

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 8 December 2016

Present:

Councillors D Burgess-Joyce
 P Stuart
 M Sullivan

21 **APPOINTMENT OF CHAIR**

Resolved – That Councillor M Sullivan be appointed Chair for this meeting.

22 **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.

23 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - ABI EXPRESS, 10-12 GRANGE ROAD WEST, BIRKENHEAD**

The Managing Director for Delivery reported upon an application that had been received from ABI Express Limited for a Premises Licence in respect of ABI Express, 10-12 Grange Road West, Birkenhead, under the provisions of the Licensing Act 2003.

It was reported that the premises were currently closed and do not 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 application be granted.

Representations had been received from Merseyside Police, the Licensing Authority, Public Health, Ward Councillors, Local Businesses, Wirral Chamber of Commerce and Wirral Ways to Recovery.

The representations related to concerns that the granting of a Premises Licence for this store would add to the existing alcohol related anti-social behaviour suffered in the area. The representations also related to concerns

of street drinkers in the vicinity and an increase in the availability of alcohol and to the cumulative impact of licensed premises in the area.

The applicant, Mr Kanthanathan attended the meeting together with his solicitor Ms Forrest and Mr Rushton, Licensing Consultant.

Ms S Cushion, Police Licensing and Inspector K Wilkinson, Merseyside Police were in attendance together with Mr A Bushell, Licensing Operations Manager, Ms T Cavanagh, Public Health, Ward Councillor and local resident Jean Stapleton, Ms P Jain, local business owner, Mr Dobson and Mr Scarth, Town Hosts and Ms McKeown, Wirral Ways to Recovery.

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

Ms Forrest addressed the Sub-Committee and set out the measures that would be put in place to address the concerns raised and to prevent alcohol being sold in such a way that it would be detrimental to the community, in particular, through the sale of alcohol to street drinkers. Ms Forrest advised Members that the premises would operate as a convenience store and not as an off licence. She believed that the application was comprehensive in that it offered numerous conditions and advised that the applicant had signed up to a number of local initiatives. She also advised Members that the applicant was experienced in the licensing trade and had invested a large sum of money in renovating the premises. Ms Forrest referred to the measures proposed by the applicant which included participation in the Reducing the Strength Initiative, no single cans or bottles of cider or lager, no cheap white wine, signs advising that the premises would not serve street drinkers, high specification CCTV, an EPOS till system and staff training.

Ms Forrest referred to the Council's Statement of Licensing Policy and the Statutory Guidance, that the application should be considered on its own merits and that cumulative impact should be given general consideration.

In response to concerns raised by Merseyside Police in respect of the number of Premises Licences held by the applicant as well as the fact that the applicant was currently the Designated Premises Supervisor (DPS) at two other premises, Ms Forrest made it clear that the applicant would be removing himself as the DPS at the two other premises and would be concentrating solely on the management of these particular premises. Ms Forrest stated that the applicant was aware of the problems in the area and had approximately 10 years' experience working in licensed premises as well as holding responsibility for the management of similar type premises in areas with similar challenges. She also advised that there had been no issues raised regarding the management of these premises and referred to the fact that the police had not provided any evidence to demonstrate that the licensing objectives had been undermined in any of the other premises owned or managed by the applicant.

The applicant and his representative responded to questions from Members of the Sub-Committee, Mr D K Abraham, Legal Advisor to the Sub-Committee and all parties present. In response to questions, Members heard from the applicant that staff training would take place every twelve weeks. The applicant also offered to sell alcohol from 10 am instead of 9 am should Members consider that this would alleviate some of the concerns raised.

Ms S Cushion, Police Licensing referred to the statement provided by Inspector Wilkinson which outlined their concerns relating to the availability of alcohol in the area. Inspector Wilkinson had provided statistics to demonstrate that the misuse of alcohol was a factor in anti-social behaviour and criminal activity between February 2016 and July 2016. Merseyside Police advised that the statistics only represented a proportion of the incidents that took place as many incidents had not been reported. Members were further advised that there had recently been incidents of violence from groups of young people targeting street drinkers who were vulnerable individuals. It was the view of Merseyside Police that an increase in the availability of alcohol in this locality would exacerbate these existing problems.

Ms S Cushion responded to questions from Ms Forrest, Members of the Sub-Committee and Mr D K Abraham.

Mr A Bushell advised Members that the current problems in the area could not be attributed to the applicant but expressed concerns as to whether an additional premises selling alcohol in the area would add to these problems. He advised Members that he would be content for the application to be granted with the comprehensive conditions proposed and subsequently amended by the applicant and that he welcomed the proposal to not sell cheap white wine from the premises and also the undertaking given that all staff would receive formal training.

An adjournment took place at 12.50 pm.

The meeting reconvened at 3.30 pm

Ms T Cavanagh, Public Health advised Members that the premises was located in the most deprived area of Wirral and that the issues in the area were not restricted to street drinkers. Members were advised that as a consequence of such issues Public Health were currently leading a multi-agency 'Town Centre Group' with a view to alleviating alcohol related problems in the area. Ms Cavanagh advised Members that it was their view that there should be no more outlets selling alcohol in the area and requested that a condition be attached to the Premises Licence which required the premises to liaise with local services in the area dealing with alcohol related issues, should the application be granted.

Councillor J Stapleton objected to the application for another licensed premises in the area. She referred to the existing problems of street drinkers who congregated in the area and the concerns of residents that this would be exacerbated should the application be granted. She provided information relating to street drinkers and outlined her personal experiences of anti-social behavior in the vicinity of her home. Councillor Stapleton also expressed her concern regarding the fact that the granting of the licence could have a negative effect on the operation of a new youth zone due to open in February 2017 within the vicinity of the premises. She questioned why the applicant has chosen to open a premises to supply alcohol in an area that she considered was already saturated with licensed premises.

A representative of the Town Centre Hosts explained to Members the work they had been undertaking in Birkenhead to address the issue of street drinkers in the area where the premises were located. He explained the transient nature of street drinkers and expressed his concerns in respect of anti-social behaviour and the impact of this on the community.

Members heard from Wirral Ways to Recovery in respect of the work they undertook with Street Drinkers. They expressed their objections to the application for another premises to be permitted to sell alcohol in the area.

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 applicant's solicitor Ms Forrest, as well as representations made in writing and orally at the Hearing by Merseyside Police, the Licensing Authority, Public Health, Ward Councillors, Wirral Chamber of Commerce, Wirral Ways to Recovery and local businesses.

Members considered the concerns raised in the representations made by all parties, in particular Merseyside Police, of the impact of an additional outlet selling alcohol in an area that had been identified as a hot spot for alcohol related antisocial behaviour and criminal activity and public nuisance linked to problematic street drinking in the area.

Members noted the written concerns expressed by existing businesses regarding the number of licensed premises in the area.

In determining the matter Members gave serious consideration as to whether the addition of one more premises in the area would add to the acknowledged alcohol related problems that were linked particularly to street drinking. In coming to their decision Members took into account the comprehensive measures put forward by the applicant to prevent the sale of alcohol to street

drinkers as well as other conditions to strictly control the sale of alcohol from the premises, which included extensive CCTV to monitor both the inside and outside of the premises. Members noted some concern made in the representations with regard to whether the management would be effective in implementing these measures and in this regard took into account the fact that training would be provided to staff. They also had regard to Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 should problems arise following the grant of a Premises Licence.

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 ABI Express, 10-12 Grange Road West, Birkenhead, be granted as follows:

Sale by Retail of Alcohol

Sunday to Saturday 10:00 to 23:00

Hours Open to the Public

Sunday to Saturday 07:00 to 23:00

(3) That the following conditions be placed on the Premises Licence in addition to the appropriate conditions proposed in the operating schedule:

- Any person selling alcohol at the premises must hold either a Personal Licence or the Level 1 Award for Responsible Alcohol Retailing.**
- All staff must receive Custodian training which will allow staff to provide advice to persons known to drink alcohol excessively on where to receive professional support to reduce alcohol consumption.**
- All staff must receive training which will cover various matters including the Licensing Objectives, Social Responsibility, Challenge 25, use of CCTV, street drinkers, proxy sales, serving to intoxicated persons, and conflict management.**

- **Refresher training must be carried out at least every 12 weeks. Training records must be maintained and made available to an Authorised Officer on request.**
- **The Premises Licence Holder / Designated Premises Supervisor must meet with staff from Wirral Ways to Recovery at least once a month to be appraised of current issues or concerns relating to street drinkers in the area. A log of such meetings to be maintained at the premises and made available to an Authorised Officer on request.**
- **The sale of alcohol at the premises must not be promoted through any advertising that may be seen by individuals outside of the premises.**
- **The following posters must be displayed in a prominent position in the premises:**
 - **If you are drunk we cannot serve you alcohol.**
 - **Alcohol should not be consumed in the street.**
 - **Known street drinkers will not be served alcohol**
 - **A Reduce the Strength poster**
- **A top quality HD colour CCTV camera system, with a minimum of 30 cameras, (which will include 'facial recognition') must be used covering the interior and the immediate exterior of the shop. The cameras located inside the shop must cover the alcohol area and where alcohol sales take place. Images must be retained for a minimum period of 31 days and be made available to an Authorised Officer upon request. There must always be a member of staff on duty who is trained to use the CCTV system and able to download images.**
- **A minimum of two members of staff must be on duty in the shop at any one time. Any addition to this must be determined by way of a risk assessment. The risk assessment must be made available to an Authorised Officer on request.**
- **Any incidents of crime and disorder at the premises, witnessed by staff, must be recorded in an incident book kept at the shop. The**

incident book must be made available to an Authorised Officer upon request.