

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 11 February 2016

Present:

Councillors    G Ellis  
                      S Niblock  
                      G Davies

49    **APPOINTMENT OF CHAIR**

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

50    **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.

51    **APPLICATION TO VARY A PREMISES LICENCE - TODAY'S LOCAL, OXTON ROAD, BIRKENHEAD**

The Assistant Chief Executive reported upon an application that had been received to vary a Premises Licence in respect of Today's Local, Oxtan Road, Birkenhead under the provisions of the Licensing Act 2003.

The hours requested within the variation were outlined within the report and the application was also to amend the plan and remove the conditions currently imposed on 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.

Representations had been received from two local residents. Representations had also been received from the Birkenhead Business Improvement District Co-ordinator of the Wirral Chamber of Commerce, the Franchisee of McDonalds Birkenhead and the proprietor of Salon Sales Limited based in Quarrybank Street.

The representations related to public nuisance and anti-social behaviour caused by street drinkers within the vicinity of the premises and concerns that this would increase should the application be granted.

Representations had also been received from Birkenhead and Tranmere Ward Councillors and Frank Field MP which supported the concerns expressed by local residents and businesses.

Merseyside Police had made a representation as they considered that the licensing objective of the prevention of crime and disorder would be undermined due to the lack of management at the premises and that the premises are located within an area of high level anti-social behaviour.

A representation had been received from Trading Standards who had concerns that the licensing objectives would not be upheld due to a number of offences that had already taken place at the premises.

Public Health had also made a representation which related to concerns that an increase in the availability of alcohol at this particular location could undermine the licensing objectives.

Representations had also been received from forty local residents who were in support of the application.

Copies of all representations were available.

Ms A Forrest, Solicitor, attended the meeting together with the Premises Licence Holder and Mr Rushton, Consultant for Today's Local.

Mr G Lee, Inspector Minnery, J Moran and G Littlehales, Merseyside Police attended the meeting.

Also in attendance were Mr S Wiggins, Trading Standards, Ms T Cavanagh, Public Health, Councillor J Stapleton and Mr S Hayes.

The Licensing Manager confirmed that all documentation had been sent and received and that apologies had been received from a Ward Councillor and a local resident.

Ms Forrest addressed Members on behalf of the applicant. She advised that the application was to vary a Premises Licence that was already in existence and believed that the representations referred to an application for a new Premises Licence. Ms Forrest advised that the issues raised in the objections had been resolved due to a change in management at the premises and an application made to change the Designated Premises Supervisor. She reported upon the measures that would be put in place to address the concerns raised within the representations and to prevent alcohol being sold in such a way that it would be detrimental to the community through the sale of alcohol to street drinkers or individuals under the age of 18 years which included: a Challenge 25 Policy, a till prompt system, participation in the Reducing the Strength Initiative and single cans or bottles would not be sold at the premises. Members were informed that should the application be granted, the till prompt system would be upgraded to include the facility to take a photograph of a customer who is refused a sale of an age restricted product. Ms Forrest also informed Members that comprehensive training and guidance would be provided to all staff working at the premises in respect of the responsible sale of alcohol and referred to the Statutory Guidance and the Council's Statement of Licensing Policy in respect of there being no cumulative impact policy in place.

Ms Forrest further advised Members that should the application be granted, the Premises Licence of the store opposite these premises would be surrendered and

this would reduce the availability of alcohol as the new store would be a convenience store with only 10-15% of alcohol sales. Also, the hours during which alcohol would be sold would be reduced and alcohol would not be available before 10.00am compared with 9.00am from the store opposite. The representations in support of the application were also referred to.

Ms Forrest responded to questions from Members of the Sub-Committee, Merseyside Police, Trading Standards and Councillor Stapleton.

Mr G Lee advised that Merseyside Police strongly objected to the application as it was considered that the licensing objective of the prevention of crime and disorder would be undermined. He reported that the premises was located in an area known as the Seven Beats Area and that this area had been identified as a hot spot for alcohol related criminal activity and antisocial behaviour. Mr Lee referred to the statistics provided in respect of alcohol related incidents for this area for the period September 2014 - September 2015. A statement provided by Inspector Minnery was also referred to which outlined concerns relating to the store being located in a hotspot for alcohol related anti-social behaviour. Mr Lee also referred to visits made to the premises when there had been a sale of cigarettes to a person under the age of 18 years and a subsequent visit which had identified an individual located in the basement who admitted that he was not lawfully entitled to be resident in the UK. Members were advised that this matter was subsequently dealt with by Immigration Officers.

Mr Lee responded to questions from Ms Forrest and Members of the Sub-Committee.

Mr Wiggins, Trading Standards informed Members that they had concerns in respect of the management of the premises due to its location within an identified hotspot for alcohol related anti-social behaviour.

Mr Wiggins responded to questions from Members of the Sub-Committee.

Councillor Jean Stapleton, Ward Councillor expressed her concerns in respect of the existing problems of street drinkers who congregated in the area and the concerns of residents that this would be exacerbated if there was an increase in the number of premises being allowed to sell alcohol.

Mr Hayes reiterated the concerns raised by Councillor Stapleton.

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 considered the submissions made by the Ms Forrest, as well as the representations made by Merseyside Police, Trading Standards, Public Health, Frank Field MP, Ward Councillors, Wirral Chamber of Commerce and local businesses as well as local residents.

Members had regard to the fact that the significant concerns raised by the application related to increasing the availability of alcohol within the locality of the premises and concerns regarding the management of the premises and had particular regard to the

undertaking made on behalf of the applicant that should the application be granted this would result in a Premises Licence being surrendered which would result in an overall reduction in the availability of alcohol in this locality.

Members considered the comprehensive measures put forward by the applicant to prevent the sale of alcohol to street drinkers and persons who are under the age of 18 years.

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.

**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 Today's Local, Oxton Road, Birkenhead, be granted with the following hours:**

- **Sale by Retail of Alcohol**

**Sunday to Saturday 10:00 to 22:00**

**Hours Open to the Public**

**Sunday to Saturday 06:00 to 23:00**

**Bank Holidays, Christmas Eve, Boxing Day New Year's Eve, New Year's Day**

**Sale of Alcohol 10:00 to 23:00**

**(3) That the variation of the Plan be granted.**

**(4) That the Premises Licence be permitted to sell alcohol for consumption off the premises only.**

**(5) That in addition to the conditions proposed within the Operating Schedule, the following conditions be attached to the Premises Licence:**

- **A CCTV system will be in operation at the premises covering the interior and the exterior. The exterior coverage is to include images of Oxton Road and Tetbury Street. Recorded images shall be retained for a period of 31 days. Downloads must be provided to the Police and other Authorised Officer upon request in line with the Data Protection Act 1998. A sufficient number of staff must be trained in the use of the CCTV system and be able to download images.**

- **The premises must maintain a paginated refusals book to record the refusal of the sale of alcohol to persons under the age of 18 years, the refusal to known street drinkers and the refusal to persons who are drunk. The register shall be examined on a regular basis by the duty manager/Designated Premises Supervisor and the date and time of each examination will be endorsed in the register. The register must be kept on the premises and made available for inspection by the Police and other Authorised Officers upon request.**
- **All staff must be vigilant and monitor the area immediately outside the premises to ensure that youths do not congregate. Staff must report incidents to the Police if deemed appropriate. Records of this monitoring and reporting must be maintained in an incident book and made available to the Police and other Authorised Officers upon request.**
- **The premises must adopt a Challenge 25 Policy and display the appropriate posters regarding this Policy.**
- **All staff allowed to sell alcohol in the shop must have a minimum of a Level 1 qualification in Responsible Alcohol Retailing or equivalent. All employees must obtain the qualification before being allowed to sell alcohol in the shop. Refresher training must be conducted with staff at least every 6 months. Written records of this training must be kept at the premises and made available to the Police or other Authorised Officers upon request.**
- **A written recruitment procedure must be in place which includes the steps that will be taken by the Premises Licence Holder to check the immigration status and the eligibility of an individual to work in the UK in accordance with the 'Home Office Guidance for employers on preventing illegal working in the UK'. The recruitment procedure must be available for inspection by the Police or other Authorised Officers upon request.**
- **Beer, lager or cider with an ABV of 6.5% or above must not be sold at the premises in plastic bottles or cans.**
- **Beer, lager or cider must not be sold in single cans.**
- **No more than 15% of the floor space in the shop must be used for the display of alcohol for sale.**
- **No sale of alcohol must be made to customers who are known street drinkers.**

- **Signs must be prominently displayed to advise customers they must not drink alcohol in the street. The signs must also advise customers that any known street drinkers will not be served alcohol and that individuals must not attempt to purchase alcohol on behalf of street drinkers or young people under the age of 18 years.**