

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 28 January 2016

Present: Councillors S Niblock J Salter
T Norbury

46 APPOINTMENT OF CHAIR

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

47 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Sub-Committee were asked to declare any disclosable pecuniary or non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

48 APPLICATION TO REVIEW A PREMISES LICENCE - KELLY'S DISCOUNT BOOZE, 52 ARGYLE STREET, BIRKENHEAD

The Assistant Chief Executive reported upon an application to review a Premises Licence that had been received from Wirral Licensing Authority in respect of Kelly's Discount Booze, 52 Argyle Street, Birkenhead.

Members were informed that the premises currently hold a Premises Licence allowing the licensable activities as set out within the report. A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

The Assistant Chief executive advised that the Sub-Committee may, having regard to the application for review and any other relevant representations, take such of the following steps as it considered necessary for the promotion of the licensing objectives:

- Modify the Conditions of the Licence
- Exclude a licensable activity from the scope of the Licence.
- Remove the Designated Premises Supervisor.
- Suspend the Licence for a period not exceeding three months.
- Revoke the Licence.

Members were informed that the Licensing Authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

Additional information was circulated to Members of the Sub-Committee detailing Impact Statements from local residents and business owners.

The application had been submitted by the Licensing Authority and the grounds for review were in relation to the premises selling alcohol to intoxicated persons.

Representations had been received from Public Health, Environmental Health, Trading Standards and Wirral Ark.

Mr A Bushell, Licensing Operations Manager attended the meeting together with Sgt O'Brien, Merseyside Police.

Ms T Cavanagh- Wilkinson and Mr G. Hill, Public Health attended the meeting together with Ms H. Jones, Trading Standards and Mr J. Hardwick, Environmental Health

Mr D Birchall, Premises Licence Holder attended the meeting with Mr Douglas, his representative.

Mr Bushell, Licensing Operations Manager reported that on 14 October 2015, Sgt O'Brien had witnessed a member of staff selling alcohol to a person who was intoxicated. It was further reported, that during a multi agency visit on 16th October 2015, several breaches of the Premises Licence had been identified.

Members were advised by Mr Bushell how it was the view of the Licensing Authority that these issues had contributed to a failure to promote two particular licensing objectives, namely, the prevention of crime and disorder and prevention of public nuisance. It was proposed by the Licensing Authority that conditions should be imposed to the Premises Licence which could be enforced to address their concerns.

Sgt O'Brien then addressed the Sub-Committee to outline her concerns with regard to the management of the Premises in relation to the wider problems in the area with street drinking.

Mr Bushell and Sgt O'Brien responded to questions from Members of the Sub-Committee, Mr A Bayatti, Legal Advisor to the Sub-Committee and Mr Douglas, legal representative.

Ms Cavanagh- Wilkinson, Public Health addressed the Sub-Committee in relation to wider concerns regarding street drinkers and levels of anti social behaviour. Members heard how during January-October 2015 there had been

16 alcohol related attendances at Arrowe Park Hospital where an assault had taken place in close proximity to Kelly's Discount Booze. Members heard how, it was the view of Public Health that the management of Kelly's Discount Booze does not promote or uphold the licensing objectives and a number of conditions were proposed to be added to the Premises Licence including a variation to the sale by retail of alcohol hours .

Ms Cavanagh – Wilkinson responded to questions by Members of the Sub-Committee, Mr A Bayatti, Legal Advisor to the Sub-Committee and Mr Douglas, Legal Advisor.

Mr J Hardwick, Environmental Health then made representations to the Sub-Committee in relation to his findings following a multi – agency visit to the premises on 16th October 2015. Members were informed that during this visit, Mr Hardwick had witnessed, in the space of 40 minutes, four customers who had appeared to be drunk being refused the sale of alcohol. Members heard how the Premises had been advised of the Reduce the Strength Campaign but did not consider it appropriate for their business to stop selling beer/cider/lager above 6.5% ABV. Mr Hardwick requested that the applicant considers some additional conditions to the Premises Licence in order to ensure better management of the premises.

Mr J Hardwick responded to questions by members of the Sub-Committee and Mr Douglas, Legal Representative.

Members then heard from Ms H. Jones, Trading Standards also in relation to findings from a multi-agency visit conducted on 16th October 2015. Members were advised it had been identified that there were several high strength alcohol products were on sale at low prices. It was also reported, that during the visit it had been apparent that several customers had expected to be served alcohol even though they appeared to be intoxicated.

Ms H Jones responded to questions from Members of the Sub-Committee, Mr A Bayatti, Legal Advisor to the Sub-Committee and Mr Douglas, Legal Representative.

Members then heard from Mr Douglas on behalf of his client, Mr Birchall. Members were informed that although the Premises Licence states that the Premises can sell alcohol from 06:00am, on no occasion does the shop open before 9am. It was brought to the Sub-Committee's attention that Mr Birchall had voluntarily ceased to sell any beer/ cider or lager in his premises that had a strength of over 6.5% ABV. Mr Douglas informed the Sub-Committee that his client had previously been unaware of the problems associated with street drinkers in the immediate area and he did now acknowledge the problems. Members heard that staff employed at the Premises were at that time conducting training in Responsible Alcohol Retailing training.

Mr Birchall then addressed the Sub-Committee and informed Members that he was prepared to accept some of the measures proposed by the responsible authorities and expressed his willingness to work in conjunction with the authorities in the future.

Mr Douglas and Mr Birchall responded to questions from Members of the Sub Committee, Members of the responsible Authorities and Mr A Bayatti, Legal Advisor to the Sub-Committee.

In determining the review application Members had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the relevant guidance issued under Section 182 of the Licensing Act 2003.

Members accepted the evidence provided by the Licensing Authority that a member of staff employed at the premises had sold alcohol to an intoxicated person.

In making their decision, Members had regard to the willingness of the Premises Licence Holder to work alongside the responsible authorities and the measures that had been undertaken in order to ensure that the licensing objectives are upheld.

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 Premises Licence in respect of Kelly's Discount Booze be amended as follows:

Sale by Retail of Alcohol

Sunday to Saturday 09:00 to 23:00

Hours Open to the Public

Sunday to Saturday 09:00 to 23:00

(3) The conditions of the licence be modified as follows:

- All staff involved in the sale of alcohol at the premises, including the Designated Premises Supervisor, must hold a minimum of a level 1 award in Responsible Alcohol Retailing (or equivalent).**
- All staff, including the Designated Premises Supervisor must receive refresher training at least every six months in respect of**

Responsible Alcohol Retailing. The training must include the prevention of the sale of alcohol to persons under 18, Challenge 21 policy, the sale of alcohol to persons who are drunk, and the social responsibility of persons involved in the sale of alcohol. A written record of this training must be made and kept on the premises. The written record of training must be available for inspection by an Authorised Officer on request.

- **The premises must not sell beer, lager or cider with an ABV of 6.5% and above in plastic bottles or tin cans.**
- **A paginated book must be used to record any refusal by a staff member in relation to sell alcohol to any persons who appears to be under the age of 18 or to any persons who appears to be drunk. The book must be kept on the premises at all times and be made available for inspection by an Authorised Officer on request.**