

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 12 June 2020

Present:

Councillors A Hodson
 P Stuart
 D Mitchell

10 **APPOINTMENT OF CHAIR**

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

11 **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.

12 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 9 THE ROW, 70 TO 76 MARKET STREET, HOYLAKE**

The Chair announced that this meeting was being held virtually, was being webcast and a record would be retained.

The Director of Law and Governance reported upon an application that had been received from L1 Brewer Limited for a Premises Licence in respect of 9 The Row, 70 to 76 Market Street, Hoylake.

It was reported that the premises are not currently operating and do not have a Premises Licence.

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.

Following discussions with Merseyside Police, the applicant agreed that a number of conditions be included on the Premises Licence relating to CCTV to be placed on the Premises Licence should the application be granted. Details of these conditions were outlined within the report.

In respect of the application three representations had been received from local residents. A petition signed by 39 local residents had also been received. The representations related to concerns of noise nuisance and anti-social behaviour which may be caused by customers should the application be granted.

A representation had also been received from Ward Councillor, Alison Wright, who supported the views expressed by local residents. Copies of the representations were available.

The applicant attended the meeting by way of video conference.

A local resident also attended the meeting together with Ward Councillor Alison Wright also by way of video conference.

The Licensing Manager confirmed that all documentation had been sent and received and that Ward Councillor Alison Wright would be speaking on behalf of local residents and had been given permission to do so specifically by two residents who were unable to attend. It was also confirmed that the planning permission document in respect of the premises would be referred to and displayed for information and google images of the premises were available if required. All parties confirmed they were content for these to be referred to and displayed.

The Licensing Manager outlined the report.

The applicant addressed the Sub-Committee and advised that he was a Director and partner for L1 Brewer Limited. He informed Members that he is a retired Police Sergeant and as such had many years' experience of licensed premises and his partners also had many years' experience operating licensed premises therefore he believed they were well aware of any problems that may arise and would be keen to put measures in place to prevent such problems occurring.

He addressed the four licensing objectives and how they would be upheld should the Premises Licence be granted. He reported upon the measures that had already been put in place including the installation of CCTV cameras inside and outside the premises that would comply with conditions proposed by Merseyside Police. He further advised that in accordance with these conditions staff would be trained in the use of CCTV and that it would be accessible 24 hours a day by any of the management. He referred to the concerns of youths gathering in the alleyway situated at the side of the premises and whilst this could not currently be attributed to the premises, he advised that outside lighting had been installed and that regular monitoring of the area would be carried out by staff. Staff would also be trained in the responsible sale of alcohol and a Challenge 25 Policy would be implemented. The applicant provided details of the work that had been undertaken in respect of limiting noise nuisance emanating from the premises which included a lowered ceiling and acoustic panels and insulation being fitted. He advised that music would be background music only, for example jazz, blues, ratpack style and gave an undertaking that no live music would be played in the premises. In respect of the area outside the premises, this would be table service only and smoking would only be permitted away from the front of the building, also that this area would be closed and cleared by 9.00 pm and notices would be displayed requesting customers to respect neighbours.

The applicant referred to waste collections and advised that a contract was in place with a local refuse company in respect of the bins at the rear of the premises and that there would be strict governance of the delivery of stock and emptying bottles. Members were also advised that a fire assessment had been carried out and all electric work had been examined.

The applicant expected the profile of customers to be age 40 plus. He advised that he had offered to meet with local residents to allay any fears and attempted to limit any disturbance that may potentially be caused to local residents but his offer to meet the local residents had not been accepted. He referred to the number of emails he had received in support of the application and the welcome received from other residents and licensed premises in the area. He advised that the premises would be using local suppliers wherever possible and that they would not be selling cheap beer. He also referred to measures that would be put in place to open with outside service only in respect of Government guidance due to Covid-19.

The applicant responded to questions from the local resident, Councillor Wright, Members of the Sub-Committee and Mr D K Abraham, legal advisor to the Sub-Committee.

In response to questions raised, the applicant advised that the outside area would be cleared by 9.00 pm, chairs and tables would be brought in quietly after 11.00 pm. The applicant further advised that he would be willing to fit carpet inside the premises to prevent noise being caused by the movement of tables and chairs. He then informed Members there would probably be a maximum of 20-30 customers outside. He also gave an undertaking that no live music would be played at the premises. He would be willing to install further soundproofing and would seek advice regarding this and would be prepared to undertake sound checks. In response to concerns in respect of noise in the morning the applicant advised he would be content to open the premises at 9.00 am instead of 8.00 am.

The Licensing Manager referred to the planning restrictions placed upon the premises and these were displayed in order that the applicant was made aware of time restrictions already placed upon the premises. In response the applicant reported that he would be content to limit the sale of alcohol until 10.30 pm and close the premises at 11.00 pm.

The local resident addressed the Sub-Committee. He advised that most of his objections were based on noise and disturbance that may be caused should the Premises Licence be granted. He expressed concerns that there may be up to 40 people sitting outside the premises causing persistent noise. He advised Members that he is a key worker and works shifts therefore it was important he was not disturbed when trying to sleep after shifts. He informed Members that his goddaughter visited him regularly and expressed concerns that she would be disturbed when she stayed with him overnight. He advised that his quality of life had been impacted upon by the ongoing disturbances during the last 18 months and was very concerned that noise nuisance could not be prevented.

In response to questions the local resident advised that he felt he would have to move should the Premises Licence be granted and expressed concerns regarding difficulties in being able to sell his premises as people may not want to live above a licensed premises. He was of the view that his premises should have been protected by the terms of his lease.

Councillor Wright addressed the Sub-Committee and reported that she was also representing local residents who were unable to attend. Members were referred to the petition that had been submitted with over 30 signatures objecting to the

application. Councillor Wright expressed concerns of the detrimental impact on the lives of local residents and the wider community should the Premises Licence be granted. Councillor Wright reiterated the comments of the local resident in respect of concerns of the use of the outdoor space with having a large group of people and for this to be cleared by 9.00 pm which she felt would be difficult to implement. Councillor Wright provided some background information in respect of the premises, regarding the type of build, numbers of windows and doors, the area where it is situated and previous use of the premises. She referred to the licensing objectives and the fact that they exist in order to protect the public. The lease was also referred to in that the premises should only be used as a high-class retail unit and concerns were expressed in respect of breaches of the lease. Members were advised that the managers of the other licensed premises at the end of the row lived above their premises. Councillor Wright referred to the licensing objective in respect of the prevention of public nuisance and referred to areas of the premises that had not been insulated; referred to the variety of sources of noise evidenced by the local resident and also informed Members that alcohol had been delivered to the premises prior to a decision being made as to whether to grant the Premises Licence. Further concerns were also raised in respect of noise emanating from music and noise caused by food cooking and the use of ventilators also customers arriving and leaving the premises and empty bottles being collected. Councillor Wright believed that there would be limited bathroom facilities which would further impact on the use of the alleyway at the side of the premises resulting on more pressure on the Police as they had previously been called due to anti-social behaviour in the car park at the rear of the premises. Councillor Wright believed that the licensing objectives would be unlikely to be upheld and maintained and therefore requested that the application be refused.

Councillor Wright responded to questions from Members of the Sub-Committee and Mr D K Abraham, legal advisor to the Sub-Committee.

The Licensing Manager reported that should the Premises Licence be granted Live Music would be allowed at the premises and requested the applicant to confirm he would be content to give an undertaking that he would not permit Live Music.

The applicant gave an undertaking that no Live Music would be played at the premises and that he would also be content to install carpet within the premises to limit any noise from tables and chairs being moved inside the premises and in and out of the premises.

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 had regard to all representations made in respect of the application.

Members noted that further to discussions with Merseyside Police, the applicant had agreed to a number of conditions in respect of CCTV being placed on the premises and also that he had provided an undertaking in respect of no Live Music to be played at the premises, the indoor area to be carpeted and the hours applied for to be amended.

In determining the application Members had regard to the fact that there were no representations from any other residents or from any of the Responsible Authorities.

Members of the Sub-Committee did not take into consideration matters relating to the lease associated with the premises and noted that a significant number of signatures on the petition were from individuals not living within the vicinity of the premises.

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 for a Premises Licence in respect of 9 The Row, 70 to 76 Market Street, Hoylake be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 12:00 to 22:30

Hours Open to the Public

Sunday to Saturday 08:00 to 23:00

(3) That the following conditions be attached to the Premises Licence:

- **The maximum number of people to be seated in the outside area in front of the premises at any one time is 16.**
- **No patrons are allowed to consume food or drink in the outside area in front of the premises unless they are seated at a table.**
- **The premises must provide a table service to all patrons seated in the outside area in front of the premises.**
- **The last order for hot food for patrons seated in the outside area in front of the premises can be no later than 20.00.**
- **The outside area in front of the premises must be clear of patrons eating or drinking by 21.00.**
- **Notices must be displayed in the outside area in front of the premises advising customers that the tables must be vacated by 21.00.**

- **All tables and chairs in the outside area in front of the premises must be stacked up outside the premises no later than 21.30 ready to be taken inside following the departure of customers.**
- **The noise level in the outside area in front of the premises must be monitored on a regular basis by staff and appropriate action taken to reduce the level of noise should it be identified that it may cause a nuisance to local residents. A log of these checks must be maintained and made available to an Authorised Officer on request.**
- **The inside customer area of the premises must be fitted with carpet.**
- **All external windows and doors shall be kept closed except for the purposes of access and egress.**