

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 13 October 2016

Present:

Councillors D Burgess-Joyce
 T Norbury
 M Sullivan

14 **APPOINTMENT OF CHAIR**

Resolved –

- (1) That Councillor M Sullivan be appointed Chair in respect of the application for Pizza Magic, 57 Market Street, Hoylake.**
- (2) That Councillor T Norbury be appointed Chair in respect of the application for Grange News, 44 Grange Road, Birkenhead.**

15 **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.

16 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - PIZZA MAGIC, 57 MARKET STREET, HOYLAK**

The Assistant Chief Executive reported upon an application that had been received from Jakleen Hanna for a Premises Licence in respect of Pizza Magic, 57 Market Street, Hoylake, under the provisions of the Licensing Act 2003.

The premises previously had a Premises Licence which had lapsed on 31 May 2016 due to the Premises Licence Holder, Hanna Trading Limited, being dissolved. The hours permitted by the Premises Licence were outlined within the report together with the hours requested.

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. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the licence be granted. Also, following discussions with Merseyside Police, the applicant had agreed to a number of

conditions being placed on the Premises Licence should the application be granted.

Representations had been received from a local resident and also from the Hoylake Residents Forum. The representations related to concerns that public nuisance would be caused if the application was granted with the hours requested.

A representation had also been received from the Planning Authority. The Planning Officer had advised that should the application be granted, the licensing objectives relating to the prevention of public nuisance and the prevention of crime and disorder would be undermined. Copies of the representations were available.

The applicant attended the meeting together with Mr and Mrs Taher.

Mr S Williamson, Planning Officer was also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that the local residents who had made representations had advised they would not be in attendance. The Licensing Manager also advised that Mr and Mrs Taher had been given permission to support the applicant. The applicant had indicated that she wished to submit a petition and some photographs of other premises at the appropriate time, to which Mr Williamson had agreed.

The applicant addressed the Sub-Committee and explained that Hanna Trading Limited had been dissolved, however, the premises had still been operating as Pizza Magic. Mrs Taher confirmed that there had been a change in the trading structure and that the application made was to continue operating as they had been which was until 11.30 pm during the week and approximately 12.30 am at weekends and that these hours had been operated for over 10 years. She advised that their main competitor was open until 1.00 am and believed that they would be at a great disadvantage should they not be permitted the same hours. Mrs Taher informed Members that Pizza Magic was a local business which had been run by a local family for twenty eight years. Mr Taher also advised that a significant amount of business was undertaken through online and telephone orders resulting in less customers attending the premises late at night.

The petition in support of the application was distributed to Members.

In response to questions from Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee, the applicant confirmed that CCTV would be installed at the premises. Discussions also took place in respect of the restrictions placed on the premises by the Planning Department and the Licensing Manager explained to the applicant that they were not

permitted to operate beyond 11.30 pm, as the hours permitted by Licensing do not allow premises to operate beyond the hours permitted by Planning.

The Planning Officer addressed the Sub-Committee and reported that the application had been made to the Planning Department in 1994 which had been granted subject to a number of conditions, one of these being that the premises must not open beyond 11.30 pm. Members heard from the Planning Officer that whilst these premises had operated beyond the hours set out within the planning permission, the Planning Department had received no complaints in respect of these premises since 2009/2010.

The Planning Officer responded to questions from Members of the Sub-Committee. He informed Members that should the premises wish to trade outside of the hours permitted by the Planning Department, they would need to make another application to Planning or submit another Lawful Development Certificate.

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 written representations made by a local resident and also on behalf of the Hoylake Residents Forum in relation to concerns that public nuisance would be caused if the application was granted with the hours requested, however they considered that these representations did not set out any specific allegations or provide any evidence that anti-social behaviour or public nuisance was currently being caused by the premises.

Members had regard to the fact that no representations had been received from any of the Responsible Authorities and noted that the applicant had agreed to a number of conditions proposed by Merseyside Police.

Members of the Licensing Act 2003 Sub-Committee considered that there was not sufficient evidence that the granting of the application would undermine the licensing objectives.

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 Pizza Magic, 57 Market Street, Hoylake, be granted with the following hours:

Late Night Refreshment

Sunday to Thursday **23:00 to 00:00**
Friday and Saturday **23:00 to 01:00**

Hours Open to the Public

Sunday to Thursday **16:00 to 00:00**
Friday and Saturday **16:00 to 01:00**

17 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - GRANGE NEWS, 44 GRANGE ROAD, BIRKENHEAD**

The Assistant Chief Executive reported upon an application that had been received from Mr Farman Ali for a Premises Licence in respect of Grange News, 44 Grange Road, Birkenhead, under the provisions of the Licensing Act 2003.

The premises do not currently hold a Premises Licence. 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. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the licence be granted.

Representations had been received from Ward Councillors, a local business, the Wirral Chamber of Commerce and the Birkenhead First Business Improvement District, Wirral Ways to Recovery, the Town Host Manager, Merseyside Police, Trading Standards, Public Health and the Licensing Authority.

The representations related to anti-social behaviour within the vicinity of the premises caused by street drinkers, concerns of underage sales of alcohol, noise nuisance, illicit tobacco having been seized at the premises, an increase in the availability of alcohol and the lack of information provided within the application in relation to the steps that would be taken to promote the licensing objectives, particularly given the location of the premises in an area which is known for street drinkers.

Copies of all the representations were available.

The applicant attended the meeting together with his representative, Mr Noorani.

Ward Councillor, Jean Stapleton, Mr Dobson and Mr Scarth, Town Host Managers, Ms H Jones, Trading Standards, Gill Littlehales and Sam Cushion,

Police Licensing and Inspector Wilkinson, Merseyside Police, Mr G Hill and Mr G Rickwood, Public Health were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received and that it had been agreed by the applicant that the Licensing Operations Manager could provide some photographs of the area during the meeting.

The applicant's representative addressed the Sub-Committee and explained that the applicant had made the application for an off licence and subsequently objections had been received from several bodies. He advised Members that he did not agree with the objections raised and that he shared the objective to reduce crime in the area.

In response to questions from the Members of the Sub-Committee, Mr A Bayatti, Legal Advisor to the Sub-Committee and the parties present, the applicant confirmed that he held a Personal Licence and would provide training for staff members from an outside company. He also advised that he was planning to provide a delivery service of alcohol up to 11.00 pm which he believed would be assisting the community as deliveries of alcohol would alleviate the potential for people drinking and driving and alcohol related crime and disorder. He expected that there would be 50% sales of alcohol at the premises and 50% from deliveries and he would deliver in a 3-4 mile radius. The applicant advised that he would implement a Challenge 18 Policy and that transactions would be made by card over the telephone. He informed Members that he had lived in the area since 2007 and was not aware of street drinkers in the vicinity.

Councillor Stapleton addressed the Sub-Committee and advised that she was speaking on behalf of Ward Councillors and also as a local resident. She informed Members that she had lived in the area for a number of years and had suffered the results of anti-social behaviour caused by street drinkers. She also referred to the concerns of residents that these problems would be exacerbated if there was an increase in the number of premises being allowed to sell alcohol. Councillor Stapleton also informed Members that there were a number of off licences within close proximity in the area.

Public Health referred to the number of other licensed premises in the area and identified research about the effect of alcohol, in particular the availability of cheap Super Strength alcohol, which was believed to be a favoured drink of the street drinkers in the locality. Public Health expressed concerns that the applicant had not considered the Reduce the Strength campaign as part of his application or demonstrated any other measures to deal with the issue of street drinkers, they also referred to the high levels of anti-social behaviour in the area.

Merseyside Police advised Members of the Sub-Committee that the premises is located in a densely residential area, which suffers from problematic street drinking and anti-social behaviour as well as associated crime and disorder and public nuisance. Members were informed that two homeless hostels were situated within close proximity to the premises and that many residents of these hostels suffered from problems with alcohol which resulted in anti-social behaviour. Members were further informed of the presence of Wirral Ways to Recovery who provided services to individuals with drug and alcohol problems within the vicinity of the premises.

Merseyside Police expressed serious concerns whether the applicant understood the licensing objectives and questioned whether he would be able to uphold the licensing objectives should he be permitted to operate a licensed premises in an area that had significant levels of alcohol related anti-social behaviour linked particularly to street drinking. They therefore requested that the application be refused.

Merseyside Police referred to the statement provided by Inspector Wilkinson which outlined their concerns relating to the frequency of incidents reported to the police that were directly related to the misuse of alcohol within the locality of the premises. The statement provided statistics illustrating the level of anti-social behaviour within the vicinity of the premises between February 2016 and July 2016. The statistics illustrated that within the centre of Birkenhead around the Grange Road area, a problem of street drinking and alcohol related anti-social behaviour existed.

Merseyside Police advised Members that had they been aware of the intention of the applicant to provide a delivery service, their representation would have included evidence of alcohol related domestic violence to refute the applicant's submissions that a delivery service could improve crime and disorder.

Trading Standards referred to a joint agency visit which had been made to the premises on 27 April 2016 when illicit tobacco had been seized. The applicant informed Members that this tobacco was not for sale and was for the personal use of his friends and associates. Trading Standards maintained that the presence of such product in the premises demonstrated a disregard for the law and raised concerns regarding the applicant's ability to uphold the licensing objectives. They also had serious concerns regarding the applicant's intention to provide a delivery service for alcohol with particular reference to the licensing objective of the protection of children from harm.

Trading Standards advised the Sub-Committee of their lack of confidence in the management of the premises which they highlighted as a matter which should be given particular regard due to the location of the premises within an identified hotspot for alcohol related anti-social behaviour.

The meeting adjourned at 3.15 pm and reconvened at 3.25 pm.

The Licensing Authority raised serious concerns about the applicant's ability to effectively manage the premises to uphold the licensing objectives. In particular it was set out that despite the obvious issues relating to alcohol related anti-social behaviour in the area the applicant was unable to demonstrate that the sale of alcohol at these premises would not add to the current problems occurring within the vicinity of the premises. In view of this failure the Licensing Authority asserted that it was their view that all four licensing objectives would be undermined.

Members heard from two representatives of the Birkenhead Town Hosts. They outlined their roles which included dealing with issues that arose in the town centre of Birkenhead and working with other agencies such as the Council's Anti-Social Behaviour Team, Merseyside Police and the organisations in Birkenhead that deal with issues relating to drugs and alcohol. It was reported that the Hosts, who had begun patrols in April this year, had witnessed over 60 separate incidents of anti-social behaviour and that they had been involved in the clean-up of debris left by the street drinkers. On one of these occasions, 35 full bags of debris left largely by the street drinkers had been removed during a 4-6 hour clean up by 15 people. They believed that there would be a detrimental impact on the area should another premises be licensed to sell alcohol in the locality.

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 written representations from Wirral Ways to Recovery and the 10 O'Clock Shop in respect of the anti-social behaviour caused by street drinkers and the fact that the premises was located in very close proximity to the area where the street drinkers often congregated. The 10 O'Clock Shop submitted a petition signed by their customers and outlined their concerns that granting a licence would provide a further source of alcohol within an area already so heavily populated with licensed premises that crime, disorder and public nuisance had already reached problem levels for Merseyside Police. Members noted the concerns expressed through this representation.

Members accepted the evidence and representations that the premises was located in an area which had a significant number of licensed premises and that there was a clear problem within the area relating to alcohol related crime, disorder and anti-social behaviour. In considering these representations, Members had particular regard to Paragraph 13.33 of the Statutory Guidance.

In determining the application, Members gave consideration to the lack of conditions proposed by the applicant as well as the lack of understanding of the problems identified in the vicinity of the premises. Members noted that the current alcohol related issues in the locality were not attributable to the applicant. Members had regard to the content of the operating schedule as well as the submissions provided by the applicant at the hearing. Members found no evidence that the applicant would manage the premises in such a way as to uphold and promote the licensing objectives given the distinct alcohol related issues that were in existence already in the locality.

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 Grange News, 44 Grange Road, Birkenhead, be refused.