



Licensing Act 2003 Committee

Date:	Wednesday, 22 May 2019
Time:	5.30 p.m.
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee are 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.

2. MINUTES (Pages 1 - 2)

To approve the accuracy of the minutes of the meeting held on 17 October 2018.

3. MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE (Pages 3 - 18)

To approve the accuracy of the minutes of the Licensing Act 2003 Sub-Committees held on 2 November, 22 November, 30 November and 28 February 2019.

4. APPOINTMENT OF VICE-CHAIR

If not appointed by Council, the Committee is invited to appoint a Vice-Chair for the ensuing municipal year.

5. APPOINTMENT OF LICENSING ACT 2003 SUB-COMMITTEE

The Committee is requested to appoint the Licensing Act Sub-Committee for the ensuing year.

In 2018/19, each Licensing Act 2003 Sub-Committee was comprised of three members and one reserve member drawn from the pool of fifteen Committee members. The Chair was appointed on the day of each meeting.

LICENSING ACT 2003 COMMITTEE

Wednesday, 17 October 2018

Present:

Councillors	T Norbury	I Williams
	RL Abbey	A Hodson
	G Davies	L Rowlands
	AER Jones	A Sykes
	J Walsh	D Mitchell

Apologies

Councillors	P Stuart	M Sullivan
	C Meaden	P Hayes
	C Spriggs	

Vice-Chair in the Chair

6 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the 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.

7 MINUTES

Resolved – That the accuracy of the minutes of the meeting held on 24 May and the Special Meeting held on 12 June 2018 be approved.

8 MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE

Resolved – That the accuracy of the minutes of the Licensing Act 2003 Sub-Committee meetings held on 20 June, 17 July, 23 August and 6 September 2018 be approved.

9 DRAFT STATEMENT OF POLICY UNDER THE GAMBLING ACT 2005

The Corporate Director for Business Management sought Members' approval of the draft Statement of Policy under The Gambling Act 2005 in order that it may be presented to Council for approval on 10 December 2018.

The Licensing Manager reported that the Council's Statement of Policy had first been published in December 2006 and had been reviewed in accordance with the requirements every three years. The draft Statement of Policy was approved by this Committee on 12 June 2018 and was then circulated for consultation. The consultation period began on 13 June and closed on 14 September 2018 and had been circulated to a number of consultees as stated within the report. It had also been publicised on the Council's website.

Members were advised that feedback had been provided by one consultee, namely, Talarius Limited who operate an Adult Gaming Centre in Wirral and that this feedback had been incorporated into the revised draft which was presented for approval by Members.

On a motion by Councillor A Hodson and seconded by Councillor L Rowlands it was -

RECOMMENDED – That the Draft Statement of Policy be recommended for approval by Council on 10 December 2018.

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 2 November 2018

Present:

Councillors A Hodson
 G Davies
 D Mitchell

16 **APPOINTMENT OF CHAIR**

Resolved – That Councillor A Hodson be appointed Chair for this meeting.

17 **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.

18 **SUMMARY REVIEW - SHERLOCKS WINE BAR, CONWAY STREET, BIRKENHEAD. CH41 6JD**

The Corporate Director for Business Services reported that an application for a Summary Review of a Premises Licence in respect of Sherlocks Wine Bar, Conway Street, Birkenhead, had been made under the provisions of the Licensing Act 2003.

Following receipt of an application from Merseyside Police for a Summary Review of the Premises Licence for Sherlocks Wine Bar due to an incident of violence and disorder, the Sub-Committee considered whether it was necessary and appropriate to impose any interim steps pending the Review of the Premises Licence.

Merseyside Police were represented by Sergeant C Carmichael, G Lee, Police Licensing and Constable J Moran.

Mr G Rodger, Premises Licence Holder attended the meeting together with his legal representative Mr Reynolds.

Sergeant Carmichael requested that members of the public be excluded from the hearing under Section 53(a) of the Licensing Act 2003 due to ongoing investigations in the matter. The Premises Licence Holder's representative advised that he had no objection to the meeting being held in private.

The Chair informed all parties that the Members of the Sub-Committee had considered Regulation 14 of the Licensing Act 2003, Hearings Regulations 2005 and following the representations made by Merseyside Police had decided that the hearing should be heard without members of the public present.

The Sub Committee considered the evidence in support of the summary review application from Sergeant Carmichael. Members heard representations from Merseyside Police who considered it was necessary and appropriate to suspend the Premises Licence pending the review of the premises. Merseyside Police presented CCTV evidence to Members which showed a serious incident that had taken place at the premises in the early hours of 28 October 2018 and requested that the Premises Licence be suspended with immediate effect.

The Sub-Committee also considered representations made by the Premises Licence Holder and his representative who, in light of the incident and his recognition that serious issues needed to be addressed, made no objection to the request of Merseyside Police that the Premises Licence be suspended.

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 Sherlocks Wine Bar, Conway Street, Birkenhead, be suspended with immediate effect pending the full review hearing.

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 22 November 2018

Present:

Councillors A Hodson
 C Meaden
 D Mitchell

19 **APPOINTMENT OF CHAIR**

Resolved – That Councillor A Hodson be appointed Chair for this meeting.

20 **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.

21 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - SHERLOCKS WINE BAR, 24-28 CONWAY STREET, BIRKENHEAD**

The Corporate Director for Business Management reported upon an application that had been received from Merseyside Police for a Summary Review of the Premises Licence in respect of Sherlocks Wine Bar, 24-28 Conway Street, Birkenhead, under the provisions of the Licensing Act 2003.

The Corporate Director for Business Management advised that the Sub-Committee may, having regard to the application for a Summary Review 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 summary 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 the premises being associated with serious crime and serious disorder.

It was reported that the premises held a Premises Licence allowing the licensable activities as set out within the report but that further to the submission of an

application for a Summary Review received on 31 October 2018, Members of the Licensing Act 2003 Sub-Committee had deemed it necessary and appropriate to suspend the Premises Licence due to the premises being associated with serious crime and serious disorder. The suspension of the Premises Licence had taken immediate effect following a Hearing held on 2 November 2018 pending the determination of the Review.

Members were advised that in considering whether to impose an interim step the Licensing Act 2003 Sub-Committee had taken into account the Senior Police Officer's Certificate that had accompanied the application and representations received from Merseyside Police. Members had also had regard to the Summary Review Guidance issued by the Home Office and considered that the interim step to suspend the Premises Licence had been necessary to prevent serious crime and serious disorder occurring at the premises.

In respect of the application for a Summary Review a representation had been received from the Licensing Authority which related to breaches of the Premises Licence conditions. A representation had also been received from two local residents who were in support of the application submitted by Merseyside Police. The representation related to a number of incidents of anti-social behaviour and violence which had occurred at the premises. Copies of the representations were available.

Merseyside Police were represented by Sergeant C Carmichael. Constable J Moran, Constable T Grafton, Constable G Minnery, Inspector C Bland and G Littlehales, Police Licensing Officer were also in attendance.

Mr A Bushell, Licensing Authority and Mr P Edwards representing the two local residents attended the meeting.

Mr Rodger, Premises Licence Holder was in attendance together with his legal representative Mr P Robson and Mr J Radford, owner of the building.

The Licensing Manager reported that Merseyside Police had made a request that the hearing be considered with the exclusion of the press and public and Mr Robson confirmed he had no objection to this request.

Sergeant Carmichael requested that the meeting take place in private under Regulation 14 of the Licensing Act 2003, Hearing Regulations 2005 due to ongoing investigations in the matter and evidence that would be provided during representations made and viewing of CCTV footage.

The representative of the press made a request to remain for part of the meeting and leave when the Police made their representations.

Members considered the representations made however they had concerns that the Police evidence would be referred to throughout the meeting.

Members of the Sub-Committee considered Regulation 14 of the Licensing Act 2003, Hearings Regulations 2005 and following the representations made by Merseyside Police decided that the matter be heard in private.

The Licensing Manager confirmed that all documentation had been sent and received and also that there was currently no Designated Premises Supervisor (DPS) at the premises as Mr Rodger had removed himself as the DPS prior to the Interim Steps hearing.

Sergeant Carmichael advised that the Summary Review had been brought following serious incidents of violence and disorder inside, near to and in the vicinity of the premises. He advised that he would produce CCTV evidence of a number of incidents of violent disorder that had occurred within the premises or within close proximity of the premises and that a number of these crimes were still under investigation. Sergeant Carmichael referred to a number of documents that had been produced.

CCTV footage of incidents that had taken place at the premises was presented to all parties present and Sergeant Carmichael responded to questions from Members of the Sub-Committee, Mr Robson and Mr D K Abraham, Legal Advisor to the Sub-Committee.

Sergeant Carmichael believed that it was clear from the evidence that the premises was linked to serious crime violence and violent disorder and had a strong link to members of organised criminal gangs and requested that the Premises Licence be revoked.

Mr A Bushell, Licensing Operations Manager reported that the Licensing Authority worked closely with all licensed premises in Wirral to ensure Premises Licence Holders and Designated Premises Supervisors were running premises legally and responsibly in accordance with the Licensing Act 2003 and the licensing objectives. He provided details of a meeting with the Designated Premises Supervisor and subsequent visits made to the premises. He believed that the problems were due to the way in which the premises were managed and therefore supported the request of Merseyside Police that the Premises Licence be revoked.

Mr Bushell responded to questions from Members of the Sub-Committee, Mr D K Abraham and Mr Robson.

Mr Edwards addressed the Sub-Committee and raised concerns in respect of incidents of anti-social behaviour and violence within the vicinity of the premises and responded to questions from Mr Robson.

Mr Robson made representations on behalf of the Premises Licence Holder. He proposed that the premises would be content to put in place a number of measures to prevent such incidents reoccurring. He referred to an independent report that had been carried out and submitted that he would be content to have the recommendations from that report translated into conditions and he further clarified what these conditions would be. Members were advised that a number of the measures set out in an action plan had now been implemented at the premises.

Mr Robson referred to the representations made by Mr Edwards in respect of incidents that had occurred outside the premises and requested that no weight be attached to these representations as he believed there was a conflict of interest due to a family member of one of the local residents being a manager of another premises within the vicinity.

Mr Robson referred to the incidents on 28 October and 2 November 2018 and advised that Mr Rodger agreed that these incidents could have been better managed. Mr Robson stated that Mr Rodger had good attendance at licensed premises network meetings. He also submitted that the Designated Premises Supervisor played a significant role in terms of managing a licensed premises and that the Licensing Authority could impose conditions to strengthen this role to ensure that the conditions placed on the premises would be upheld, however, it was of concern to Members that Mr Rodger had failed to give serious consideration as to who would undertake the role of DPS at these premises prior to the hearing.

Mr Robson referred to a number of conditions that could be placed on the Premises Licence and also referred to paragraph 2.5 of the Guidance in respect of a new condition being added regarding management of the premises. He believed the attachment of these conditions would be sufficient to allow the premises to continue to operate. He also suggested that as an alternative Members could impose a continuation of the suspension of the Premises Licence for a short period of time in order that all the measures proposed could be implemented prior to re-opening. Mr Robson advised Members that Mr Rodger had taken all the submissions into account particularly by stating that he would not put himself forward as Designated Premises Supervisor and believed this should give enough reassurance for the premises to re-open with rigorous conditions and a new Designated Premises Supervisor.

Mr Robson and Mr Rodger responded to questions from Members of the Sub-Committee, Mr D K Abraham, Mr Bushell and Mr Edwards.

In determining the review, Members had regard to the licensing objectives, the Council's Statement of Licensing Policy and relevant Guidance issued under Section 182 of the Licensing Act 2003.

In considering the application, Members took into account the submissions made by Merseyside Police both in writing, in particular statements from Police Officers and verbally as well as the representations made by the Licensing Authority. Members noted the representations made by Mr Edwards on behalf of Ms Brady and Ms Owens.

In determining the matter, Members accepted the Police's evidence and submissions and their strong view that no conditions could be attached to the premises that would prevent the clientele associated with these premises attending and further incidents of serious crime or disorder taking place at 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 Sherlocks Wine Bar, 24-28 Conway Street, Birkenhead be revoked.**

Members subsequently reviewed the Interim Step imposed by the Sub-Committee on 2 November 2018 to suspend the Premises Licence and determine whether this step

should remain in place until the decision of this Sub-Committee would become effective.

Resolved - That the interim step that the Premises Licence be suspended remain in place until the decision of this Sub-Committee becomes effective.

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LICENSING ACT 2003 SUB-COMMITTEE

Friday, 30 November 2018

Present:

Councillors A Hodson
 AER Jones
 T Norbury

22 **APPOINTMENT OF CHAIR**

Resolved – That Councillor T Norbury be appointed Chair for this meeting.

23 **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.

24 **APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - WHITTS END WINE BAR, 43 MARKET STREET, HOYLAKE**

The Corporate Director for Business Management reported upon an application that had been received from Whitts End Limited to vary a Premises Licence in respect of Whitts End Wine Bar, 43 Market Street, Hoylake, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence with the hours outlined within the report.

The applicant submitted an operating schedule setting out how the business would be conducted/ managed in accordance with the four licensing objectives. Members were advised that the proposals set out in the operating schedule may become conditions of the Premises Licence should the application be granted. A copy of the full application was available.

Four representations had been received from local residents. A representation had also been received from the Hoylake Residents Group. The representations related to concerns that should the application be granted nuisance would be caused by customers using the outside area. Copies of the representations were available.

The applicants attended the meeting.

A local resident was in attendance to make representations on behalf of himself and also on behalf of other local residents.

The Licensing Manager confirmed that all documentation had been sent and received and that a petition and letters in support of the application had been distributed prior to the original scheduled hearing and provided a further copy for Members.

The Licensing Manager outlined the report.

The applicants addressed the Sub-Committee and advised that as local residents they work with local residents and the local community. They reported that they had managed the premises opposite these premises and had never had any issues with noise disturbing neighbours. They advised that the variation would be to allow drinking on and off the premises and also to allow people to drink in the outside area until 11.00 pm. They stated that the premises were not overlooked by any residential properties and explained how the premises is operated and the measures that were currently in place to ensure that the Licensing Objectives were upheld which included soundproof doors being fitted, making recorded periodic checks outside the premises and checking the level of sound emanating from music.

The applicants stated that complaints about noise from the premises related to noise caused by another premises within close proximity to Whitts End. The applicant did however inform Members that there had been an occasion in the summer when windows had been left open beyond 9.00 pm and that this had caused a nuisance to local residents. The applicants referred to the letters and petition that supported the application and which stated that the conditions of the Premises Licence had been adhered to.

The applicants responded to questions from Members of the Sub Committee, the local resident and Miss V Silvester, Legal Advisor to the Sub Committee.

In response to questions, the applicants advised that the petition had been signed in the premises by customers of the premises.

The local resident informed Members that he was in attendance both representing himself and on behalf of other neighbours who lived in close proximity to the premises. He advised Members that he had experienced noise nuisance when customers had used the outside area prior to the premises being under the current management and also prior to any restrictions being in place and that this disturbance had resulted in him being unable to use his outside space. He informed Members that he was not opposing the application to allow the consumption of alcohol both on and off the premises but advised that should the restriction in respect of the outside area be removed it would be intolerable to live in his premises and he would consider moving house. He reported that the area was densely populated and believed that should drinking be allowed in the outside area beyond 9.00 pm this would erode the privilege of residents rights for the peaceful enjoyment of their homes.

The local resident responded to questions from Members of the Sub-Committee and Miss V Silvester, Legal Advisor to the Sub Committee.

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.

In determining the application Members gave consideration to the measures put forward by the applicant to address the concerns raised by local residents however they considered that these measures would not prevent noise nuisance emanating from the outside area.

Members also took into consideration the fact that there were no representations from any of the Responsible Authorities in respect of the application to vary the Premises Licence, in particular from Environmental Health or the Licensing Authority.

Members also had regard to the provision within the Licensing Act 2003 for the Premises Licence to be reviewed where problems associated with the Licensing Objectives occur after the grant or variation 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 the Premises Licence in respect of Whitts End Wine Bar, 43 Market Street, Hoylake, be granted to permit the sale of alcohol on and off the premises.**
- (3) That the following condition be removed from the Premises Licence:**
 - There must be no drinking in the outside area beyond 9.00 pm.**
- (4) That the following condition be placed on the Premises Licence:**
 - There must be no eating or drinking in the outside area of the premises beyond 9.00 pm.**

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LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 28 February 2019

Present:

Councillors L Rowlands
 A Hodson
 P Stuart

25 **APPOINTMENT OF CHAIR**

Resolved – That Councillor A Hodson be appointed Chair for this meeting.

26 **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.

27 **APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - THE WHITE OWL, STATION ROAD, THURSTASTON**

The Corporate Director for Business Management reported upon an application that had been received from Hideaway Lakes (Wirral) Ltd to vary a Premises Licence in respect of The White Owl, Station Road, Thurstaston, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence with the hours outlined within the report.

The applicant submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. Members were advised that the proposals set out in the operating schedule may become conditions of the Premises Licence should the application be granted. A copy of the full application was available.

A representation had been received from a local resident. A representation had also been received from the Irby, Thurstaston and Pensby Amenity Society. The representations related to concerns regarding noise nuisance being caused by music coming from the premises and customers leaving the premises. The representations also related to concerns in relation to the potential disturbance to sensitive wildlife. Copies of the representations were available.

The applicants attended the meeting together with their representative.

The Licensing Manager confirmed that all documentation had been sent and received and that apologies had been received from the local resident who had made representations but was unable to attend.

The Licensing Manager outlined the report.

The applicants' legal representative advised Members that the premises currently operated primarily as an eatery and that should a variation be granted to the Licence, this would continue to be the main focus. He advised that alcohol was a very small proportion of the turnover representing a maximum of 5% and provided photographs that illustrated the small volume of alcohol sold and highlighted the fact that there is no bar in the premises. He outlined the type of music played currently at the premises and the applicant provided further details of the type of music and the frequency of when it would be played should the application be granted. He also provided details of how this would be managed to prevent public nuisance.

The applicant's legal representative referred to the current planning permission and advised that the application for the Premises Licence was seeking to reflect the increased hours granted by Planning. Members were provided with the reason why Planning had granted these hours and noted that they had had regard to the importance of the surrounding areas as breeding and foraging habitat for barn owls and other wildlife.

He referred to a number of licensed premises in the vicinity and pointed out that should the application be granted this wouldn't change the hours that customers could purchase alcohol in the vicinity.

In considering the hours granted by planning and the representation made by a local resident in respect of 'drinking up' time, the applicant's representative advised that the applicant was prepared to reduce the hours for alcohol to be permitted by 30 minutes. He advised that CCTV was in place at the premises and that they operated a Challenge 25 Policy.

The applicants and their representative responded to questions from Members of the Sub Committee and Mr D K Abraham, Legal Advisor to the Sub Committee.

Members confirmed that they had read the written representations made by local residents and the Irby, Thurstaston and Pensby Amenity Society and had due regard to those representations in determining the application.

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 took into account the written representations, the submissions made by the applicant and the fact that there were no representations from any of the Responsible Authorities in respect of any of the licensing objectives. Members also had particular regard to the Statutory Guidance of seeking to have mutual acceptable operating hours within the planning and licensing regimes.

Members also had regard to the provision within the Licensing Act 2003 for the Premises Licence to be reviewed where problems associated with the Licensing Objectives occur after the grant or variation 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 be granted as follows:

Sale by Retail of Alcohol

Sunday to Tuesday	11:00 to 20:30
Wednesday to Saturday	11:00 to 22:00

Hours Open to the Public

Sunday to Tuesday	09:00 to 21:00
Wednesday to Saturday	09:00 to 22:30

(3) That Condition 14 be removed from the current Premises Licence.

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