

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 11 December 2014

Present:

Councillors S Niblock
J Salter
H Smith

37 **APPOINTMENT OF CHAIR**

Resolved – That Councillor M Sullivan be appointed Chair for this meeting.

38 **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.

39 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - HARRYS CONVENIENCE STORE, 65 WOODCHURCH ROAD, PRENTON**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Balamanokaran Thambirasa for a Premises Licence in respect of Harrys Convenience Store, 65 Woodchurch Road, Prenton, under the provisions of the Licensing Act 2003.

The hours requested were outlined within the report together with a number of conditions that the applicant had agreed to have attached to the Licence should it be granted, following discussions with Merseyside Police.

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 two local residents. A petition against the application had also been received containing 236 signatories. One representation related to public nuisance which it was claimed was currently a problem within the vicinity of the premises and concerns that should the application be granted this nuisance would increase. Copies of the representations and petition were available.

The applicant attended the meeting together with Mr Rushton, Agent for the applicant.

The Licensing Manager confirmed that all documentation had been sent and received and that a response had been received from a local resident who was unable to attend but had requested that her written representation be taken into consideration.

Mr Rushton addressed the Sub-Committee. He submitted a copy of a certificate of training undertaken by the applicant in July 2012 in respect of underage sales. He advised Members that the premises would be a general convenience store with limited alcohol, that the applicant would be the Designated Premises Supervisor and had experience working in licensed convenience stores for a number of years. He advised that the applicant had worked in London and was currently working in a convenience store in Birkenhead. He informed Members that the total percentage of alcohol sales at the premises would be 10-12% should the application be granted and that this would allow the premises to be competitive with other premises in the area. Mr Rushton provided details of the measures that would be put in place at the premises which included CCTV, spirits to be kept behind the counter, a Challenge 25 Policy, a refusals register, an incident book and training for members of staff. He reminded Members that no objections had been received from Merseyside Police or any of the other responsible authorities. He referred to the representations received and informed Members that he had contacted the local resident to assure her of the measures that would be put in place to promote the licensing objectives. He referred to the petition as he believed that it was not specific and submitted that there was no evidence that the licensing objectives would be undermined, therefore he requested that the application be granted.

The Licensing Manager confirmed that the application was for consumption off the premises.

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

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 considered the representation made by local residents as well as information provided by the applicant in support of the application.

Members considered that there were defects in the petition submitted due to a lack of evidence in respect of how the signatures were collected and therefore Members did not attribute weight to this.

Members gave consideration to the measures proposed by the applicant that would be put in place to ensure that the licensing objectives would be promoted and that the concerns of the local resident would be addressed. Members also took into account the fact that the applicant had liaised with Merseyside Police and amended the application and proposed conditions in line with their recommendations.

Members noted that the applicant would be willing to work with agencies in support of any local initiatives to address alcohol related issues such as single can sales and sales of beer or cider with a high volume of alcohol content.

In determining the matter Members have also taken 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 for a Premises Licence in respect of Harrys Convenience Store, 65 Woodchurch Road, Prenton, be granted with the following hours:

Sale by Retail of Alcohol for consumption off the premises

Sunday to Saturday 08:00 to 22:00

Hours Open to the Public

Sunday to Sunday 07:00 to 22:00

(3) That the following conditions be attached to the Premises Licence:

- **All staff must be vigilant and monitor the area immediately outside the premises to ensure that youths do not congregate. Staff must report incidents to the Police if deemed appropriate. Records of this monitoring and reporting must be maintained in the incident book and made available to an Authorised Officer upon request.**
- **The premises must maintain a refusals book at the premises. This book must be made available to an Authorised Officer on request.**
- **The premises must adopt a Challenge 25 Policy and display the appropriate posters regarding this Policy.**
- **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.**
- **All employees must complete training in relation the responsibility to refuse alcohol to anyone who is drunk before being allowed to sell alcohol in the shop.**

- All employees must complete training in relation to conflict management before being allowed to sell alcohol in the shop.
- Refresher training on all matters identified in conditions 4-7 must be conducted with staff at least every 6 months.
- Written records of all training undertaken must be kept at the premises and made available to an Authorised Officer upon request.

40 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - MR WHITES, 60-62 ARGYLE STREET, BIRKENHEAD**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Mr Michael Yates for a Premises Licence in respect of 'Mr Whites, 60-62 Argyle Street, Birkenhead, 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.

Representations had been received from two local residents. The representations highlighted concern that should the application be granted then public nuisance would be caused by music emanating from the premises to their property. Further concerns were also raised about the potential for an increase in disorder within the vicinity of the premises.

The applicant attended the meeting with his proposed bar manager, Mr Eatock.

Local residents, Mr Chapman and Miss Stickler were also in attendance.

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

Mr Yates addressed the Sub-Committee and outlined the application. He advised Members that he wished to operate a bar and grill primarily to serve office workers within the Birkenhead area. Members were informed that the premises would serve food until 8pm and operate as a bar thereafter. It was proposed that a juke box would be installed and that volume would be kept at an ambient level. Members heard that work had been undertaken at the premises to limit noise disturbance to residents including the installation of an acoustic ceiling and insulation of walls. Mr Yates acknowledged that although work had been undertaken to minimise noise disruption, those effects were limited in that all noise travel could not be prevented.

Mr Eatock, proposed bar manager to the premises addressed the Committee and informed Members of his extensive experience in running licensed premises. Members heard how the premises would be staffed.

Mr Yates responded to questions from Mr Champman, Ms Stickler, Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr Chapman outlined concerns with the application and spoke of his strong opposition to the granting of the application due to noise disturbance that had already been experienced from the premises. This included voices, music and noise from the refrigeration cooling system. Members heard that Environmental Health had responded to a complaint by the local residents regarding noise travelling from the premises during the time building work was being carried out and that the applicant had been advised in writing by Environmental Health that certain works must not be carried out beyond 6.00pm.

Mr Chapman and Ms Stickler responded to questions from the applicant, Members of the Sub-Committee and Mr D K Abraham.

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 heard from the applicant that he wished to operate a bar and grill primarily to serve the office workers in the Birkenhead area. Members were further informed how the premises would be staffed to accommodate the provision of food until 8.00pm and operate as a bar thereafter. The applicant explained how music would be played from a duke box to provide background music and that the volume would only be raised to overcome noise travelling from the Cotton Club on Fridays and Saturdays.

Members were informed that extensive refurbishment had been carried out to the premises and that work had been undertaken to install acoustic insulation to prevent noise escaping through the ceiling to the accommodation above the premises. It was acknowledged, however, that despite this work, noise could still be heard travelling both from the premises to the residents' accommodation above and from the residents' accommodation to the premises. The applicant also acknowledged that further insulation was required to address noise generated by the refrigeration cooling system, which could be heard in the residents' property.

Members heard that Environmental Health had responded to a complaint by the local residents regarding noise travelling from the premises during the time building work was being carried out and that the applicant had been advised in writing by Environmental Health that certain works must not be carried out beyond 6.00pm.

Members noted that whilst the applicant had been in business for 15 years, he had no experience in the licence trade. Members were informed, however that one of the managers did have extensive experience in working and managing different licensed premises.

In determining the application Members took into account that the local residents lived immediately above the whole of the premises and that despite noise insulation

work having been carried out, noise from the premises could readily be heard within their apartment. This included voices, music and noise from the refrigeration cooling system which they had experienced during the refurbishment of the premises.

In determining the matter, Members had particular regard to paragraph 4.3.5 of their Licensing Policy. Members considered the measures that had been taken to prevent public nuisance together with the fact that the applicant had acknowledged that further measures were necessary to prevent noise travelling from his premises to the apartment above, also that the measures he could take were limited.

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 for a Premises Licence in respect of Mr Whites, 60-62 Argyle Street, Birkenhead, be granted with the following hours:

Sale of Retail of Alcohol

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| Sunday to Thursday | 11:00 to 23:00 |
| Friday and Saturday | 11:00 to 23:30 |
| New Years Eve | 11:00 to 03:30 |

Hours Open to the Public

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|----------------------------|-----------------------|
| Sunday to Thursday | 11:00 to 23:30 |
| Friday and Saturday | 11:00 to 00:00 |
| New Years Eve | 11:00 to 04:00 |

(3) That the following conditions be attached to the Premises Licence:

- **A Challenge 25 Policy must be implemented. Posters must be displayed relating to this Policy.**
- **All employees must complete the following training before being allowed to sell alcohol at the premises:**
 - **The prevention of the sale of alcohol to persons under the age of 18 years.**
 - **The Challenge 25 Policy.**
 - **The responsibility to refuse alcohol to anyone who is drunk.**
 - **Conflict management**
 - **Drug awareness**

- **Refresher training on all matters identified in condition 2 must be conducted with staff at least every 6 months.**
- **Written records of all training undertaken must be kept at the premises and made available to an Authorised Officer upon request.**
- **A minimum of two Door Supervisors must be on duty from 22:00 on Friday and Saturday nights.**
- **Staff must ensure that any queues or persons gathering outside the premises are managed appropriately so as not to cause public nuisance or lead to disorder.**
- **All drinking vessels must be made of toughened glass.**
- **No drinking vessels may be taken outside of the premises.**