

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 18 September 2015

Present:

Councillors	S Niblock	D Roberts
	G Davies	D Burgess-Joyce

10 **APPOINTMENT OF CHAIR**

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

11 **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.

12 **APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - SHELL, 48 ARROWE PARK ROAD, UPTON CH49 0UE**

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Shell UK Oil Products Limited to vary a Premises Licence in respect of Shell, 48 Arrowse Park Road, Upton CH49 0UE under the provisions of the Licensing Act 2003.

The hours requested within the variation 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.

Representations had been received from four local residents. The representations related to noise nuisance and anti-social behaviour within the vicinity of the premises and concerns that this would exacerbate should the application be granted. A representation had also been received from Merseyside Police who had proposed a number of conditions which they considered would promote the licensing objectives should the application be granted. Copies of the representations were available.

Mr Clarke, Advocate for Shell, attended the meeting together with Mr Lockett, Lockett & Co and Mr Matthews, applicant. A local resident was also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that apologies had been received from a number of local residents. The Licensing Manager advised that the representation from Merseyside Police had been withdrawn following the agreement of a number of conditions with the applicant.

Mr Clarke addressed the Members of the Sub-Committee on behalf of the applicant. He advised that the premises was a well-established convenience store that had held a Premises Licence since 2013. Members were advised that the premises had been subject to significant refurbishment which had resulted in a need to amend the plan attached to the Premises Licence. Members noted that the new layout was designed to provide protection to staff and ensure alcohol was only sold to those the law allowed it to be sold to. Members were informed by Mr Clarke that the premises received advice and guidance from Lockett & Co regarding legislation relating to the sale of alcohol, this included the provision of a staff training manual which was used to provide training to staff on a quarterly basis. Members were informed that the premises operated a refusal log and an incident log as well as a Challenge 25 Policy throughout the store.

Members were informed that the premises had operated with a Premises Licence since 2013 without any breach of licence conditions and no evidence of incidents relating to the sale of alcohol. Members were advised that the purpose of the application was to bring alcohol sales in line with the hours other products were sold from the premises.

Mr Clarke made reference to the Thwaites case which highlighted the need for evidence and referred to the representations made by local residents, however, he believed that these were mostly speculation and there was no evidence that these premises would exacerbate any problems that already existed in the area. He also referred to paragraphs 9.12 and 9.42 of the Guidance and advised that the applicant had agreed a number of conditions proposed by Merseyside Police which had resulted in Merseyside Police withdrawing their representation.

The applicant and Mr Clarke responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and Mrs Thompson. In response to questions from Members, the applicant agreed to liaise with Merseyside Police in respect of the sale of Artisan products and advised that they would be content for this to be incorporated within the conditions of the Premises Licence.

Ms Thompson, local resident, advised Members of the anti-social behaviour that she was already experiencing caused by youths in the area which included the bus stop being vandalised, drunken youths, fights and arguments in the street, loud noise and alcohol induced behaviour. Ms Thompson believed that any increase in alcohol sales could exacerbate the anti-social behaviour in the area and informed Members there were already a number of premises that sold alcohol within the vicinity.

Ms Thompson 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.

In determining the matter, Members had regard to the fact that no evidence was provided that there was alcohol related anti-social behaviour linked to the premises. Whilst Members heard of the concern regarding the number of licensed premises in the area, they considered the Statutory Guidance which states that it is not a matter

for the Licensing Authority to consider the need for premises when determining applications. Members also had particular regard to Section 10.15 of the Guidance.

In determining the matter Members had consideration to the measures proposed by the applicant which would be put in place to ensure that the licensing objectives would be promoted. Members took into account the fact that the applicant had liaised with Merseyside Police and in accordance with their recommendations had agreed to a number of conditions to be attached to the Premises Licence. Members also considered the amendment the applicant had put forward in respect of the condition of selling Artisan products above 6.5% ABV and that they would agree to liaise with Merseyside Police in respect of these products prior to their sale and were content for this to be included as part of the condition.

In considering the application Members also took into account the fact that Merseyside Police had withdrawn their representations and that no representations had been received from any of the other Responsible Authorities.

In determining the matter 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 Shell, 48 Arrowe Park Road, Upton, be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 24 hours

Hours Open to the Public

Sunday to Saturday 24 hours

Late Night Refreshment

Sunday to Saturday 23:00 to 05:00

(3) That in addition to the conditions proposed in the Operating Schedule, the following conditions proposed by Merseyside Police be attached to the licence with an amendment to the condition relating to Artisan products as detailed below:

- **CCTV must be installed in the form of a recordable system capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition. Cameras must encompass all access to and egress from the premises and all areas where the sale of alcohol occurs. The recordings must be kept in date order and numbers**

consequentially and kept for a period of 31 days. Recordings must be made available to Merseyside Police and Licensing Officers on request. Recording equipment must be kept in a secured environment under the control of the Premises Licence Holder or other responsible named person.

- **Signage informing customers of the CCTV system must be displayed in a conspicuous position in the shop and the forecourt.**
- **Where the premises operates between the hours of 23:00 and 05:00 the general public, with the exception of the Manager, Staff Members and their Associates, Authorised Officers and the emergency services, will not, except in exceptional circumstances, be permitted entry to the shop area where licensable activities are on-going. Service must be made through a night pay hatch.**
- **There must be no sale of cans/bottles of lager/cider/beer above 6.5% ABV, with the exception of Artisan products as agreed with Merseyside Police**

13 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - HOOSE, 43 MARKET STREET, HOYLAKES CH47 2BG

The Strategic Director of Regeneration and Environment reported upon an application that had been received from Moose in the Hoose Limited for a Premises Licence in respect of Hoose, 43 Market Street, Hoylake CH47 2BG, under the provisions of the Licensing Act 2003.

The premises had previously held a Premises Licence which had lapsed due to the previous Premises Licence Holder being dissolved. The hours requested were outlined within the report and the application had been amended since it had been submitted to withdraw Live Music from the application and to add a condition in respect of the rear courtyard to be closed no later than 11.00 pm.

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 four local residents. The representations related to a history of noise from entertainment emanating from the premises. Copies of the representations were available.

The Licensing Manager confirmed that all documentation had been sent and received and that Mrs McKinley would be speaking on behalf of another resident. Members were also advised that the applicant wished to submit some video footage to which Mrs KcKinley had no objections.

For clarification the Licensing Manager informed all parties of the permissions under the Live Music Act.

The applicants, Mr Jones and Mr Russell attended the meeting together with Mrs McKinley, local resident.

Mr Jones addressed the Sub-Committee and advised that

Members heard from the applicant that there were four owners of Hoose who were all professionals. He advised that he had operated from the premises since February 2014. He acknowledged that the premises had had a troubled past but that since he had operated the premises he had sought to comply with all relevant legislation and there had been no significant issues in respect of any of the licensing objectives. He informed Members that there was a noise policy in place and that the premises operated a Challenge 25 Policy. He advised Members that there had been complaints logged that the premises had not complied with planning requirements and public nuisance had been caused by noise coming from the premises, however he subsequently submitted evidence both in writing and through video footage that not all complaints could be upheld. He referred to the fact that no representations had been received from any of the Responsible Authorities and that since he had owned the premises Merseyside Police had never made any visits.

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

Mrs McKinley addressed Members of the Sub-Committee and expressed her concerns in respect of noise nuisance which affected the residents who lived above and within the direct vicinity of the premises. She informed Members that music could be heard emanating from the premises if the doors and windows were left open and that music could be heard from the courtyard. Mrs McKinley believed that the problems of noise nuisance would be limited if no live music was played at the premises. Mrs McKinley advised the Sub-Committee that she did not object to a Licence being granted should the premises not cause her nuisance.

Mrs McKinley responded to questions from Members of the Sub-Committee and Mr D K Abraham and the applicant.

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.

In determining the matter, Members gave consideration to steps that could be taken by the premises to prevent public nuisance.

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 Hoose, 43 Market Street, Hoylake be agreed with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 11:00 to 23:30

Hours Open to the Public

Sunday to Saturday 11:00 to 00:00

Non-Standard Timings

New Years Eve

Sale by Retail of Alcohol 11:00 to 00:30

Hours Open to the Public 11:00 to 01:00

**Recorded Music, Performance of Dance and
Anything of a Similar Description**

11:00 to 00:45

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

- No drink or food may be consumed in the rear yard beyond 9.30 pm.**
- Signage must be displayed at entrances to the courtyard in respect of no food or drink to be taken into the area beyond 9.30 pm.**