

# LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 14 December 2017

Present:

Councillors    AER Jones  
                     P Stuart  
                     M Sullivan

81     **APPOINTMENT OF CHAIR**

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

82     **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.

83     **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - CLUB LQD, 92 ARGYLE STREET, BIRKENHEAD**

The Managing Director for Delivery reported upon an application that had been received from a local resident for a Review of the Premises Licence in respect of Club LQD, 92 Argyle Street, Birkenhead, 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 public nuisance being caused by noise nuisance emanating from the premises.

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

Mrs P Owens, applicant, attended the meeting with Mrs J Brady, local resident and their advocate Mr P Edwards. Also in attendance were Mr G Rodger, Owner of the business, Ms C Kelly, Designated Premises Supervisor, Mr M Reynolds, representative of LQD and Mr M Traynor, Landlord and Licence Holder. Mr T Zorn, Environmental Health Officer and Constables J Moran and T Grafton, Merseyside Police were also present.

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

Members heard from Mrs Brady that since the premises had opened on 17 January 2017 she had suffered from noise nuisance and there had been two reviews of the premises. She advised Members that the operation of the premises was like a rave club and advised that the soundproofing of the premises was not adequate.

Mrs Brady and Mrs Owens advised Members of the effect that the nuisance caused by the premises was having on their health. Members were advised by Mrs Brady that there had been a recent occasion when she had been taken to the hospital in the early hours of the morning and that she had subsequently been prescribed with medication which now affected her everyday life. It was her submission that this was a direct result of the nuisance that had been caused to her by the operation of these premises. Members heard from Mrs Owens that further to a consultation with her doctor, where she advised that she had suffered from sleep deprivation due to the noise emanating from the premises, she had also been prescribed with medication.

Members heard from both residents that the nuisance they experienced could occur on any night of the week and that this had particularly impacted upon Mrs Brady's ability to undertake her work as a teacher resulting in her having to take sick leave and on occasions sleep at her daughter's house. Members also heard from both Mrs Brady and Mrs Owens that they regularly witnessed the door of the premises being open while music was being played, a matter which had been ignored by doorstaff, customers standing outside the premises with drinks, customers of the premises causing a nuisance whilst standing outside and leaving the premises at early hours of the morning.

Members further heard from one of the residents that the nuisance they experienced was not only from noise but that they could feel the vibration of the sound of the music in their home.

Mr Edwards reiterated the effects of sleep deprivation and the fact that the health of both the local residents had deteriorated.

The local residents responded to questions from Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee.

Constable J Moran referred to a visit made to the premises on 1 October at 12.30 am when she had witnessed the front door being left open until 1.45 am despite the condition on the Noise Abatement Notice.

The Environmental Health Officer reported upon the noise monitoring that had taken place in Mrs Brady's property between 17 August and 4 September 2017. He

advised that this had identified 11 occasions within this time period when the noise heard within the property amounted to a statutory noise nuisance being caused by the premises. The Environmental Health Officer advised that on each occasion, the lyrics of songs being played at LQD were clearly audible within the properties. This resulted in a Noise Abatement Notice being issued on 8 September 2017 which set out 9 requirements to address the noise nuisance being caused. Members were advised that not all of these requirements had been complied with and that Environmental Health could still take further action in the event that the noise has not been abated.

Members were advised that local residents reported issues of noise nuisance caused by loud music coming from the premises to both Constable Moran and Environmental Health. Members were advised that despite physical improvements being made to the premises with a view to mitigating the noise coming from the premises there had been no evidence provided to conclude that the necessary processes were in place to prevent public nuisance

The Environmental Health Officer responded to questions from Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee.

Mr Reynolds advised Members of actions taken by the Licence Holder following the issuing of the Noise Abatement Notice. These included fitting self-closing mechanisms to inner and outer doors, insulation on the inner and outer doors at the front of the property and that regular noise monitoring was being carried out outside of the premises. He also proposed additional measures to address the concerns of local residents which included secondary glazing to the front of the premises and insulation and double glazing of the front door and the use of a noise limiter device. Mr Reynolds and Mr Traynor responded to questions from Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee.

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

Members of the Licensing Act 2003 Sub-Committee considered the submissions made by Local Residents in respect of the review application, submissions made by Environmental Health and the submissions of Matthew Reynolds, legal representative of the Premises Licence Holder. Members noted that no representations had been received from Merseyside Police and that Constable Moran attended the hearing as a witness in support of the Local Residents in relation to the prevention of public nuisance licensing objective.

Members took into account the witness statement provided by Constable Moran that corroborated the evidence provided by Mrs Brady and Mrs Owens in respect of the level of noise that could be heard in their properties and the door at the premises remaining open following the serving of the Noise Abatement Notice.

In determining the review of these premises, Members gave serious consideration as to whether the measures proposed by and on behalf of the Premises Licence Holder were sufficient to address public nuisance being caused by the premises both from noise emanating and vibrating from the premises, and customers leaving the premises at early hours in the morning. In deliberating this matter, Members took

into consideration the management of the premises which had failed over a considerable period of time to operate the premises in accordance with the Licence and in particular the licensing objective to prevent public nuisance. Members had regard to the fact that this had resulted in the issuing of a statutory notice and the continuation of noise nuisance being caused to residents despite the fact that this notice had been issued. Subsequently, in determining the appropriateness of these proposals to address the causes of the concern that had led to the Review, the Licensing Act 2003 Sub Committee did not consider that the proposals put forward would prevent public nuisance being caused to local residents due to the concerns regarding the management of the premises.

**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 Club LQD, 92 Argyle Street, Birkenhead, be revoked.**