

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 18 September 2014

Present:

Councillors	S Niblock	M Sullivan
	T Norbury	L Reecejones

17 **APPOINTMENT OF CHAIR**

Resolved –

(1) That Councillor S Niblock be appointed Chair to consider the application in respect of Best One, together with Councillors T Norbury and L Reecejones.

(2) That Councillor S Niblock be appointed Chair to consider the application in respect of the Grant of a Personal Licence together with Councillors L Reecejones and M Sullivan.

18 **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.

19 **APPLICATION TO REVIEW A PREMISES LICENCE - BEST ONE, 91-93 BRIGHTON STREET, WALLASEY**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Merseyside Police to review the Premises Licence in respect of Best One, 91 -93 Brighton Street, Wallasey.

The premises currently hold a Premises Licence allowing the licensable activities as set out within the report. A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

The Strategic Director advised that the Sub-Committee may, having regard to the application for review and any other relevant representations, take such of the following steps as it considered necessary for the promotion of the licensing objectives:

- Modify the Conditions of the Licence.
- Exclude a licensable activity from the scope of the Licence.
- Remove the Designated Premises Supervisor.
- Suspend the Licence for a period not exceeding three months.
- Revoke the Licence.

The Licensing Authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The application had been submitted by Merseyside Police and the Licensing Sergeant had stated that the grounds for review were in relation to the Premises being linked to criminal activity, namely illegal immigrants being employed at the premises.

Sergeant S Barrigan and Constable P Coley, Merseyside Police attended the meeting.

Mr Thevappody, Premises Licence Holder attended the meeting with Mr Jordan, his legal representative.

Sergeant Barrigan reported that on 24 June 2014, an illegal immigrant had been found to be working at the Premises, Best One, 91-93 Brighton Street, Wallasey. It was also reported that a second illegal immigrant was also detained at a nearby location, who had also admitted that he had been working at the premises.

Members were advised by Sergeant Barrigan that the crime prevention licensing objective had been seriously undermined in this case. Members heard that Merseyside Police considered it appropriate, for the promotion of the Licensing Objectives, to request that the Licensing Act 2003 Sub-Committee give serious consideration to the revocation of the Premises Licence.

Sergeant Barrigan responded to questions from Members of the Sub-Committee, Mr K Abraham, Legal Advisor to the Sub-Committee and Mr Jordan, legal representative.

Mr Jordan addressed the Sub Committee on behalf of his client. He informed Members that his client had been unaware of the status of his previous staff member therefore he had not knowingly employed an illegal immigrant. Members heard that his client had not been brought in for any formal interview by Merseyside Police and there was no ongoing investigation against him underway.

Mr Thevappody and Mr Jordan responded to questions by Members, Mr D K Abraham and Sergeant Barrigan.

In determining the review application Members had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the relevant guidance issued under Section 182 of the Licensing Act 2003.

Members accepted the evidence provided by Merseyside Police that there had been staff employed at the premises who could not lawfully be employed due to a condition imposed by the Home Office.

In this regard Members gave particular consideration to paragraph 11.27 and 11.28 of the Guidance which identifies that the use of a licensed premises for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter is to be treated particularly seriously and that the revocation of the licence should be seriously considered.

The revocation of the licence was given serious consideration by Members. In determining this review Members had regard to whether Mr Thevappody knowingly employed individuals who are not allowed to work in the UK. Members accepted the representations made by Mr Jordan that this was not a deliberate act on the part of the premises licence holder, however Members did consider that Mr Thevappody did not take reasonable steps to identify the legal status of his employees to work in the UK.

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) The premises licence shall be suspended for 7 days during which time evidence must be provided to the Licensing Authority that:

- **A written recruitment procedure has been developed which includes the steps that will be taken by the premises licence holder to check the immigration status and legality to work in the UK is verified for any person who does not hold a UK passport.**
- **The legal status of all current staff in terms of their eligibility to work in the UK is reviewed and full details provided to the licensing authority and Merseyside Police.**
- **All current staff to receive training on the sale of alcohol to persons under the age of 18, age verification policy and proxy sales. Evidence of this training should be provided before the end of the suspension period.**

(3) That the following condition be imposed on the Premises Licence:

- **Details of any current and proposed staff who do not hold a UK passport must be passed to Merseyside Police in order that their details can be checked by the United Kingdom Border Agency in order to ascertain their immigration status and establish as to whether it is permissible and legal to employ them.**

20 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

Resolved – That, under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the paragraph 1 of Part I of Schedule 12A (as amended) to that Act. The Public Interest test had been applied and favoured exclusion.

21 1:00 PM APPLICATION FOR THE GRANT OF A PERSONAL LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003

The Strategic Director of Regeneration and Environment reported upon an application received from MT for a Personal Licence under the provisions of the Licensing Act 2003.

The report was exempt due to it containing sensitive and personal information regarding the individual concerned.

It was reported that under the provisions of the Licensing Act 2003 the Licensing Authority must seek guidance from the Police if the applicant is convicted of a relevant offence.

The application submitted by MT revealed a relevant conviction an Objection Notice had been received in respect of the application on the grounds that the applicant had been convicted of a relevant offence and that granting the application would undermine the crime prevention objective. A copy of the Notice of Objection was available.

The applicant attended the meeting and made representations in support of his application.

Sergeant S Barrigan attended the meeting. Sergeant Barrigan made representations regarding the Objection Notice submitted by Merseyside Police.

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

Members gave careful consideration to the application for a Personal Licence and the Objection Notice submitted by Merseyside Police and in doing so referred to the Statutory Guidance issued under Section 182 of the Licensing Act 2003, in particular, paragraphs 4.7 and 4.12.

Members considered the representations made by the applicant, however, they determined that the crime prevention objective would be undermined should the application be granted.

Resolved - That the application made by MT for the grant of a Personal Licence be refused under the provisions of the Licensing Act 2003.