

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 25 January 2018

Present:

Councillors AER Jones
 D Burgess-Joyce
 D Mitchell

84 **APPOINTMENT OF CHAIR**

Resolved – That Councillor D Mitchell be appointed Chair for this meeting.

85 **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.

86 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 92A LANSDOWNE ROAD, BIRKENHEAD**

The Managing Director for Delivery reported upon an application that had been received from Mr Augustin for a Premises Licence in respect of 92A Lansdowne Road, Birkenhead, under the provisions of the Licensing Act 2003.

It was reported that these premises do not currently have a premises licence and are not currently operating. 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 Ward Councillors, Wirral Anti-Social Behaviour Team, Magenta Living, North Birkenhead Development Trust and local residents. A representation had been submitted by Merseyside Police however this had subsequently been withdrawn further to the conditions proposed by the applicant. The representations related to concerns that should the application be granted then the premises would be another location for people to congregate and cause anti-social behaviour. There were also concerns that the high level of anti-social behaviour caused by gangs of youths and intoxicated individuals, which was currently an issue in the area would be exacerbated. Copies of the representations were available. Two petitions had also been signed by a total of 214 local residents.

The applicant attended the meeting together with his solicitor, Ms Forrest.

Councillor J McManus, Ward Councillor, Ms E Barrett, North Birkenhead Development Trust, M Williams, Tenancy Enforcement Officer and C Hooper, Wirral Anti-Social Behaviour Team were also in attendance.

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

Ms Forrest addressed Members and advised that she believed the application should be considered on its merits. Ms Forrest referred to the representations received and set out the measures that would be put in place to prevent alcohol being sold in such a way that it would be detrimental to the community and to ensure that the Licensing Objectives would be promoted. These measures included extensive CCTV covering both inside and outside the premises, an EPOS till system, staff training and a Challenge 25 Policy. She advised that the application contained comprehensive conditions and that the applicant was an experienced operator. She believed that the impact of an additional outlet selling alcohol in this area would not have a negative impact on the Licensing Objectives and that these premises would not add to the problems of alcohol related anti-social behaviour in the area. Ms Forrest emphasised that the premises was to operate as a convenience store and that it should not be considered in the same way as an off licence which sells alcohol as its main product. Members were also advised that the applicant was very experienced, had held a Personal Licence since 2006 as well as having responsibility for the management of similar types of premises in areas with similar challenges to this locality. She further advised that he would employ local people and be in attendance daily until staff could competently manage the premises. Members were also informed that he owned five other licensed premises across Merseyside which included locations that had suffered with issues of anti-social behaviour. Ms Forrest therefore believed that the licensing objectives would be upheld. She referred to the Statutory Guidance and the fact that licensing law was not a mechanism for the control of anti-social behaviour beyond the licensed premises.

Ms Forrest and the applicant responded to questions from the other parties present, Members of the Sub-Committee and Mr A Bayatti, Legal Advisor to the Sub-Committee.

Members heard from a Ward Councillor who expressed her concerns in respect of the vulnerable people who lived in the vicinity of the premises and the fact that the area already suffers from anti-social behaviour. She referred to the fact that the premises was situated in a residential area and that a lot of young people and elderly vulnerable people lived in the vicinity. She reported that eight incidents of anti-social behaviour had been logged and that windows had been smashed in the St James' Centre. She referred to the number of signatories of the petition who objected to the application.

The Ward Councillor responded to questions from Ms Forrest.

The Manager of the St James' Centre urged Members to have regard to the petition signed by local residents. She reported that there were already eight premises selling alcohol within the vicinity and advised that a lot of work had been carried out to improve the life of local residents.

The Manager of the St James' Centre responded to question from Ms Forrest.

The Tenancy Enforcement Officer, Magenta Living advised that there were high levels of anti-social behaviour in the area which affected tenants of Magenta Living as they owned a vast number of properties in the locality and he therefore strongly opposed the application.

The Manager of the Anti-Social Behaviour Team advised that the premises was situated in one of the worst areas in Birkenhead and provided details in respect of a number of interventions had been put in place. She advised that the main problem was young people aged between 9-17 and provided the number of incidents that had occurred last year. She believed that the hard work that had been carried out in the area would be undone should the application be granted.

In determining the application the Licensing Act 2003 Sub-Committee have had regard to the Licensing Objectives, the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy, in particular Section 11 which sets out details of the Council's Cumulative Impact Policy.

Members noted that Merseyside Police had made a representation in respect of the application, however, this had been withdrawn following consideration of the measures proposed in the Operating Schedule.

Members noted that although this area had been identified as a hot spot for anti-social behaviour, no evidence had been provided that the reported anti-social behaviour had a direct link to the sale of alcohol in the area.

In determining the matter Members gave serious consideration as to whether the granting of the application would undermine the licensing objectives.

Members took into account concerns raised in the representations made by all parties relating to the impact of these premises opening in the area on the level of anti-social behaviour. Members noted that this concern did not in all cases directly relate to the sale of alcohol. It was not disputed that this area had been identified as a hot spot for antisocial behaviour, however, Members were not provided with evidence that the reported anti-social behaviour had a direct link to the sale of alcohol in the area.

Members also had regard to the fact that further to consideration of concerns raised, the applicant was willing to participate in the Reducing the Strength Initiative resulting in beer, lager or cider with an ABV of 6.5% or above not being sold from the premises.

In coming to their decision Members also had regard to the fact that alcohol would not be the primary product sold at these premises and that there would be extensive measures in place to strictly control the sale of alcohol.

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 92A Lansdowne Road, Birkenhead, be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 07:00 to 22:00

Hours Open to the Public

Sunday to Saturday 07:00 to 22:00

(3) That the appropriate conditions proposed in the operating schedule be amended as discussed at the hearing.