

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 22 May 2019

Present:

Councillors G Davies
 D Mitchell
 M Collins

34 **APPOINTMENT OF CHAIR**

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

35 **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.

36 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003: PARADOX, 1-3 PENSBY ROAD, HESWALL**

The Corporate Director for Business Management reported upon an application that had been received from Merseyside Police for a Review of a Premises Licence in respect of Paradox, 1-3 Pensby Road, Heswall, 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 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 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 underage persons being allowed onto the premises which had resulted in a serious violent assault.

It was reported that the premises held a Premises Licence allowing the licensable activities as set out within the report.

A representation had been received from Wirral Safeguarding Children Board which supported the application to review the Premises Licence as it was their view that these premises had not taken reasonable steps to ensure the safety of children and had exposed children to an unsafe environment.

A representation had also been received from the Licensing Authority which supported the application to review the Premises Licence in respect of Paradox. Copies of the representations were available.

Merseyside Police were represented by Geoff Lee and Constable T Grafton. The Licensing Authority was represented by Mr A Bushell.

Mr H Demetrios, Designated Premises Supervisor and Mr J Demetrios, Premises Licence Holder attended the meeting together with Mr A Murray, Administrator and Mr E Demetrios, Restaurant Manager.

Mr Lee 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.

Members agreed that the first part of the meeting be held in private. The representative from the press agreed to the request made by Merseyside Police and left the room during consideration of the evidence provided by Merseyside Police.

The Licensing Manager confirmed that all documentation had been sent and received and that although the Child Protection Board had indicated they would be represented no notification had been received advising otherwise.

Members heard details from Merseyside Police in respect of concerns about the management of the premises. Merseyside Police submitted that the premises had failed to undertake stringent checks of the age of clientele using the premises, that there was poor management of the premises and the premises had failed to take advice from the Police.

Merseyside Police provided details relating to serious assaults that had taken place in May 2018 and March 2019. On both of these occasions there had been evidence of underage drinking in the premises and neither occasion had been reported to the Police. At this time the premises were required by Merseyside Police to produce an action plan to address the issues of concern and the premises had also been subjected to weekly inspections from police officers whilst operating. Members were advised that despite these measures, on 1 December 2018 Merseyside Police had identified that a sixteen year old showing clear signs of intoxication had left the premises with a glass concealed in his coat.

Merseyside Police further reported that this incident had led to a resumption of weekly inspections of the premises. They also reported that during one of these visits the female toilets tested positive for cocaine and that during a visit by the police on 23 February 2019 there was a particularly young age group of customers in the premises. On 2 March 2019 police officers observed disorder between youths outside Paradox and a 16 year old person was arrested for being drunk and

disorderly and subsequently taken home. This young person informed the police officers that they had been drinking alcohol in Paradox.

It was reported that following this incident the Premises Licence Holder and the Designated Premises Supervisor attended a meeting with officers from Merseyside Police. During this meeting Merseyside Police proposed that the premises should introduce a policy of 'over 21's'. In response to this proposal the Premises Licence holder advised that the premises generated a good income from the younger age group on Friday evenings.

Merseyside Police stated that despite a number of interventions and advice from the police, the premises continued to allow persons under the age of 18 years to enter and purchase alcohol and to allow customers to consume excessive alcohol. Merseyside Police advised the Sub-Committee that the premises was a magnet for young people and that this had resulted in the most recent serious assault during the early hours of Saturday 23 March 2019 where the offender was reported as being 17 years of age.

The Premises Licence Holder did not dispute the evidence provided by Merseyside Police.

Members were advised by Merseyside Police that they had particular concern regarding the management of the premises and therefore proposed a number of steps they considered appropriate to address these concerns. These included the removal of the Designated Premises Supervisor, an 'over 21 policy' for people attending the premises at specific times when the premises was not operating as a restaurant and a number of further conditions including the implementation of electronic age verification equipment.

Mr A Bushell, Licensing Operations Manager advised that the Licensing Authority supported the proposals made by Merseyside Police and highlighted that the use of identification equipment relies upon good management of the premises.

Mr Lee and Mr Bushell responded to questions from Members of the Sub-Committee and Mr Demetrios.

The Premises Licence Holder outlined how the business operated predominantly as a restaurant however on Friday and Saturday nights when the premises opened until 2.30am it operated as a bar with a small dance floor and events and functions also took place at the premises. He also advised that it was a family run business.

The Premises Licence Holder acknowledged it had been the wrong decision to allow an event to take place at the premises that attracted young people and that it had been this event that resulted in the serious assault that took place on 23 March 2019.

Members were informed that measures had been put in place at the premises since the application to review the Premises Licence. These included the operation of an electronic identification system, a review of the dress code, a recently upgraded CCTV system and the use of a metal detector. Members were advised that there had been a change in personnel in respect of the door staff employed at the premises and that the premises operated with additional door staff than what was required by the Premises Licence.

The Designated Premises Supervisor maintained that through the implementation of the electronic identification system, the use of additional door staff and by targeting older clientele he would be able to manage the premises competently and in accordance with the licensing objectives.

The Premises Licence Holder accepted the conditions proposed by Merseyside Police except for the condition that on Fridays and Saturdays and during non-standard timings the premises must adopt an over 21 policy in that no persons under the age of 21 shall remain on the premises after 21:30 as he considered this would lead to the business having a commercial disadvantage. The Premises Licence Holder also acknowledged that the performance of the Designated Premises Supervisor could be improved and that it would not be necessary or appropriate to remove him from the Premises Licence.

The Designated Premises Supervisor and Premises Licence Holder responded to questions from Members of the Sub-Committee.

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 coming to their decision Members of the Licensing Act 2003 Sub Committee had regard to the submissions and evidence from Merseyside Police, the written and oral representations of the Licensing Authority, the written representation of the Wirral Area Child Protection Board and the submissions made by the Premises Licence Holder.

Members considered the undisputed evidence that the primary cause of two serious violent assaults that had been reported to be linked to the premises involved young persons under the age of 18 years who had been consuming alcohol in the premises. Members expressed concern that despite interventions and advice from Merseyside Police, the premises had continued to allow people under the age of 18 years to frequent the premises and in so doing failed to prevent incidents occurring that seriously undermined the licensing objectives.

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 conditions of Premises Licence in respect of Paradox, 1-3 Pensby Road, Heswall be modified as follows:**
 - An electronic identification system must be used and maintained at the premises. On Fridays and Saturdays, and on all occasions when non-standard timings are operating, all customers entering the premises from 21:30 must be subject to an ID scan as a condition of entry. All records of the electronic identification system must be made available to an Authorised Officer on reasonable request for evidential purposes in accordance with data protection legislation.**

- **Until close of business on Fridays, Saturdays and all occasions when non-standard timings are operating, all drinks must be served in polycarbonate/plastic drinking containers after 21:30.**
- **An Incident Book must be maintained at the premises and must be made available for inspection at the request of an Authorised Officer.**
- **All instances of violent crime and disorder must be reported to the police at the time they occur and recorded in the Incident Book**
- **The premises must adopt a zero tolerance to drug use in the premises. A written drugs policy must be adopted by the premises. This must include a requirement for staff/door supervisors to make regular toilet checks. All checks must be recorded and any incidents noted.**
- **Until close of business on Fridays, Saturdays and all occasions when non-standard timings are operating, the premises must adopt an age policy, in that no persons under the age of 21 years shall remain on the premises after 21:30 or be admitted to the premises after this time.**
- **No 18th birthday parties shall take place at the premises.**
- **From 1 August 2019 the Designated Premises Supervisor must hold a Level 3 Award for Designated Premises Supervisors.**

The following condition replaces conditions 16 and 17

- **Until close of business on Fridays, Saturdays, and all occasions when non-standard timings are being operated a minimum of three door supervisors must be employed at the premises from 21.30.**

Condition 18 is amended to require a minimum of three door supervisors.