

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 4 September 2014

Present:

Councillors    S Niblock  
                      A Hodson  
                      M Hornby

14    **APPOINTMENT OF CHAIR**

**Resolved** – That Councillor A Hodson be appointed Chair for this meeting.

15    **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.

16    **APPLICATION TO VARY A PREMISES LICENCE - THE COURTYARD, 7-9 ROSE MOUNT, OXTON**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from John Mitchell to vary a Premises Licence in respect of The Courtyard, 7-9 Rose Mount, Oxton, 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.

Six representations had been received from local residents. The representations related to noise nuisance from customers which they advised was currently a problem and concerns that this would be extended until a later hour should the application be granted. Copies of the representations were available.

The applicant attended the meeting together with the Designated Premises Supervisor and their representative.

A number of local residents were also in attendance together with Councillor A Brighthouse, Ward Councillor.

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

The applicant's representative addressed the Sub-Committee and reported that the application was to extend the hours for the sale of alcohol and late night refreshment by one hour on a Friday and Saturday. He advised that the application had been made in order to keep customers at the premises and prevent them being disruptive when leaving the premises in order to gain access to neighbouring premises. He informed Members that certain conditions would be placed on the Premises Licence which had been agreed with Merseyside Police in order to manage the premises staying open at a later hour. He further informed Members that the premises had recently been operating under Temporary Event Notices with the hours applied for and no risks had been identified and no complaints had been received. He advised that he had invited local residents to a meeting to discuss any concerns raised and that three local residents had attended and he considered that their concerns had been addressed. He believed that the application should be granted as no specific evidence that the licensing objectives would not be upheld had been provided by local residents.

The applicant, Designated Premises Supervisor and their representative responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and local residents.

Local residents outlined the history of the area and advised Members that there are a number of licensed premises in Oxton and that their concerns did not relate directly to these premises but to the ongoing effect of premises in the area opening for longer hours. Residents raised concerns regarding the current operation of the premises in that they believed the planning restrictions had been breached. They advised that the premises was situated in a residential area and that noise and disturbance was caused by people leaving licensed premises in Oxton late at night which would be caused at a later hour should the application be granted. Residents informed Members that the gradual extension of hours at licensed premises in Oxton was having a detrimental impact on their quality of life. Members were advised that Councillor Brighthouse endorsed the concerns of local residents and was seeking a cumulative impact policy to be imposed on the area. Residents referred to the condition that had previously been placed on the Premises Licence which stated that "the sale of alcohol for consumption on the premises will be primarily but not exclusively for those patrons that are taking a meal within the premises", however, they believed that this was not the case and that the premises operated as a bar rather than a restaurant. The local residents in attendance strongly objected to the application making reference to general noise and disturbance in Oxton Village late at night.

The Designated Premises Supervisor outlined how the premises operated and explained that customers remained in the bar area whilst waiting to be seated for a meal and moved back into the bar area after they had eaten. He also advised that the premises employed security staff who ensured that bottles and glasses remained on 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 had regard to the representations made by local residents relating to concerns that noise nuisance from customers would be extended until a later hour if

the application to vary the hours was granted. Members heard from residents that whilst they were disturbed generally from noise or nuisance by people being in Oxton Village late at night, they could not attribute this to customers of the Courtyard.

Members heard from the applicant that they had consulted with Merseyside Police in respect of their application and had agreed to two particular conditions being imposed on the Licence which directly related to managing the premises with later hours. Members also heard that customers from the Courtyard moved across to neighbouring premises to ensure they could access these premises before 11.30 pm and that one of the reasons for the application was to allow individuals who had eaten at the premises to remain in the premises.

Members had regard to the fact that no evidence had been produced to demonstrate that whilst the premises had operated under Temporary Event Notices during July and August, that the operation of the premises had directly resulted in an increase in public nuisance to local residents.

Members took into account that the variation requested was effectively for an extra hour on a Friday and Saturday night, however, that no admission would be permitted to the premises after 23:30 and that the hours would remain the same during the week.

Members 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 took into account the lack of direct evidence that customers of the premises had been responsible for the reported nuisance being experienced by local residents.

Members noted that the applicant would not be absolved from complying with planning restrictions should the application be granted.

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 to vary the Premises Licence in respect of The Courtyard, 7-9 Rose Mount, Oxton, be approved with the following hours:**

**Sale by Retail of Alcohol**

<b>Monday to Thursday</b>	<b>11:00 to 00:00</b>
<b>Friday and Saturday</b>	<b>11:00 to 01:00</b>
<b>Sunday</b>	<b>12:00 to 23:30</b>

**Hours Open to the Public**

<b>Monday to Thursday</b>	<b>11:00 to 00:30</b>
<b>Friday and Saturday</b>	<b>11:00 to 01:30</b>
<b>Sunday</b>	<b>12:00 to 00:00</b>

**Late Night Refreshment**

<b>Monday to Thursday</b>	<b>23:00 to 00:00</b>
<b>Friday and Saturday</b>	<b>23:00 to 01:00</b>
<b>Sunday</b>	<b>23:00 to 23:30</b>

**Live Music, Recorded Music, Performance of Dance and Performance of Anything of a Similar Description**

**Unchanged**

**Non-Standard Timings**

**Unchanged**

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

- No customers shall be permitted entry to the premises beyond 11.30 pm.**
- A minimum of 1 SIA registered doorman must be on duty at the premises from 9.30 pm on a Friday and Saturday.**