

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 17 July 2020

Present:

Councillors T Norbury
 D Mitchell
 K Greaney

17 **APPOINTMENT OF CHAIR**

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

18 **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.

19 **10.00 AM - APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 78 WESTBOURNE ROAD, BIRKENHEAD**

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

The Director of Governance and Assurance reported upon an application that had been received from Sekander Ahmed for a Premises Licence in respect of 78 Westbourne Road, Birkenhead.

It was reported that the premises were not currently operating.

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.

In respect of the application two representations had been received from local residents who were objecting to the application. The representations stated that alcohol related anti-social behaviour was currently a problem within the vicinity of the premises and that this problem would be exacerbated should the application be granted. A petition containing 130 signatures had also been received which stated that the premises was situated within a Cumulative Impact area. It was reported that the premises were situated in a road close to, but outside of the Cumulative Impact area.

The Agent acting on behalf of the applicant had written to individuals who had submitted representations setting out the proposed conditions that they considered appropriate for the promotion of the licensing objectives and addressed the concerns raised in the representations. The Agent had also set out how the premises would operate should the application be granted and had offered to discuss details of the application with the individuals concerned.

The Agent had also submitted 12 representations signed by local residents who considered that the licensing objections would not be undermined should the application be granted. Copies of all the representations and letters were available.

The applicant attended the meeting by way of video conference together with his agent.

A local resident also attended the meeting together with Councillor P Cleary, Ward Councillor by way of video conference.

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

The Licensing Manager outlined the report, advised that the application had been amended to reduce the hours for the sale by retail of alcohol and reported that the applicant's agent had provided supporting documentation adding further conditions should the application be granted.

The applicant's agent, Mr Rushton, addressed the Sub-Committee. He set out the application and referred to the hours applied for. He advised that further to the representations made these hours had now been reduced. It was explained to Members of the Sub-Committee that the Premises Licence Holder would be responsible for the day to day running of the premises and that he would employ two to three members of staff depending upon the success of the business. Members were informed that the applicant had experience of running licensed premises previously, that he lives in the locality and owns a number of local businesses and therefore knows the community.

Mr Rushton provided an overview of the conditions which he believed were comprehensive and that the applicant would be content to have included on the Premises Licence should it be granted. These conditions included CCTV at the premises, staff training and a Challenge 25 Policy. He advised that alcohol would not be sold in single cans, the premises would not sell beers or ciders which have an ABV above 6.5% and that spirits would be kept behind the counter.

Mr Rushton outlined how the premises would be operated and informed Members of the Sub-Committee that it would be a general convenience store with anticipated alcohol sales to be 10-15% of the overall sales. He advised that the applicant wished to work with local residents and referred to the petition which had been submitted which he believed had been done for commercial reasons and therefore asked that Members attach little weight to this.

The Sub-Committee were advised by Mr Rushton that he had contacted Merseyside Police Licensing to discuss the application who had raised no concerns and that

consequently Merseyside Police had made no representations in respect of the application.

Mr Rushton responded to questions from the local resident, Councillor Cleary, Members of the Sub-Committee and Mr A Bayatti, legal advisor to the Sub-Committee.

The local resident in attendance at the hearing provided the Sub-Committee with statistics that he had obtained from Merseyside Police in respect of the number of drug and alcohol related incidents that had occurred in the locality. Members were advised that for the 12 month period ending March 2020 there had been 24 drug and alcohol related incidents in Westbourne Road logged by the Police and 78 drug and alcohol related incidents in Grange Road West and Grange Mount logged by the Police. The local resident provided Members of the Sub-Committee with details of his personal experiences of anti-social behaviour in the area and explained that he had been a resident in the locality for a period of 35 years and that his family had been resident there for two previous generations. He provided details of activities that had been undertaken in the area to address the level of anti-social behaviour which included the development of Westbourne Gardens. He advised Members of the Sub-Committee that he had personally spoken to a number of residents who lived within the immediate vicinity of the premises and that they shared his objection to the application and also his concerns that the granting of the application would lead to an increase in alcohol related anti-social behaviour in the area. He referred to the number of premises within the vicinity already selling alcohol and submitted that there was no need for another outlet.

The local resident responded to questions from the applicant's agent, Mr A Bayatti, legal advisor to the Sub-Committee and Councillor Cleary.

Councillor Cleary addressed the Sub-Committee and informed Members that he supported the concerns of the local resident which he was representing regarding the number of outlets in the area that sold alcohol and the fact that the premises are situated in close proximity to a Cumulative Impact Area. He referred to the number of residents who had signed a petition objecting to the application and the concerns in the local community due to issues that related to alcohol. It was his view that another premises selling alcohol in the area would result in an increase in anti-social behaviour.

The Licensing Manager displayed a map of the area which clarified where the Cumulative Impact area was in place.

Councillor Cleary responded to questions from Mr Rushton.

The local resident in attendance at the meeting advised that he had also submitted a petition objecting to the application. A short adjournment took place subsequent to which Mr A Bayatti confirmed that this petition had not been received by the Licensing Officers.

In response to the representations made by the local resident and Councillor Cleary, Mr Rushton stated that the concerns expressed were speculative and were not supported by evidence. He advised Members of the Sub-Committee that should the level of anti-social behaviour be a cause for concern and linked to the sale of alcohol

in the area, Merseyside Police would have submitted a representation objecting to the grant of the application. Mr Rushton informed Members that the applicant would be willing to liaise with local residents should the application be granted.

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 of the Licensing Act 2003 Sub-Committee had regard to the submissions made by Mr Rushton, the applicant's agent, on behalf of the applicant along with supporting documentation submitted in advance of the hearing and the representations made by local residents both written and orally at the hearing along with representations made on behalf of a local resident by a Ward Councillor.

In determining the matter, Members of the Sub-Committee accepted the statistical evidence presented by the local resident, however, Members noted there was no clear evidence which linked the level of anti-social behaviour to the supply of alcohol or the number of licensed premises in the area.

Members took into consideration the measures set out by the applicant to uphold the licensing objectives, in particular, the comprehensive conditions set out in the operating schedule and additional documentation as well as the fact that the applicant had reduced the hours for the sale of alcohol further to the original application that had been submitted.

In determining the application Members also had regard to the fact that there were no representations from any residents or from any of the Responsible Authorities, in particular Merseyside Police.

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 78 Westbourne Road, Birkenhead be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 09:00 to 22:00

Hours Open to the Public

Sunday to Saturday 06:00 to 22:30

2.00 PM - APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - MISSISSIPPI'S, 4 LANCELYN COURT PRECINCT, SPITAL ROAD, BEBINGTON

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

The Director of Governance and Assurance reported upon an application that had been received from Neil Quinn to vary a Premises Licence in respect of Mississippi's, 4 Lancelyn Court Precinct, Spital Road, Bebington.

It was reported that the premises currently have a Premises Licence and the permitted hours were set out within the report. The application to vary the Premises Licence was to allow the sale of alcohol for consumption both 'on' and 'off' the premises and to increase the licensed area to include the front outside area of the premises.

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.

In respect of the application three representations had been received from local residents. The representations related to noise nuisance and anti-social behaviour which they stated was currently caused by customers standing outside the Premises. The representations made considered that this would be exacerbated should customers be permitted to also consume alcohol in the area immediately outside the premises. Copies of the representations were available.

The applicant attended the meeting by way of video conference together with a co-owner of the business.

A local resident also attended the meeting by way of video conference.

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

The Licensing Manager outlined the report.

Mr Houghton, co-owner of the business addressed the Sub-Committee and advised that he and his partner had taken over the business five years ago. He suggested that there may have been some issues in respect of the management of the premises by previous owners, however, he informed the Sub-Committee that the premises was currently run responsibly and that no issues had been raised in respect of the management of the premises from any regulatory authority.

Mr Houghton reported that the application to vary the Premises Licence had been made in order to sustain the business in response to the current restrictions placed upon the operation of the business that had been brought about by the Covid-19 pandemic. He advised that the owners of the business live locally and that there was no intention to cause any conflict with other residents in the locality. He informed

Members of the Sub-Committee that he estimated the area proposed within the application would allow approximately two or three tables to be placed directly outside the front of the premises. He also advised that a barrier could be put in place to cordon off the area which could take the form of roping or planters.

In response to questions from the local resident and Members of the Sub-Committee, Mr Houghton advised that he wished the outside area to be used up to approximately 10.00 pm and that there was no intention for this area to be used until midnight. He also advised that only the immediate vicinity at the front of the premises would be used.

The Licensing Officer displayed a map of the area to clarify where the premises was situated and the proposed area that was intended to be used.

The local resident in attendance at the hearing informed Members of the Sub-Committee that he had submitted his representation on practical grounds. He believed the area intended to be used at the front of the premises was impractical and already busy due to smokers using this area. He expressed concerns that other premises in the locality could be affected by potential disorderly behaviour caused by people drinking in a small space outside the premises, however, he advised that he had no issues with the current operation of the premises.

In response to the representations made by the local resident, Mr Houghton advised that the premises were part of a community hub and although he appreciated the concerns in respect of possible disruption or nuisance to local residents there was no evidence to suggest that this would occur in the way which the premises was currently being managed. He advised that members of the public who were not his customers do stand near to his premises to smoke due to the location of a bin where individuals disposed of their used cigarettes. He further advised that he actively cleaned the outside area. Mr Houghton further submitted that there had been no representations from the residents who lived closest to 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 of the Licensing Act 2003 Sub-Committee had regard to the submissions made by Mr Houghton, co-owner of the business, along with supporting documentation submitted in advance of the hearing and the representations made by local residents both written and orally at the hearing.

Members gave consideration to the way in which the premises was currently managed and the fact that this had not given rise to a cause for concern to any of the Responsible Authorities, in particular Merseyside Police or the Licensing Authority. Further, it was noted by the Sub-Committee that the local resident stated that the premises was currently being managed responsibly.

In determining the application Members also had regard to the fact that there were no representations from any of the Responsible Authorities, in particular Merseyside Police and had particular regard to the fact that no evidence had been submitted to support the representations that anti-social behaviour would be caused should the application to vary the Premises Licence be granted.

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 to vary a Premises Licence in respect of Mississippi's, 4 Lancelyn Court Precinct, Spital Road, Bebington be granted to allow the sale of alcohol for consumption both 'on' and 'off' the premises and to increase the licensed area as set out in the plan attached to the application.**
- (3) That in addition to the conditions set out in the operating schedule, the following conditions be placed on the Premises Licence:**
 - The maximum number of people permitted in the outside area at the front of the premises at any one time is twelve.**
 - The maximum number of tables permitted in the outside area at the front of the premises at any one time is three.**
 - No patrons are allowed to consume food or drink in the outside area at the front of the premises unless they are seated at a table.**
 - The outside area at the front of the premises must be demarcated with the use of a physical barrier.**
 - The outside area at the front of the premises must be clear of patrons and tables and chairs by 10.00 pm.**
 - Notices must be displayed advising customers that the outside area at the front of the premises must be closed and cleared by 10.00 pm.**
 - Drinks for consumption in the outside area at the front of the premises must be served in plastic vessels.**