

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 14 January 2016

Present: Councillors S Niblock E Boulton
M Sullivan

34 APPOINTMENT OF CHAIR

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

35 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.

36 APPLICATION TO VARY A PREMISES LICENCE - THE EXCHANGE, 1-5 THE MOUNT.

The Assistant Chief Executive reported upon an application that had been received from The Exchange Bar Limited to vary a Premises Licence in respect of the premises known as The Exchange, 1-5 The Mount, Heswall, 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.

Representations had been received from 16 local residents and related to concerns that, if the application were to be granted, existing problems of anti-social behaviour and public nuisance caused by customers of the premises together with nuisance from loud music would be exacerbated if the premises were to be open beyond its current permitted hours. Copies of the representations made by local residents were made available.

A representation had also been received from the Licensing Authority following a recent complaint received from a local resident concerning loud music emanating from the premises. The complaint was subsequently

investigated by Licensing Enforcement Officers and upon undertaking observations at the premises it was found that the complaint was upheld. Furthermore, it was reported that on both occasions when loud music was heard by a local resident and Licensing Enforcement Officer, the premises were open beyond the permitted hours. A copy of the representation was available.

Mr Rodgers, the Designated Premises Supervisor attended the meeting together with Ms Hand, the Bar Manager and their Legal Representative, Mr R Williams.

Mr A Bushell, Licensing Operations Manager was in attendance together with local residents, Mr Harrison and Mr Griffiths.

The Licensing Manager confirmed that all documentation had been sent and received in advance of the meeting. Members heard that an additional document had been submitted by the applicant prior to the meeting and that this had been shared with all parties. Mr Bushell also made reference to an email that he may wish to produce. Mr Williams objected to the submission of this material at this late stage.

Mr A Bushell advised the Sub Committee that, if necessary, he may call Licensing Enforcement Officers as witnesses.

In response to Mr William's objection, Mr Harrison requested that the meeting be deferred as he felt that he, along with other local residents, had not had adequate time to consider the further material that had been provided to them immediately before the start of the meeting.

The Sub Committee adjourned to consider the request made by Mr Harrison.

During the adjournment, residents agreed that they were content to proceed and therefore opted to withdraw their request for deferment. The Sub-Committee then proceeded.

Mr Williams addressed the Sub-Committee and advised that the application was a commercial decision to apply to extend current opening hours and sale of alcohol. Members heard how the applicant sought parity with other premises within the immediate area who had longer opening hours. He reported that following discussions with Trading Standards and Merseyside Police, additional conditions to the licence had been agreed with regard to the provision of CCTV coverage and door supervision. Mr Williams informed the Sub Committee that no representations had been made from either Merseyside Police or Environmental Health

Mr Rodgers addressed the Committee to outline the operation of the business and advised that the premises attracts a broad range of clientele and that due

to the Premises' closing hours it is often the case that customers vacate the premises to frequent other establishments within the immediate area. He advised that several events had been hosted at the premises with the use of Temporary Event Notices. Members heard that staff employed at the premises frequently monitor noise levels by patrolling the streets in the immediate vicinity. Mr Rodgers informed Members that the maximum number of people in the premises does not exceed 200 and that during busy nights the bar is emptied by staggering the exit of customers as a means to avoid noise disturbance. He also advised that the Premises operates a strict Challenge 25 policy and that identification is checked by both door and bar staff.

Members heard from Mr Rodgers and his legal advisor that they would be willing to amend their application to reduce their proposal of extended opening and sale of alcohol hours by an hour.

Mr Williams and Mr Rodgers responded to questions by Members of the Sub Committee, Mr A Bayatti, Legal Advisor to the Sub-Committee, Mr A Bushell, Licensing Operations Manager and local residents.

Mr A Bushell addressed the Sub Committee and outlined the representation made by the Licensing Authority in relation to complaints made with regard to public nuisance. A chronology was provided to Members in order to provide a background to complaints received. This included Officers witnessing the premises operating beyond their permitted hours and loud music coming from the premises. Members heard how these matters were still subject to investigation.

Mr A Bushell responded to questions from members of the Sub Committee, Mr A Bayatti Legal Advisor and the Applicant.

Mr Griffiths, local resident addressed the Committee in opposition to the application to vary the premises licence. Members heard that public nuisance is of concern to local residents, particularly relating to loud music that had emanated from the premises on a regular basis. He also informed members of the Sub-Committee that problems had been encountered with public nuisance caused by people waiting for taxi's, he expressed concern that if the application for variation of hours was granted the problems would continue.

Mr Harrison, local resident, then addressed the Committee providing evidence of his own experience and further reiterated concerns of local residents in relation to public nuisance. He also expressed concerns regarding his perception of the poor management of the premises.

Mr Griffiths and Mr Harrison responded to questions by Members of the Sub Committee, Mr A Bayatti, Legal Advisor to the Sub Committee, and the applicant and his Legal Advisor.

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 particular regard to Paragraphs 4.31, 4.35, 11.1, 11.2 and 11.4 of their Licensing Policy which set out, amongst other things, that when considering applications the Licensing Authority will consider the impact of those who live, work and sleep within the local vicinity of a licensed premises and that the proximity of residential properties will be given particular consideration in determining applications both generally and more specifically when determining the opening hours of premises.

In determining the application Members gave consideration to the fact that both the applicant and the local resident highlighted the difficulty caused to individuals in getting a taxi on a Friday and Saturday night in Heswall.

Having regard to all of the above and in particular to the undisputed evidence that the premises had undertaken licensable activities outside the hours permitted under both the Premises Licence and a Temporary Event Notice as well as evidence of noise nuisance being caused to local residents, Members concluded that the premises are not being managed effectively to ensure compliance with Licensing legislation and to prevent public nuisance being caused to local residents. Members therefore were not satisfied that the promotion of the Licensing Objective to prevent public nuisance would be achieved should the application be granted.

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 The Exchange, 1-4 The Mount, Heswall be refused.**