

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 7 November 2014

Present:

Councillors S Niblock
 L Reecejones
 H Smith

33 **APPOINTMENT OF CHAIR**

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

34 **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.

35 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - OLD TAVERN CLUB, MAGAZINE LANE, NEW BRIGHTON**

The Strategic Director of Regeneration and Environment reported upon an application that had been received by a local resident to review the Premises Licence in respect of the Old Tavern Club, Magazine Lane, New Brighton.

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 relevant representations, take such of the following steps as it considered appropriate 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 appropriate if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The application had been received from a local resident and the grounds for review were that public nuisance was being caused to local residents and disorder was occurring outside the premises on a regular basis.

In response to the application, the Premises Licence Holder had submitted a Neighbourhood Charter and Dispersal Policy together with a statement on his position in relation to the application. Copies of these documents were made available to all parties.

Representations had been received from fourteen local residents. A petition containing 108 signatures had also been received. The representations and petition supported the application to Review the Premises Licence.

A representation had also been received from Merseyside Police which included 16 Police reports since January 2013 where it had been alleged that the licensing objectives had been undermined.

A representation had been received from the Licensing Authority which supported the application to Review the Premises Licence due to a number of complaints received from residents who lived within the vicinity of the premises as well as observations undertaken by Licensing Officers.

Environmental Health (Pollution Control) had provided information for Members of the Sub-Committee on the number of complaints received from local residents within the last three years.

A copy of all representations and information was available.

Mrs G Maxwell, applicant, attended the meeting together with Mrs H Hart, Mrs C Evans and Mr T Pritchard, local residents.

Also in attendance were Mr C Johnson, Solicitor, Mr S Cooley, Designated Premises Supervisor and Licence Holder and Mr S Gilmore, employee at The Old Tavern.

Sergeant S Barrigan, Mr J Hardwick, Environmental Health Officer and Mr A Bushell, Licensing Operations Manager, also attended the meeting

The Senior Licensing Manager confirmed that all documentation had been sent and received and that further photographs had been submitted by both the Licence Holder and local residents which would be submitted to Members at the appropriate time.

Mrs Maxwell stated that she was requesting that the Premises Licence in respect of the Old Tavern be revoked due to all the evidence presented by local residents. She advised Members that she had lived in Magazine Lane for fourteen years and that the public nuisance caused to residents had got progressively worse over the last 5-6 years. Mrs Maxwell gave examples of this which included patrons of the Club causing damage to properties, vomiting and urinating outside local residents' properties, creating noise disturbance until the early hours of the morning, leaving the premises with bottles and glasses and being out of control. She believed that the premises should not be located in a residential area and that it affected the human rights of local residents. She referred to the petition submitted by local residents and

stated that there was no control over people leaving the premises and that she did not think this could be changed.

Mrs Maxwell responded to questions from Members, Mr D K Abraham, Legal Advisor to the Sub-Committee and Mr Johnson.

Mr Pritchard advised Members that he supported the views of the other local residents. He reported that he suffered from noise nuisance from people leaving the premises between 2.00-3.00 am and advised that other areas suffered as customers from the premises dispersed. He believed that a Dispersal Policy would be a good idea and also suggested that a taxi pick up point be situated somewhere so as not to cause nuisance to local residents. He believed that the clientele of the premises had changed over the years and that the drunken behaviour had got progressively worse. He reported that the premises was situated too close to residential properties and referred to the report of the Licensing Enforcement Officer following a recent visit who described the scene outside the premises as one of 'bedlam.'

Mr Pritchard responded to questions from Members and Mr Johnson.

Mrs C Hart informed Members that she had been asked by a number of residents to represent them. She reported that the situation was worse than ever and that younger people attend the premises with the intention to get as drunk as possible. She advised Members that glasses were taken out of the premises, that customers of the premises continued to drink in the alleyways and cause nuisance by way of screaming, fighting, causing damage to properties, urinating against doors, fighting and other inappropriate behaviour. Mrs Hart informed Members that her son, who worked shifts, was unable to sleep due to the noise every Friday and Saturday night which continued until 5.00 am and that this had occurred for a number of years. She described the situation outside the premises as 'uncontrollable mayhem' and asked the question whether it could be controlled. Mrs Hart believed the premises could not be controlled and therefore requested that the Premises Licence be revoked. Mrs Hart referred to examples of public nuisance caused to neighbours which included graffiti in the alleyway and damage to properties and vehicles.

Mrs Hart responded to questions from Members of the Sub-Committee, Mr D K Abraham and Mr Johnson.

Mrs Evans reported that she lived next door to the premises. She advised Members that she experienced problems throughout the whole time the premises were open and not just when people left the premises. Mrs Evans advised Members that this was due to customers using the back yard area to smoke and the alleyway at the back of her house for inappropriate behaviour. She referred to damage caused to the flower beds situated on Seabank Road. Mrs Evans believed that the suggestion of a taxi rank up the road would not solve the problem, she referred to underage drinkers at the premises and people taking drugs in the alleyway. She advised that the noise disturbance was constant and believed that the premises were situated in the wrong location.

Mrs Evans responded to questions from Members of the Sub-Committee, Mr D K Abraham and Mr Johnson.

A short adjournment took place.

The meeting reconvened.

Sergeant Barrigan addressed the Sub-Committee. He advised that since January 2013, Merseyside Police had received 16 reports relating to the Old Tavern Club where it had been alleged that the Licensing Objectives had been undermined. Sergeant Barrigan provided details of the reports and further advised that 26 visits had been made to the premises during the same period of time. He advised that Licensing Enforcement Officers had been dealing with complaints about the premises and had interviewed the Designated Premises Supervisor. Sergeant Barrigan advised that he did not have a strong view in respect of whether the Premises Licence should be revoked or whether modifying the conditions of the Licence would address the current issues.

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

Mr A Bushell referred to the representation he had submitted. He advised that the observations made by Enforcement Officers supported the application that had been made. He submitted details of the complaints that had been made in respect of the premises between May 2009 and October 2014. He referred to the four Licensing Objectives and provided details of how he believed these had been undermined. He advised Members that no conditions had been placed on the Licence since the Licensing Act 2003 had come into force and therefore proposed a number of conditions to be attached to the Premises Licence which he believed would go some way to address the issues raised. Mr Bushell referred to recent observations made by Licensing Enforcement Officers of the scene outside the premises on Saturday 27 September 2014 and which had been described as one of 'bedlam'. He advised that no doorstaff were evident on the road outside the premises whilst the noise and disturbance was taking place.

Mr A Bushell responded to questions from Members of the Sub-Committee, Mr D K Abraham, Mr Johnson and Mr Pritchard.

Mr J Hardwick reported that two residents had submitted noise complaints during the past three years. He advised that the noise complaints related to noise coming from the premises as customers went in and out of the building to use the smoking area and that work had been carried out to address the problem.

Mr Hardwick responded to questions from Mr D K Abraham.

Mr Johnson and Mr Cooley addressed the Sub-Committee. Mr Cooley confirmed that he was the owner and licensee of the premises and advised that the premises had been operating as a Club since 1965. He advised Members that he had held the Premises Licence for the Tavern for 15 years, that the premises were open every Friday and Saturday night and 15-17 part time staff were employed at the premises. He reported that he had utilised a Temporary Event Notice and opened the Club one Thursday night during April this year but that this would not happen again as a number of complaints had been made. He advised that he would welcome contact from local residents and that they could contact him directly or he could arrange a weekly or monthly meeting with them to discuss any issues they had. He advised that he had implemented a Dispersal Policy and that three doorstaff were employed

who ensured customers were dispersed from the premises. He referred to the recorded incident in 2010 of underage drinking and admitted that the customer had used fake identification. Mr Johnson stated that Mr Cooley accepted the complaints raised and would be content to adopt the proposed conditions from the Licensing Authority. He advised that Mr Cooley understood the concerns of local residents and was attempting to implement a number of measures to address these concerns. Mr Johnson requested that the Premises Licence not be revoked.

Mr Cooley responded to questions from Members of the Sub-Committee, Mr D K Abraham and the local residents in attendance.

A short adjournment took place.

The meeting reconvened.

The Chair clarified that the incident book was available for Members' inspection, however when Members requested to view the record in respect of the incident on 27 September when the doorstaff had gone inside the premises to deal with an incident, the Designated Premises Supervisor confirmed that this incident had not been recorded.

Mr Cooley continued to respond to questions from Members of the Sub-Committee, Mr D K Abraham, Sergeant Barrigan, Mr Hardwick, Mr Bushell and the local residents in attendance.

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.

In determining the matter Members of the Sub-Committee gave serious consideration to whether the problems caused by the premises could be addressed through better management. In considering this issue Members took into account the fact that there were currently no conditions on the Premises Licence to regulate the management of customers to prevent public nuisance both when attending the premises and when leaving the premises at closing time. Whilst representations made by residents did seek to revoke the licence, Members noted that the original application for the review made reference to possible solutions to control patrons of the premises. In support of this, Members had regard to the petition containing 108 signatures which requested that the Council should apply a Dispersal Policy at the premises and for the hours to be reduced. Members had regard to representations made by Merseyside Police and the Licensing Authority who advised the Sub-Committee that the implementation of successful management tools, including an effective Dispersal Policy, could address the cause of the problems being experienced by local residents.

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 Premises Licence be suspended for a period of one month and modified as follows:

**Hours Open to the Public
Friday and Saturday 20:00 to 01:30**

**Sale by Retail of Alcohol
Friday and Saturday 20:00 to 01:00**

**Recorded Music, Live Music and Performance of Dance
Friday and Saturday 20:00 to 01:00**

- 1. No person may be admitted entry to the premises after midnight.**
- 2. The premises must adopt a Challenge 25 Policy in relation to the sale of alcohol and display the appropriate signage.**
- 3. The premises must only accept a photographic driving licence, passport or PASS accredited proof of age card as a means of proof of age.**
- 4. The premises must use a refusals log in conjunction with the Challenge 25 Policy. This log must record all instances of challenges made under the policy. The refusals log must be made available on request to an Authorised Officer.**
- 5. All employees involved in the sale of alcohol must be trained on their responsibilities relating to age restricted sales, including the Challenge 25 Policy. This training must take place before an employee is permitted to serve alcohol at the premises, and refresher training must take place at regular intervals, in all cases at least once every 6 months. Written records of training must be made available to an Authorised Officer on request.**
- 6. There must be CCTV in operation covering the exit points to the premises and the area of Magazine Lane to the front of the premises at least in accordance with the specification issued by the Licensing Authority. The CCTV coverage must also include images arising from both directions of Magazine Lane.**
- 7. There must be a written Dispersal Policy which is effectively implemented at the premises so as to prevent disturbance being caused to local residents. The Dispersal Policy must include an outline of the role and responsibilities of a Taxi Marshall and also include how the premises will manage customers who wished to leave the premises and re-enter the premises during the course of the evening so as not to cause a disturbance to local residents.**
- 8. A minimum of 4 SIA registered doorstaff be employed at the premises.**
- 9. At closing time customers must leave the premises through the exit at the front of the premises.**
- 10. Notices must be placed in a prominent position at the exit to the premises reminding people to leave the premises in a quiet and orderly manner.**
- 11. A notice must be displayed providing details of taxi companies who provide a customer call-back service.**
- 12. An incident report book obtained from the Licensing Authority must be used to record all incidents in and around the premises. The incident report book must be made available to an Authorised Officer on request. A record of clearance times must also be recorded in the incident book.**
- 13. No glasses, bottles or drinks in any vessel may be taken outside of the building, this includes the smoking area.**

14. All doorstaff must wear marked hi visibility jackets.
15. During the last 30 minutes of bar service the points in each bar will be reduced and at least 2 members of staff will be reallocated to collecting glasses or offer customer service in the cloakroom to assist customer departure. A series of measures will be implemented to assist dispersal throughout this period and the “drinking up” time.
16. That DJ announcements are used to both encourage a gradual dispersal and to remind customers of consideration for neighbours.
17. The door supervisors will remain in the vicinity of the premises until at least 30 minutes after closing time.
18. The taxi marshal will encourage customers to assemble inside the venue until their taxi has arrived.

(3) That the written Dispersal Policy be presented to the Licensing Authority and Merseyside Police on or before 22 December 2014.

36 **APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - ROCK LOBSTER, 3 GRANGE ROAD, WEST KIRBY**

This application had been withdrawn prior to the hearing.