelly were also in attendance.

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

Mr Jordan addressed the Sub-Committee detailing the 18 months experience Mr Selvakumaran has had working in licensed premises. It was explained that the applicant is particularly aware of how to effectively deal with underage and proxy sales. Mr Jordan advised that if Members agree to approve this application, his client will have: an in house training programme for all staff, CCTV will be installed, a policy of no sales of beer, lager or cider over 6.5% abv will be adopted, a challenge 25 policy will be in place and a refusal register will be maintained.

Mr Jordan further informed Members that his client has had no previous convictions and fully understands the principles of the Licensing Objectives. He then referred to the fact that no representations had been made by Merseyside Police or any other responsible authority.

Members were made aware that Mr Selvakumaran fully understands concerns of local residents and hopes to address this by applying conditions as specified above.

The applicant and his representative responded to questions from Members of the Sub-Committee, local residents, Mr Kershaw and Mr Gilmore and DK Abraham, Legal Advisor to the Sub-Committee.

Mr Kershaw reported upon high levels of anti-social behaviour and street drinking in close proximity to the premises. He stated that, in his opinion, opening of another licensed premises would exacerbate the situation and lead to further public disorder and increased crime and disorder in the area. Further concerns were raised regarding the situation of the bus stop and logistical issues regarding placing of bins on the highway.

Mr Gilmore stated that he had lived and worked in the area for 30 years and currently owns the business next door to the premises in question. He reiterated comments made by Mr Kershaw and strongly enforced his objection to permitting alcohol being sold at the premises.

Mr Kershaw and Mr Gilmore responded to questions from Members of the Sub-Committee and Mr Jordan.

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, Mr Jordan. They also had regard to the representations made by local residents and supported by Councillor Mooney relating to concerns that anti-social behavior and underage drinking will increase if the application is granted.

Members had regard to the fact that there was no evidence presented by those objecting to the application that the granting of a Premises Licence would result in the sale of alcohol to persons under the age of 18 at these particular premises and that the granting of the licence would directly result in an increase in anti social behavior .

In considering these concerns Members had regard to the measures that the applicant was prepared to put in place to ensure that the Licensing Objectives are upheld and ensure that alcohol will not be sold to known street drinkers or young persons under the age of 18.

Members also gave consideration to the fact that there were no representations from the responsible authorities, in particular, Merseyside Police and that the applicant had agreed to reduce the hours applied for the sale of alcohol following consultation with Merseyside Police.

In determining the matter Members 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 in respect of 56 King Street, Wallasey be granted with the following hours:**

**Sale by Retail of Alcohol**

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

**Hours Open to the Public**

**Sunday to Saturday      06:00 to 23:00**

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

- **All employees must complete training on the following before being allowed to sell alcohol in the shop: the**

prevention of the sale of alcohol to persons under the age of 18 years, proxy sales, the responsibility to refuse alcohol to anyone who is drunk as well not selling alcohol to known street drinkers. Refresher training must be conducted with staff by the Designated Premises Supervisor at least every 6 months. Written records of this training must be kept at the premises and made available to an Authorised Officer upon request.

- The premises must adopt a Challenge 25 Policy and display the appropriate posters regarding this Policy.
- The premises must maintain a refusals log book and an incident book. These log books must be made available on request to an Authorised Officer to ensure that they are being used.
- CCTV must be installed at the premises. Tapes and visual images recorded shall be retained for a period of 31 days and the system installed at the premises must be at least in accordance with the specification issued by the Licensing Authority.
- Beer, lager or cider with an ABV above 6.5% must not be sold at the premises.
- Beer or cider must not be sold in single cans.
- No sale of alcohol must be made to customers who are known street drinkers.
- A till prompt system must be installed and maintained at the premises in order to alert staff to check the age of any purchaser attempting to purchase alcohol.
- There must be a personal licence holder working in the shop at all times the premises is open

56 **APPLICATION FOR A PREMISES LICENCE - 43 WOODCHURCH ROAD, BIRKENHEAD**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Markandu Nesarasa for a Premises Licence in respect of the premises located at 43 Woodchurch Road, Birkenhead under the provisions of the Licensing Act 2003.

The hours requested were outlined in 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.

Representations had been made from seven local residents and a petition had been signed by 268 local residents. The representations and the petition related to concerns that anti-social behaviour will increase within the vicinity of the premises if this application was granted. Representations also expressed concerns regarding young persons under the age of 18 gaining access to alcohol. Copies of the representations and petition were available.

Representations had been made by Ward Councillors: Brian Kenny, Jean Stapleton and Phil Davies on behalf of local residents.

A representation had been received from the Licensing Authority due to evidence that a premises in which the applicant is currently the Designated Premises Supervisor had been selling alcohol outside its permitted hours. The Licensing Authority had concerns that if a Licence is granted to the applicant at these premises then this may result in further breaches being committed and causing the Licensing Objectives to be undermined. A copy of the representation was available.

A representation had also been received from Merseyside Police relating to current problems in the area relating to street drinkers within the vicinity of the premises. Concerns were raised that the Licensing Objectives will not be upheld if the application was to be granted. A copy of the representation was available.

The Licensing Manager confirmed that all documentation had been sent and received. Members were informed that an additional document had been submitted prior to the hearing by Merseyside Police that had been accepted by the applicant and his legal representative.

Mr Jordan reported that following discussions with the applicant, various conditions had been suggested including:

- Sale of alcohol to be amended to start from 8am
- Regular training for all staff on underage sales, proxy sales and selling of alcohol to the intoxicated. Training records should be made available at request to Licensing Officers
- No beer/ cider or lager to be sold above 6.5% abv.
- No single cans to be sold
- CCTV to be installed and available on request

Members heard that the applicant has had 10 years experience working in licensed premises. He currently has control of 5 premises. Mr Jordan reported that here has only been one incident during this time whereby the applicant had been responsible for a breach of licensing conditions at a premises where he is the Designated Premises Supervisor. It was reported that the applicant has since retrained staff and no further breaches have occurred.

Mr Jordan addressed residents concerns relating to the premises in question under previous management and stated how his client cannot be held responsible for previous experiences.

The Applicant and Mr Jordan responded to questions from Andrew Bushell, Sergeant Barrigan and Mr D K Abraham.

Andrew Bushell, Licensing Operations Manager informed the Committee that four complaints had been received in respect of a premises in which the applicant is currently the Designated Premises Supervisor. The complaints related to a premises whereby staff had been operating outside the licensing hours. Members heard how the applicant received a caution in respect of the offence committed. Members heard that it is the view of the Licensing Authority that granting this licence would undermine Licensing Objectives particularly relating to the prevention of crime and disorder.

Sergeant Barrigan addressed the Sub-Committee and reported that the premises is located in close proximity to an area known for high levels of street drinking and anti-social behaviour. Statistics were produced detailing high levels of violent crime in the vicinity of the premises and Members heard how the opening of another licensed premises could exacerbate the situation and increase levels of crime and disorder.

Members heard how it was Merseyside Polices's contention that the applicant does not fully understand the principals of the Licensing Objectives and that this was particularly relevant as the premises is located in the high risk area in respect of alcohol related anti social behaviour.

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

Councillor Brian Kenny addressed the Sub- Committee on behalf of his ward colleagues and local residents. He expressed concerns with high levels of anti-social behaviour in the area. It was reported that there are currently several ongoing projects in the Birkenhead area which aim to alleviate these problems. He stated that how opening a further licensed premises could prove to be counterproductive to positive work. The Committee were urged, by Councillor Kenny to refuse this application.

Mr Pritchard, local resident also reported upon high levels of crime and disorder in the area. He stated that at present there are 25 establishments in the vicinity that sell alcohol and that a further premises selling alcohol in this area would exacerbate the problem.

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 had regard to the representations made by the applicant, Merseyside Police, The Licensing Authority, Ward Councillors as well as those made by local residents and the petition submitted relating to concerns with anti-social behaviour.

Members considered the representations made by the Licensing Authority relating to the prevention of crime and disorder licensing objective being undermined. Members also considered representations made by Merseyside Police regarding current problems with street drinking and high levels of crime and disorder in the area.

With regard to the steps proposed by the applicant and his representative, Members did not consider these would be fully effective in upholding the Licensing Objectives in relation to the prevention of crime and disorder the prevention of public nuisance and the protection of children from harm. Members therefore resolved that it was proportionate and appropriate to refuse the application for a Premises Licence in respect of 43 Woodchurch Road, Birkenhead.

**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 43 Woodchurch Road, Birkenhead be refused.**