

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 21 January 2016

Present: Councillors S Niblock J Salter
B Kenny

42 APPOINTMENT OF CHAIR

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

43 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.

44 APPLICATION FOR A PREMISES LICENCE - MK CONVENIENCE STORE, 391 BOROUGH ROAD, BIRKENHEAD

The Assistant Chief Executive reported upon an application that been received from MK Convenience Store, 391 Borough Road, Birkenhead for a Premises Licence 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.

A representative of the applicant, Mr Craig attended the meeting with the proposed Premises Licence Holder, Mrs Kaur. Ms Jones, Trading Standards, Mr Hill, Public Health and Mr Hardwick, Environmental Health were in attendance. Councillor P Cleary, Ward Councillor was also in attendance on behalf of local residents.

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

Mr Craig addressed the Sub-Committee, on behalf of Mrs Kaur. He informed Members that following discussions with Mrs Kaur, she had been willing to put forward additional conditions to those listed in the Operating Schedule. These were:

- No Beer or Cider in excess of 6.5 % ABV
- Alcohol must be purchased from a recognised, council wholesaler.
- No single cans or bottles must be sold.
- Training to be provided to all Members of staff employed at the premises.

Mr Craig also informed the Sub-Committee that Mrs Kaur had amended her application to change the proposed hours of sale by retail of alcohol from '07:00 until 23:00' to '09:00 until 22:00' (Sunday to Saturday).

Members of the Sub-Committee were informed, by Mr Craig that the applicant is fully aware of the Licensing Objectives, they also heard how Mrs Kaur is scheduled to undertake Underage Sales Training on 26 January 2016. Mr Craig also informed Members that Mrs Kaur is now familiar with the area and understands the concerns within the community with regards to levels of street drinking and Anti Social Behaviour. Mr Craig identified that concerns raised by responsible authorities relate to the area in which the premises is located, and not to the premises itself. It was also identified to Members that the premises is not situated in a cumulative impact zone.

Mr Craig and Mrs Kaur responded to questions from Members of the Sub-Committee, the responsible authorities, Councillor Cleary and Mr A Bayatti, Legal Advisor to the Sub-Committee.

In response to questions, Mrs Kaur informed the Sub-Committee that a new member of staff had been appointed and will be working for 5 -6 hours a day for 7 days a week. They also heard how the applicant does hold a Personal Licence.

Ms Jones, Trading Standards addressed the committee to outline her representation. Members of the Sub Committee heard how a visit had been undertaken to the premises on 8 November 2015. The purpose of the visit had been to discuss the application to sell alcohol. Members heard how Ms Jones had concerns regarding a lack of understanding of problems associated with the area, licensing objectives and responsible alcohol retailing. Members were then made aware that, since the visit made on 8 November, the Applicant had since shown improvement in the management of the premises through enrolling on training courses.

Mr Hill, Public Health then addressed the Committee and informed Members how there is real concern within the area of the premises. Members of the Sub-Committee heard how the premises is in an area where deprivation is high and health indicators for alcohol and A & E admissions are significantly worse than the England and Wirral average. Mr Hill raised concerns in relation to the management of the premises and informed Members how Public Health do not feel that the applicant has the correct knowledge of the licensing objectives or the local area to uphold and promote the licensing objectives in a safe and positive manner

Mr Hardwick, Environmental Health then outlined his representation. Members were informed, that he had attended the premises alongside Ms Jones from Trading Standards on 8 November. He explained that the purpose of his visit had been to discuss the application and explain the 'Reduce the Strength' Campaign. Members heard that, on visiting the premises, the applicant could not demonstrate, at that time, an understanding of the licensing objectives.

Councillor Pat Cleary, Ward Councillor also outlined his representation, on behalf of local residents. Councillor Cleary raised concerns in relation to established problems within the immediate area regarding Anti Social Behaviour and street drinking. He felt that if this premises were to be granted with a Premises Licence, current problems would be exacerbated.

The Responsible Authorities and Councillor Cleary responded to questions from Members of the Sub-Committee, the applicant and her legal representative and Mr A Bayatti, 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 noted that the applicant had enrolled on a training course, due to be delivered by Trading Standards, relating to underage sales. They also had regard to extra measures proposed by the applicant in order to ensure that the licensing objectives are upheld at all times.

Members had particular regard to the fact that the Responsible Authorities had accepted that concerns regarding the management of the premises were satisfied through training and the willingness of the applicant to engage with all parties including the YMCA and Merseyside Police. Member's concerns were further addressed in consequence of the applicant's willingness not to sell cheap super strength alcohol due to the prevalence of street drinkers in the locality of the premises.

In determining the application, Members took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003.

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 MK Convenience Store, 391 Borough Road, Birkenhead, be granted with the following hours:**

Sale by Retail of Alcohol

Sunday to Saturday 09:00 to 22:00

Hours Open to the Public

Sunday to Saturday 07:00 to 23:00
- (3) That the following conditions be placed on the Premises Licence:**
 - Any persons working at the premises, must hold a minimum of a level 1 accredited qualification relating to the sale of alcohol to underage persons, or equivalent before being involved in the sale of alcohol at the premises.**
 - Refresher training must be undertaken at least every 6 months. Written records of this training must be kept at the premises and made available to an Authorised Officer upon request.**

- **The premises must maintain a refusals log book in relation to recording both challenges and refusal in respect of the sale of alcohol. An incident book must also be kept. These log books must be made available on request to an Authorised Officer to ensure that they are being used.**
- **Beer, lager or cider with an ABV above 6.5% in plastic bottles or cans must not be sold at the premises.**
- **Beer, lager or cider must not be sold in single cans.**
- **No sale of alcohol must be made to customers who are known street drinkers.**
- **A till prompt system, to be agreed with the Licensing Authority, must be installed and maintained at the premises in order to alert staff to check the age of any purchaser attempting to purchase alcohol.**