

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 7 September 2017

Present:

Councillors    P Stuart  
                     D Burgess-Joyce  
                     L Rowlands

## 63      **APPOINTMENT OF CHAIR**

**Resolved – That Councillor P Stuart be appointed Chair for this meeting.**

## 64      **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.

## 65      **10:00 APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - POPEYES PIZZA, 18 UPTON ROAD, MORETON**

The Managing Director for Delivery reported upon an application that had been received from Merseyside Police for a Review of the Premises Licence in respect of Popeyes Pizza, 18 Upton Road, Moreton, under the provisions of the Licensing Act 2003.

The Managing Director for Delivery advised that the Sub-Committee may, having regard to the application to review the Premises Licence and any 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 that were appropriate to promote the licensing objectives.

The grounds for review were in relation to an incident of violence which occurred at the premises.

It was reported that since the application to review the premises licence had been received on 10 July 2017, an application to transfer the premises licence into the

name of Mr Bawar Zerar had been submitted on 12 July 2017. This application had been granted as no comments had been received from Merseyside Police.

Members were informed that the premises currently hold a Premises Licence allowing the licensable activities as set out within the report.

Sergeants M Hearty and C Carmicheal attended the meeting together with Constables J Moran and T Grafton, Merseyside Police.

Mr B Zerar, Premises Licence Holder, attended the meeting together with his friend, Mr Majeet, to assist with translation.

The Licensing Manager confirmed that all documentation had been sent and received. Members were advised that further to a conversation prior to the meeting the Premises Licence Holder had indicated that he wished to request for an adjournment.

Mr Zerar's friend informed Members that he was in attendance to help translate and that the Premises Licence Holder wished to request that the meeting be adjourned in order that he may be represented by a Solicitor as he had not realised the seriousness of the Hearing. He also advised Members that Mr Zerar's mother was in hospital and that he had recently suffered the loss of his brother.

In response to this request, Sergeant Carmichael advised that the date of the hearing had been known for four weeks and he therefore believed that this time period had provided opportunity for Mr Zerar to seek legal representation, however, this would be a matter for Members to consider.

A short adjournment took place in order for Members to consider the request for an adjournment.

The meeting reconvened and the Chair advised that further to consideration of the request for an adjournment and having had regard to the representations made, Members decided that the matter should proceed due to the serious nature of the Review and they believed that the Premises Licence Holder had received adequate notice of the hearing.

The Licensing Manager confirmed that sufficient time would be given in order that the applicant understood what was being said at each stage throughout the hearing.

The Chair confirmed that in order to ensure a fair hearing Mr Zerar may ask his friend to explain at any stage to ensure he understood.

Mr Majeet advised that new contracts for gas and electricity and also a document purporting to show that Mr Zerar was the leaseholder of the premises were available for Members' consideration. Merseyside Police raised no objections to these documents being considered they were therefore distributed to Members.

Members were aware that subsequent to the Review application being made by Merseyside Police, the Premises Licence had been transferred to the current Licence Holder, Mr Bawar Zerar on 15 June 2017. Members were made aware that the current Licence Holder had worked in the premises since February 2017.

Members were provided with details of an allegation of a sexual assault that had taken place on the premises in May 2017. It was also reported that further to a conversation with a delivery driver, it had transpired that he was uninsured and that he was classed as not being permitted to work in the UK. Members also heard details regarding a visit that took place at the premises by a number of agencies when it had been found that the electric and gas meters had been tampered with which had caused Merseyside Police to have serious concerns in relation to public safety. Members were provided with a statement from an employee of British Gas who described the tampering with the supply to be so dangerous that the premises could have set fire at any time which may have also caused an explosion. Members also heard evidence of a number of breaches of the conditions of the Premises Licence during the period that the current Premises Licence Holder had been employed at the premises and that to date evidence of the CCTV working effectively at the premises had not been provided. It was therefore the view of Merseyside Police that the Premises Licence should be revoked.

Merseyside Police responded to questions from Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee.

At the hearing, the Premises Licence Holder provided Members with documentation to seek to demonstrate that he now leases the premises and that the previous Licence Holder has no connection with the operation of the premises. Members heard that staff who had worked at the premises under the previous Licence Holder with the exception of one driver, no longer work there. The current Licence Holder provided documentation to seek to demonstrate that the premises presently has a lawful supply of energy. The Licence Holder maintained that all matters relating to the Review were the responsibility of the previous Licence Holder. He advised Members that he operated everything lawfully and did not believe he had put the safety of the public at risk. Members noted however that over a period of approximately 10 days, Mr Zerar had operated the premises with the use of a Calor gas bottle and a diesel generator; a fact which he recognised had put the safety of the public at risk.

Mr Zerar, with the assistance of Mr Majeet, responded to questions from Members of the Sub-Committee and Mr A Bayatti.

In determining the review, Members had regard to the licensing objectives, in particular the prevention of crime and disorder and public safety, the Council's Statement of Licensing Policy and Statutory Guidance issued under Section 182 of the Licensing Act 2003.

Members considered the submissions made by Merseyside Police and those made by the Premises Licence Holder.

In determining the Review application, Members had concerns as to the documents that had been provided in respect of the premises and concluded that no evidence had been presented to demonstrate that Mr Zerar was now the current tenant of the building or owner of the business. Furthermore, no evidence had been provided to demonstrate that safeguards were in place to ensure that anyone working at the premises would have the legal right to do so.

Members also had concerns in respect of the risks that had been posed to members of the public through the operation of these premises and considered that the premises had continued to run in the same manner for a number of days following the transfer of the Premises Licence to the current Premises Licence Holder.

In determining the Review Application the Licensing Act 2003 Sub-Committee accepted the evidence provided by the Merseyside Police. Members considered that the licensing objectives in respect of the prevention of crime and disorder and public safety had been seriously undermined.

**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 Popeyes Pizza, 18 Upton Road, Moreton, be revoked.**

**66 14:00 APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - BREW, 68-70 WALLASEY ROAD, LISCARD**

The Managing Director for Delivery reported upon an application that had been received from Sarah Jones to vary a Premises Licence in respect of Brew, 68-70, Wallasey Road, Liscard, under the provisions of the Licensing Act 2003.

It was reported that these premises currently held a Premises Licence and the request for extended hours were outlined within the report also the application to vary was to extend the licensed area to include the rear yard.

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.

Three representations had been received from local residents. The representations related to concerns regarding the close proximity of the outside area to residential properties and that nuisance would be caused by customers using this area. Copies of the representations were available.

The applicant attended the meeting together with her partner. Councillor B Mooney was also in attendance together with local resident Mr J Usher.

Councillor L Rowlands was in attendance at the meeting as an observer.

The Licensing Manager confirmed that all documentation had been sent and received and that the local resident in attendance had also been given permission to speak on behalf of other residents. Aerial photographs of the premises had also been provided to identify locations.

The applicant, Ms Jones addressed Members and outlined how the premises would operate should the Premises Licence be varied. She informed Members about how the premises would operate should a variation to the Premises Licence be granted. She outlined the way in which the premises would be run should it be agreed to include the outside area in the Premises Licence and that this would be used primarily as a smoking area. The applicant also advised that an acoustic fence had been erected in order to minimise noise emanating from the yard.

The applicant informed Members that further to discussions with one of the local residents who had made a representation and who was in attendance, she would be willing to reduce the hours originally applied for to fall in line with the hours outlined by Planning.

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

Members heard from Councillor Mooney and Mr Usher, a local resident, of initial concerns relating to the close proximity of the outside area to Mr Usher's property and concerns that nuisance would be caused by customers using this area, however Members further heard from Mr Usher that he was content with the amended application and was content with the assurances set out by the applicant in her letter to local residents, a copy of which was considered by Members.

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 noted the fact that there were no representations from any of the Responsible Authorities in respect of the application, in particular from Merseyside Police and Environmental Health.

Members had regard to the representations made by local residents both in writing and at the Hearing and in determining the application gave consideration to the type of operation proposed by the applicant as well as the measures that would be put in place to address the concerns raised.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after 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 to vary a Premises Licence in respect of Brew, 68-70 Wallasey Road, Liscard, be granted as follows:**

**The outside yard area to the rear of the premises to be included in the Premises Licence.**

**Sale of alcohol**

**Sunday to Saturday                      12:00 to 23:00**

**Hours Open to the public**

**Sunday to Saturday                      7:00 to 23:30**