

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 19 September 2014

Present:

Councillors S Niblock
 M Hornby
 L Reecejones

22 **APPOINTMENT OF CHAIR**

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

23 **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.

24 **APPLICATION TO VARY A PREMISES LICENCE - HOME, 62 CHRISTCHURCH ROAD, BIRKENHEAD**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Home Merseyside Limited to vary a Premises Licence in respect of Home, 62 Christchurch Road, Birkenhead, 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.

Representations had been received from seven local residents. The representations related to noise nuisance and anti-social behaviour caused by customers at other licensed premises within the vicinity of these premises which was currently a problem and concerns that these problems would be exacerbated should the application be granted. Copies of the representations were available.

The applicants and a number of local residents attended the meeting.

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

One of the local residents requested to submit google photographs to demonstrate the location of local residents. There were no objections to the photographs being submitted and therefore they were considered by Members of the Sub-Committee.

The applicants addressed the Sub-Committee and reported that the business had operated at these premises for the last seven years and that a Premises Licence had been granted three years ago with the provision to sell alcohol until 5.00 pm. They advised Members that they were responsible licence holders and had a good relationship with other businesses in the vicinity. The applicants explained that they currently ran a coffee shop and served food and advised Members that alcohol was a small percentage of their sales. Members were also advised that the applicants did not intend to change the nature of the business should the application be granted. The applicants advised Members that alcohol would be sold at the tables and they did not intend to have a bar area for diners waiting to be served in the restaurant area. Members were informed that the basement would be used for patrons waiting to be seated in the restaurant area. They also advised that a small courtyard was situated at the rear of the premises which could seat about twenty people and that they proposed that this be open until about 10.00 pm from May to September. Members were informed that should the application be granted, the applicants intended to trial running the business with the new hours for three days per week. The applicants also confirmed that they were not looking to take large group or party bookings at the premises.

The applicants responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and local residents.

Mr Lennon, local resident, expressed concerns that should the application be granted, this would add to the current problems experienced by local residents from licensed premises within the vicinity. He believed that the premises would become another public bar due to the facility of people being able to drink in the basement at the premises. He requested that the application be seriously considered and was lacking in substance.

Mr Donovan, local resident, addressed the Sub-Committee and informed Members that he supported the premises and was currently a customer at the premises, however, he believed that should the application be granted, the nature of the business would be changed and the current problems would be exacerbated. He provided details of the nature and character of the area. He referred to the issue of cumulative impact and expressed concern regarding the number of licensed premises within a confined area. He described the current problems experienced by local residents and believed that the licensing objectives would be undermined should the application be granted.

Mr Russell, local resident, raised concerns regarding the use of the courtyard at the rear of the premises and the impact this would have on him with regard to noise nuisance. He requested that conditions be placed upon the licence regarding the use of the courtyard. He also expressed concerns regarding waste disposal arrangements at the premises.

The local residents responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

The Chair asked all parties to confirm whether they had had an opportunity to say all they wished to say. Mr Lennon indicated that he wished to make further representations therefore an opportunity was given for him to do so, however, he chose not to make any further comments.

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 and anti-social behaviour would be increased if the application to vary the hours was granted. Members heard from residents that this was currently a problem that was caused by customers at other licensed premises within the vicinity of these premises.

The applicant submitted that the variation requested was in order to extend the current operation of the premises which served meals and alcohol up until 5.00 pm. It was stated that the premises would initially seek to operate later hours from Thursday to Sunday but wanted the flexibility to operate on other days should they wish to develop their business further.

The residents expressed concerns to Members regarding the cumulative impact of licensed premises in Oxtun village. Members were told by residents that increasing the number of licensed premises in Oxtun was leading to significant public nuisance being caused to local residents.

Members gave consideration to the location of the premises and recognised that it was situated close to residential properties and in this regard gave consideration to their Licensing Policy in determining this application, in particular reference to the prevention of public nuisance.

In considering the proximity of residential properties Members took into account the fact that the premises currently operated as a café/restaurant and that the applicant clearly stated that there was no intention to change the nature of the business.

Members had regard to the fact that there were no representations from any of the responsible authorities, in particular Merseyside Police and Environmental Health.

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 Home, 62 Christchurch Road, be approved with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 09:00 to 23:30

Hours Open to the Public

Sunday to Saturday 09:00 to 00:00

Late Night Refreshment

Sunday to Saturday 23:00 to 00:00

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

- **That the outside area referred to as the yard/courtyard must be cleared of customers by 9.00 pm**
- **That the premises must promote the use of operators who provide callback services for their private hire vehicles.**

**25 1.00 PM APPLICATION TO TRANSFER A PREMISES LICENCE - RIO'S, 2
MARKET STREET, HOYLAKE**

This application had been withdrawn prior to the hearing.