

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 8 May 2014

Present:

Councillors M Hornby
S Niblock
M Sullivan

57 **APPOINTMENT OF CHAIR**

Resolved – That Councillor S Niblock be appointed Chair for this meeting.

58 **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.

59 **APPLICATION FOR A PREMISES LICENCE - MARTINS, 389 UPTON ROAD, NOCTORUM**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Martin McColl Limited for a Premises Licence in respect of Martins, 389 Upton Road, Noctorum, 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 a local business. A petition had also been received signed by 94 local residents. The representation and petition related to concerns of public nuisance caused by youths within the vicinity of the premises which was currently a problem. Copies of the representation and the petition were available.

A representation had also been received from Merseyside Police. The representation related to a current problem of anti social behaviour caused by youths within the vicinity of the premises. Merseyside Police had concerns that anti social behaviour would increase should the application be granted and they also considered that the Operating Schedule did not sufficiently demonstrate how crime and disorder would be prevented at these premises in the future.

Environmental Health had also submitted a representation relating to the prevention of crime and disorder and public safety.

The applicant company was represented at the hearing by Mr Gates and Mr Crank, Solicitor.

Two local residents were in attendance who were also the local business owners that had made a representation.

Sergeant S Barrigan, Merseyside Police, was also in attendance.

Mr C Clayton, Environmental Health Officer was also in attendance.

The Chair requested whether all parties were content with the meeting being filmed by a member of the public.

A short adjournment took place for Members to consider whether to allow filming of the proceedings.

The meeting reconvened.

The applicant's solicitor and Sergeant Barrigan raised concerns regarding the filming of the meeting and members of the public being present. The concerns related to ongoing criminal proceedings and issues regarding security at the premises. Sergeant Barrigan requested that the meeting be held in private.

A further adjournment took place while Members considered the request for the meeting to be held in private.

The meeting reconvened.

The Chair resolved to exclude members of the public further to the Licensing Act 2003 (Hearings) Regulations 2005 after considering the representations made.

The Licensing Manager confirmed that all documentation had been sent and received and that the applicant's solicitor had proposed a number of conditions to be attached to the Premises Licence and that the application had been amended reducing the hours applied for.

The applicant's solicitor advised Members that the application had been amended and a number of conditions had been proposed to be attached to the Premises Licence. He advised that the premises had operated as a convenience store and local Post Office for a number of years and that the applicant operated 1300 stores, 800 of which were licensed. He informed Members that there was no intention to turn the premises into an off licence and that alcohol would represent approximately 10% of the turnover at the premises with an additional range of goods including chilled foods and alcohol. He outlined a number of measures that would be put in place to prevent the sale of alcohol to young people including test purchasers and that CCTV would include cameras outside of the premises to monitor youths should they gather in the vicinity of the premises. It was reported that the images would also be monitored by Head Office. He informed Members that the premises included a Post Office Service and that the premises were being modified so that the Post Office would no longer operate separately from the shop and that two members of staff would be on duty to work across both functions within an open planned premises

together with one supervisor who would be present at all times. He also believed the steps proposed would be appropriate to address the issues raised. He also pointed out that the other licensed premises within the vicinity had not been subject to any reviews and that there was no cumulative impact policy in the area.

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

Mr C Clayton, Environmental Health, informed Members of the background to their representation and advised that following a meeting with the applicant and their legal representative they were now satisfied that the increased potential risks associated with the Premises Licence application had been considered and that the licensing conditions proposed by the applicant had addressed their concerns in respect of the two licensing objectives, the prevention of crime and disorder and public safety. As a consequence they were content to withdraw their representation.

Sergeant Barrigan reported upon complaints received from residents regarding youths accessing alcohol from the off licence located next door but one to these premises and causing anti social behaviour in the vicinity of the premises. Merseyside Police also advised Members that they considered that the safety of employees and the public attending the premises would be at risk should the licence be granted.

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

Mr Roberts expressed concerns regarding another licensed premises being situated in the area and advised Members of three specific reasons why the Sub Committee should not grant the Premises Licence. The reasons he stated were: there had been an armed robbery at these premises, there was no need for another licensed premises in the area and that public nuisance caused by youths would increase if the application was granted. Mr Roberts also advised Members of his concerns that should a licence be granted the alcohol would not be displayed behind screens.

Members were advised by Mr Roberts that youths currently congregated outside his premises and Merseyside Police supported this fact, and that he had had cause to contact the police due to the behaviour of the youths. Members were advised however, that the Police had not considered that the issues that had been a cause of concern had required them to review the Premises Licence and advised Members that the issues had been addressed through effective management of the premises.

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 gave serious consideration to the representations made and the proposals put forward by the applicant to address the concerns raised in the representations.

Whilst Members accepted that young people were known to congregate outside the off licence no evidence had been presented by Merseyside Police relating to specific incidents of alcohol related anti social behaviour and conclusive evidence had not

been provided that the granting of the Premises Licence would directly lead to an increase in crime and disorder.

In considering the concerns raised, Members gave consideration to the measures proposed by the applicant that would be put in place to ensure that the Licensing Objectives would be upheld and ensure that alcohol would not be sold to young persons under the age of 18 including CCTV with cameras outside the premises.

Members gave particular regard to the fact that Environmental Health had been satisfied with the modification of the application and the conditions proposed by the applicant which had led them to withdraw their representation.

In determining the matter 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 in respect of Martins, 389 Upton Road, Noctorum, be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 08:00 to 21:00

Hours Open to the Public

Sunday to Saturday 06:00 to 21:00

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

- **All employees must complete training in relation to the prevention of the sale of alcohol to persons under the age of 18 years before being allowed to sell alcohol in the shop.**
- **All employees must complete training in relation to proxy sales before being allowed to sell alcohol in the shop.**
- **Refresher training must be conducted with staff at least every 14 weeks.**
- **Written records of all training undertaken must be kept at the premises and made available to an Authorised Officer upon request.**
- **Staff must be trained in Health and Safety and Fire Safety procedures and such training must be recorded in writing, and such records be made available to an Authorised Officer on reasonable request.**

- **Suitable and sufficient Health and Safety risk assessments, must be performed as a minimum annually, such written assessments must be available for inspection by an Authorised Officer on reasonable request.**
- **The premises must adopt a Challenge 25 Policy and display the appropriate posters regarding this Policy.**
- **The premises must maintain a refusals record and an incident record. These records must be made available on request to an Authorised Officer to ensure that they are being used.**
- **The premises to be equipped with digital CCTV, internally covering the entrance door, the till points, all display points of alcohol, externally to have two cameras covering the frontage to the store immediately outside the premises. All cameras to have the facility to record and store data for 31 days. Images to be stored by the Premises Licence Holder and made available to Merseyside Police on reasonable request. Appropriate notices complying with Data Protection Act to be displayed at the premises.**
- **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**
- **A panic alarm system must be in place and maintained at the premises.**
- **A staff controlled magnetic lock must be in place on the main door.**
- **At all times Licensable Activities is permitted on the premises there must be a minimum of 3 members of staff on duty.**
- **Between the hours of 08:00 and 21:00 there must be a minimum of 3 members of staff on duty.**
- **When the premises are closed to the public they must be shuttered.**
- **No alcohol to be displayed for sale at the premises within 5 metres of the entrance door.**