

LICENSING ACT 2003 SUB-COMMITTEE

Wednesday, 9 September 2020

Present: Councillors A Hodson
K Greaney
D Mitchell

31 APPOINTMENT OF CHAIR

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

32 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.

33 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - LIBERTY BELL COFFEE, 5 HAMILTON STREET, BIRKENHEAD

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 Liberty Coffee Limited for a Premises Licence in respect of Liberty Bell Coffee, 5 Hamilton Street, Birkenhead.

It was reported that the premises do not currently have a Premises Licence. The hours applied for were set out within the report, however it was reported that further to consideration of the representations the applicant was content to reduce the hours of operation.

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 had agreed that a number of conditions be placed on the Premises Licence should the application be granted. These included conditions relating to CCTV, staff training, no open vessels to be taken beyond the licensed area and a Challenge 25 Policy.

In respect of the application three representations had been received from local residents. The representations related to concerns of noise nuisance from entertainment coming from the premises and customers using the tables and chairs

outside the premises. Local residents had reported that nuisance had been caused by private events being held at the premises.

Representations had also been received from Ward Councillors, Councillor Pat Cleary and Councillor Steve Hayes who both supported the representations submitted by local residents. Copies of all representations were available.

The applicant attended the meeting by way of video conference together with his legal representative, Miss Tulloch.

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

The Licensing Manager confirmed that all documentation had been sent and received and that a local resident had requested that Councillor Cleary also speak on his behalf.

The Licensing Manager outlined the report and advised that the application had been amended to reduce the hours applied for. The amended application was outlined.

Miss Tulloch, the applicant's legal representative addressed the Sub-Committee and advised that the premises had opened as a coffee shop in November 2019 and traded successfully until they had to close in March 2020 due to the Coronavirus pandemic. Miss Tulloch informed Members of the Sub-Committee that the premises had re-opened in July 2020 and that the application for a Premises Licence had been made in order to enable them to develop their business into an early evening bistro.

Miss Tulloch advised that further to consideration of the representations made by Ward Councillors and local residents, the applicant had amended the application in which the hours applied for had been significantly reduced. Miss Tulloch advised that the applicant had also agreed for a number of additional conditions to be attached to the Premises Licence which had been requested by Merseyside Police which included conditions requiring CCTV at the premises, a Challenge 25 Policy and staff training.

Miss Tulloch reported that following receipt of the representations, the applicant had liaised extensively with Ward Councillors and local residents and informed Members that such engagement would continue on a quarterly basis to discuss any concerns that may be raised. Miss Tulloch referred to the fact that whilst the granting of a Premises Licence would allow live and recorded music to be played at the premises, the applicant intended that it would predominantly be background music being played with the exception of an acoustic guitarist on occasions.

Miss Tulloch informed Members that the purpose of the outside area would be to provide al fresco dining and drinking and that whilst the planning permission allowed the use of the outside area up until 21:00 each day, the outside area would be used up until 20:00 Monday to Thursday, 21:00 on Friday and Saturday and 18:30 on Sunday. Miss Tulloch referred to the close proximity of the premises to a taxi rank, a bus stop and a train station which she believed would assist with the dispersal of customers from the premises. It was also explained that smokers would be directed to a designated area and that this would be monitored by staff to prevent any nuisance being caused to local residents.

In response to questions from Councillor Cleary, the applicant advised that he recognised that noise could escape to accommodation above the premises and in seeking to remedy this he had been liaising with Environmental Health and was in the process of installing physical measures to reduce noise escaping to residential properties.

The Licensing Officer displayed a map of the area to clarify where the premises was situated and the outside area that was intended to be used and in response to further questions from Councillor Cleary the applicant advised that customers would be directed to a designated smoking area which would be monitored by staff.

Councillor Cleary, Ward Councillor addressed the Sub-Committee and advised that he was making representations on behalf of a local resident and himself. He advised that the particular concerns regarding the application were in respect of the opening hours of the premises and that the local resident whom he was representing believed that the premises should operate no later than 9.00pm. He clarified that the local resident believed that should a licence be granted beyond that time this would have a significant impact on his quality of life.

Councillor Cleary informed Members that he welcomed the positive contribution the premises would bring to the area and that he was not objecting to the granting of a Premises Licence however he requested that conditions be applied to the licence to prevent public nuisance being caused to local residents. He further advised that he welcomed the amendment to the application which reduced the operating hours both inside and outside of the premises. He confirmed to Members of the Sub-Committee that liaison had taken place between the applicant, himself, local residents and other Ward Councillors and that he had been reassured by the fact that the applicant would be willing to continue with such meetings on a regular basis.

The local resident in attendance at the meeting advised Members of the Sub-Committee that he lived directly above the premises and had experienced noise nuisance from the premises by music being played. He explained that whilst the area was busy during the daytime, it became quiet after 6.00pm and he therefore had concerns regarding disturbance that could be caused by music being played at the premises and by customers of the premises.

In response to the representations made by the local resident and the Ward Councillor, Miss Tulloch reported that the applicant would manage the premises responsibly so as not to cause a nuisance to local residents or undermine the licensing objectives. It was emphasised that music played at the premises would be background music with occasional acoustic music.

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 Sub-Committee had regard to the representations made both in writing and orally at the hearing and considered that the applicant had given serious consideration to the representations made in respect of the application. Members of the Sub-Committee noted that whilst representations had been made in respect of

the application support for the operation of the business had also been provided which it was considered would make a positive contribution to the area.

Members of the Sub-Committee gave consideration to the concerns expressed regarding noise emanating from the premises and in this regard Members of the Sub-Committee had taken into account the willingness of the applicant to reduce the hours of operation both inside and outside the premises, as well as the proposed physical measures to be installed to reduce the escape of noise to the residential property above the premises together with the willingness of the applicant to enter into regular meetings with local residents and Councillors in order to discuss and address any issues that may arise.

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

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 Liberty Bell Coffee, 5 Hamilton Street, Birkenhead be granted with the following hours:**

Sale by Retail of Alcohol

Sale of alcohol for consumption on the premises;

Monday to Wednesday	09:00 to 21:30
Thursday	09:00 to 22:00
Friday & Saturday	09:00 to 22:30
Sunday	10:00 to 21:30

Sale of alcohol for consumption off the premises;

Monday to Wednesday	09:00 to 22:00
Thursday	09:00 to 22:30
Friday & Saturday	09:00 to 23:00
Sunday	10:00 to 22:00

Hours Open to the Public

Monday to Wednesday	07:00 to 22:00
Thursday	07:00 to 22:30
Friday & Saturday	07:00 to 23:00
Sunday	10:00 to 22:00

