

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 18 February 2016

Present:

Councillors    S Niblock  
                      C Meaden  
                      J Salter

## 52    **APPOINTMENT OF CHAIR**

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

## 53    **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.

Councillor S Niblock declared a non pecuniary interest by virtue of being a Member of Merseyside Fire and Rescue Authority.

## 54    **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - BEST PRICE, 82-84 GRANGE ROAD WEST, BIRKENHEAD**

The Assistant Chief Executive reported upon the requirement for the review of the Premises Licence in respect of Best Price, 82-84 Grange Road West, Birkenhead following a Closure Order.

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 appropriate 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 appropriate if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The grounds for review were that on 3 February 2016 Wirral Magistrates' Court made a Closure Order under Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 following a closure notice issued by Merseyside Police.

Representations had been received from Merseyside Police, Environmental Health, Trading Standards and the Wirral Safeguarding Children Board.

The representations related to concerns that the premises had been the location from which serious criminal activity had taken place and concerns that the licensing objectives would not be promoted.

Inspector Minnery attended the meeting together with J Moran, S Cushion and G Littlehales, Merseyside Police. Mr D Robins, Wirral Child Protection Board, Heidi Jones, Trading Standards and Mr J Hardwick, Environmental Health were also in attendance.

Ms S Cushion, Merseyside Police made a request that the matter be heard in private under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 due to the serious nature of the matter.

The request for the matter to be heard in private was agreed by Members.

The Licensing Manager confirmed that all documentation had been sent and received and that an email had been received from Ms Sherratt stating that the Premises Licence Holder would not be attending the Hearing and that she was no longer instructed to act on her behalf and therefore she herself would not be in attendance. Ms Sherratt had made it clear to the Premises Licence Holder that the matter would proceed in her absence.

Mr D K Abraham, Legal Advisor to the Sub-Committee clarified the procedure following a closure order under Section 11.29 of the Guidance issued under Section 182 of the Licensing Act 2003 and the timescales within which a hearing must be convened under Section 167(5)(a). He also referred to Regulation 20 of the Licensing Act 2003 which states that the matter may be heard in the absence of a party.

Ms S Cushion, Merseyside Police, addressed the Sub-Committee and advised Members that on 3 February 2016 the Wirral Magistrates' Court were satisfied that a Closure Order was necessary in respect of Best Price, 82-84 Grange Road West, Birkenhead due to serious criminal activity that had taken place at these premises. Ms Cushion referred to the statements provided from Merseyside Police which identified the nature of the criminal activities.

Ms Cushion and Ms Moran responded to questions from Members of the Sub-Committee and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Mr Robins, Wirral Safeguarding Children Board informed Members of his concerns that the licensing objectives had not been upheld at these premises.

Ms H Jones, Trading Standards reported that during visits to the premises they had identified food on offer for sale beyond the use by date and that counterfeit stamps had also been found at the premises. Trading Standards further advised Members

that they had also seen single cigarettes on a shelf in the premises. Trading Standards considered that their evidence demonstrated a disregard for the law by the Premises Licence Holder.

Ms Jones responded to questions from Members of the Sub-Committee.

Mr J Hardwick, Environmental Health believed that the Premises Licence Holder had shown a disregard for the law since holding this position in 2011. He referred to his written representation which provided evidence of poor hygiene practices at the premises as well as unsafe practices which included the abstraction of electricity using a neighbouring premises. Mr Hardwick advised Members that their records showed that the premises would only demonstrate compliance further to visits made by an Authorised Officer.

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 in particular paragraphs 2.1, 10.30, 11.24, 11.25, 11.26, 11.27 and 11.28.

In determining the Review, Members had regard to the representations made in writing and orally at the Hearing by Officers from Merseyside Police, Wirral Safeguarding Children Board, Trading Standards and Environmental Health as well as statements submitted by Licensing Consultant Ms Sherratt on behalf of the Premises Licence Holder which were received the day prior to the Hearing.

**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 Best Price, 82-84 Grange Road West, Birkenhead, be revoked.**