

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 21 January 2015

Present: Councillors W J Davies
S Niblock
J Salter
A Hodson
L Reecejones

45 APPOINTMENT OF CHAIR

Resolved –

(1) That Councillor S Niblock be appointed Chair to consider the matter in respect of West Kirby Arts Centre together with Councillors L Reecejones and J Salter.

(2) That Councillor A Hodson be appointed Chair to consider the matter in respect of Pensby Filling Station together with Councillors W J Davies and S Niblock.

46 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.

Councillor L Reecejones declared a personal interest in respect of West Kirby Arts Centre by virtue of being acquainted with a resident who was objecting to the application.

The applicant and his representative raised no objection to this and confirmed they were happy for the hearing to proceed.

47 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - WEST KIRBY ARTS CENTRE, 29 BROOKFIELD GARDENS, WEST KIRBY

Councillor L Reecejones declared a personal interest in respect of this matter by virtue of being acquainted in a professional capacity with a resident who was objecting to the application.

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Anthony Woof for a Premises Licence in respect of West Kirby Arts Centre, 29 Brookfield Gardens, West Kirby, under the provisions of the Licensing Act 2003.

The hours requested were outlined within the report. It was reported that this application had been listed to be considered by the Licensing Act 2003 Sub-Committee on 15 December 2014, however, an adjournment of the matter had been

agreed to enable discussions to take place between the applicant and local residents.

It was further reported that the applicant had held a public meeting at the Centre on 4 January 2015 which had been attended by 16 local residents and subsequently the applicant had submitted a letter outlining the discussion that had taken place at the meeting and a list of conditions which he proposed be attached to the Premises Licence.

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 and that following discussions with Merseyside Police, the applicant had agreed to amend the application to include a number of conditions within the Operating Schedule.

Representations had been received from eighteen local residents and a petition containing thirty four signatures had also been received. The representations related to public nuisance and anti-social behaviour which it was considered would be caused by customers of the premises should the application be granted. Copies of the representations were available.

Four representations had also been received in support of the application. It was considered within these representations that the granting of the Premises Licence would not undermine any of the licensing objectives. Copies of the representations were available.

The applicant attended the meeting and was represented by Mr Holland who was in support of the application and made representations to the Sub-Committee.

Eight local residents who objected to the application were also in attendance.

Mr Holland confirmed that he had no objections to Councillor L Reecejones considering the application further to her having declared she was acquainted with one of the residents who was objecting to the application.

The Licensing Manager confirmed that all documentation had been sent and received and that communication had been received from two households stating that following the meeting held with residents, they had withdrawn their objections to the application.

It was confirmed that one local resident who objected to the application was unable to attend the meeting therefore one of the other local residents who was in attendance would submit the representations on her behalf.

Mr Holland addressed the Sub-Committee and outlined the application. He informed Members that he lived opposite the premises and was in support of the application and the principle of the Arts Centre. He reported that alcohol would only be sold ancillary to functions taking place at the premises and that a bar would not be in situ at the premises. He referred to the list of proposed conditions set out within the letter from the applicant and requested that these be considered by Members. He advised

that the application was for a low key operation to allow patrons attending functions of the arts centre to buy a drink. He referred to similar licences that had been granted at Westbourne Hall and Hoylake Community Centre which would allow the Arts Centre to compete should the Licence be granted. Mr Holland pointed out that letters of support had been sent in respect of the Premises Licence being granted and that these were from the residents who lived directly opposite the building.

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

In response to questions, Mr Holland and the applicant provided details in respect of the way the premises would be run, the type of events that would be held at the premises, the previous experience of the applicant, the number of staff that would be working at the premises and also outlined the occupancy figures.

A number of the local residents in attendance addressed the Sub-Committee. They expressed their concerns regarding the area that the premises was situated in, in that it was in the middle of a small, quiet, residential cul de sac. They requested that the application be refused due to a number of issues including: the noise that would be caused from traffic taxi horns, people leaving the premises and people smoking outside the premises; concerns regarding increased traffic and parking facilities; children being at risk from increased traffic and strangers within the vicinity of their homes; the premises being used as a party venue and the potential for anti social behaviour to occur within the vicinity of the premises. The local residents believed that it would be inappropriate to grant a Premises Licence to these premises due to it being situated in the middle of residential properties.

Local residents 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 had regard to the representations made by local residents relating to concerns that they would be subject to public nuisance and would experience anti-social behaviour within the vicinity of the premises if the application was granted.

Members took into account the concerns of residents that public nuisance would be caused by increased traffic which would put pressure on limited parking space within the vicinity of the premises, noise from taxi horns, noise from entertainment at the premises, people smoking outside of the premises and people leaving the premises having consumed alcohol.

In determining the application Members noted the close proximity of residential properties to the premises and in this regard gave consideration to paragraph 4.35 of their Licensing Policy.

Having regard to the concerns expressed by residents, 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 how the concerns of local residents

would be addressed. Members took into account the extensive conditions submitted by the applicant following consideration of the representations made as well as the fact that the applicant had liaised with Merseyside Police and local residents. Members considered that these conditions sought to address the main concerns expressed in the representations, in particular, the concern that the premises would be used primarily for the consumption of alcohol.

Members noted that the applicant was willing to have conditions placed upon the Premises Licence to manage the dispersal of customers following the last sale of alcohol and prevent noise nuisance from the disposal of bottles.

Members considered the representations made by residents that the premises would be used on a regular basis for private functions such as weddings and parties and accepted that these type of functions were quite distinct from events to promote literature and the arts, for example poetry and the performance of plays.

In determining the matter members also 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 for a Premises Licence in respect of West Kirby Arts Centre, be granted with the following hours:

Sale by Retail of Alcohol (for consumption on the premises only)

Sunday to Saturday 12:00 to 21:30

Hours Open to the Public

Sunday to Saturday 08:30 to 22:00

Performance of Plays, Exhibition of Films, Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description

Sunday to Saturday 08:30 to 22:00

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

- **Alcohol must only be supplied at the premises when the premises is occupied by a pre booked event and only to support such events. Alcohol must not be supplied when there is no event taking place. An event excludes birthday parties, weddings and funerals.**

- The premises must adopt a Challenge 25 Policy in relation to the sale of alcohol and display the appropriate posters.
- All individuals serving alcohol at the premises must have completed training in respect of the licensing objectives, the prevention of the sale of alcohol to persons under the age of 18 years and the responsibility to refuse alcohol to anyone who is drunk, before being allowed to sell alcohol at the premises.
- Written records of all training undertaken must be kept at the premises and made available to an Authorised Officer upon request.
- All doors and windows must be kept closed when amplified music is provided at the premises.
- Notices must be placed in a prominent position reminding people to leave the premises in a quiet and orderly manner.
- That the premises must promote the use of operators who provide callback services for their private hire vehicles.
- There must be no consumption of drink by customers within the grounds of the premises outside the building.
- The premises must maintain a refusals log book and an incident book. The books must be available to an Authorised Officer on request.
- CCTV must be installed to cover the entrance/exit of the premises with 2 additional cameras being located in the main room of the premises.
- There must be no disposal of bottles or glasses from the premises between 9.00 pm and 9.00 am.
- Notice of events for the current month must be posted on the notice board outside the premises.
- All flyers and adverts for events must ask customers to use the car park behind the Concourse Leisure Centre and not to park in Brookfield Road or Brookfield Gardens.
- A notice must be displayed on the door of the premises asking all attendees not to park in Brookfield Road or Brookfield Gardens.
- The premises must comply with the following occupancy figures:
 - 100 standing, 80 seated in rows, 60 seated at tables.

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Longacres Filling Station for a Premises Licence in respect of Pensby Filling Station, Pensby Road, Pensby under the provisions of the Licensing Act 2003.

The hours requested were outlined within the report and it was reported that the applicant had agreed to reduce the original hours applied for subsequent to 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. Members were also advised that the applicant had agreed to a number of conditions being included in the Operations Schedule should the Premises Licence be granted.

Representations had been received from five local residents. A petition containing 75 signatures had also been received. The representations related to concerns regarding the impact of another licensed premises in Pensby Road. Residents had stated that they currently experienced anti-social behaviour linked to alcohol within the vicinity of these premises. Copies of the representations and petition were available.

The Operations Manager of Longacres attended the meeting with his representative, Ms Sherratt.

A local resident was also in attendance together with Councillor L Reecejones, Ward Councillor.

The Licensing Manager confirmed that all documentation had been sent and received and that one household of two residents had indicated they were unable to attend the meeting.

Ms Sherratt queried the relevance of the petition as no reference to the licensing objectives had been made. She therefore requested that Members dismiss the petition. Ms Sherratt also raised objections to Councillor L Reecejones speaking on behalf of residents.

Councillor L Reecejones confirmed that in light of the objections raised she would not make representations at the meeting.

Ms Sherratt addressed the Sub-Committee and advised that the applicant owned three businesses which were all service stations with Premises Licences for 24 hours. She advised that the other businesses were all bigger than these premises and had been well run with no complaints and no failed test purchases. She informed Members that the Operations Manager had overseen the businesses for a number of years and that a Manager had been employed at these premises. Ms Sherratt reported that the premises would offer a full range of goods and would also have a cash machine and lottery. She advised that a number of improvements had already been made including the CCTV being upgraded with 16 cameras and till

prompts and a refusals register at the premises. She informed Members that there would be two full time and three part time members of staff and that Texaco ran a full training package and would train all staff. She referred to the fact that no representations had been made by any of the Responsible Authorities and requested that the application be granted.

Ms Sherratt and the Operations Manager responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr Williams, local resident, advised Members that youths congregated within the vicinity of the premises and that there was an existing problem of anti-social behaviour in the area. He believed that the extended times would result in public nuisance due to extended delivery times and the increase in traffic. He informed Members that the premises was surrounded by residential properties and questioned the need for another licensed premises within the vicinity. He also believed that anti-social behaviour and public nuisance would be caused by the sale of alcohol at the premises.

Mr Williams responded to questions from 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 had regard to the representations made by local residents as well as information provided by the applicant in support of the application.

In determining the matter, Members did not give consideration to the petition.

Members did however give consideration to the measures proposed by the applicant that would be put in place to ensure that the licensing objectives would be promoted and how the concerns of local residents would be addressed. Members took into account the fact that the applicant had liaised with Merseyside Police and Trading Standards and in accordance with their recommendations had amended the application in relation to the hours for the sale of alcohol and the conditions to be attached to the Premises Licence.

Members noted the concern regarding the number of other licensed premises within the vicinity of these premises, however, took into consideration that no evidence had been provided by Merseyside Police that there was alcohol related anti social behaviour linked to the licensed premises in the area. Members also took into account the Statutory Guidance which states that it is not a matter for the Licensing Authority to consider the need for premises or the issue of demand when determining applications.

In determining the matter Members also took into account the fact that no representations had been received from any of the Responsible Authorities.

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 for a Premises Licence in respect of Pensby Filling Station, Pensby Road, Pensby, be granted with the following hours:

Sale by Retail of Alcohol for consumption off the premises

Sunday to Saturday 08:00 to 23:00

Hours Open to the Public

Sunday to Sunday 06:00 to 23:00