

# LICENSING ACT 2003 SUB-COMMITTEE

Friday, 18 September 2020

Present: Councillors A Hodson  
C Cooke  
K Greaney  
D Mitchell

## 34 APPOINTMENT OF CHAIR

### Resolved –

- (1) That Councillor A Hodson be appointed Chair to consider the matter in relation to Marine Street Social together with Councillors D Mitchell and K Greaney.
- (2) That Councillor A Hodson be appointed Chair to consider the matter in relation to The Sports Bar together with Councillors C Cooke and K Greaney.

## 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 10.00 AM - APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - MARINE STREET SOCIAL, MARINE POINT, KINGS PARADE, NEW BRIGHTON

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 Robert Casson to vary a Premises Licence in respect of Marine Street Social, Marine Point, Kings Parade, New Brighton.

It was reported that the premises currently have a Premises Licence and the permitted hours were set out within the report. The hours applied for to vary the Premises Licence were also set out within the report.

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 a representation had been received from a local resident. The representation related to concerns of anti-social behaviour which could be caused by customers of the premises leaving at a late hour.

A representation had also been received from a local business. The representation stated that customers of the Travelodge currently suffered a material disturbance from the premises due to the level of noise generated from the property, in particular the level of base and vibrations from music being played at the premises. The concerns also related to the potential for anti-social behaviour to take place within the immediate vicinity of the Travelodge and for the safety of guests staying at the Hotel to be put at risk. Copies of the representations were available.

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

A local resident also attended the meeting by way of video conference. Two Managers from the Travelodge were also in attendance by way of phone call who confirmed they were content for the hearing to proceed in the absence of their solicitor.

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

The Licensing Manager outlined the report.

Mr Barry, the applicant's representative, addressed Members of the Sub-Committee and advised that the application to vary the Premises Licence had been made in order to extend the operating hours by half an hour due to customer demand. Mr Barry explained that it had been a commercial decision which would provide further opportunities to employ more staff. He informed Members of the Sub-Committee that the operation of the premises had been affected by restrictions imposed as a consequence of the Coronavirus pandemic and that the granting of the application would support the future viability of the business.

Mr Barry reported that the applicant had given careful consideration to the representations made in respect of the application and would be willing to work with the Travelodge to address the issues raised within their representation.

In response to concerns regarding how the premises would be managed should the hours for the sale of alcohol terminate at the same time as the hours that the premises would be open to the public, Mr Barry advised that he wished to amend the application to reduce the hours applied for in respect of the sale of alcohol by half an hour.

Mr Barry, on behalf of the applicant, advised Members of the Sub-Committee that the number of door supervisors had been increased at the premises and believed that this would assist with the management of people both during the time they were at the premises and also when they were leaving to reduce any nuisance caused to people staying at the Travelodge. Members were also advised that liaison had taken place between the applicant and the Travelodge and as a result soundproofing had been installed to reduce any noise nuisance caused by music emanating from the premises.

The local resident in attendance at the hearing informed Members of the Sub-Committee that she had submitted her representation due to concerns of noise nuisance and anti-social behaviour late at night, however she advised that further to hearing the assurances made by the applicant and his representative, she confirmed that she would be content for the amended application to be granted.

The Managers of the Travelodge addressed the Sub-Committee and provided details of issues that had been affecting customers of the hotel in relation to noise nuisance. Members were advised that these issues included noise from customers on the roof terrace; people sitting at the tables outside until a late hour and people leaving the premises. The Managers of the Travelodge acknowledged that the applicant had taken measures to address noise emanating from music at the premises through enhanced insulation, however they informed Members that they still had concerns that customers and other members of the public had been using the outside tables at a late hour which had resulted in the hotel receiving a number of verbal complaints. They further advised that they were content with the amendments made to the application and the assurances provided by the applicant.

In response to concerns relating to the use of tables outside of the premises at a late hour, the applicant advised that they would be content to have a condition attached to the Premises Licence to prohibit the use of tables and chairs outside the premises beyond 21:00.

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 coming to their decision, Members gave consideration to the assurances provided by the applicant that the premises would be managed in such a way as to prevent any nuisance being caused to people staying at the Travelodge and to local residents. Members also gave consideration to the proposal made by the applicant to have a condition attached to the Premises Licence to prohibit the use of tables and chairs outside the premises beyond 21:00 and that measures would be taken to prevent any gathering of customers in the area immediately outside the premises adjacent to the Travelodge.

Members of the Sub-Committee noted the willingness of the applicant to liaise with the Travelodge in respect of any concerns 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 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 to vary a Premises Licence in respect of Marine Street Social, Marine Point, Kings Parade, New Brighton be granted with the following hours:

**Sale by Retail of Alcohol**

Sunday to Thursday            08:00 to 23:30  
Friday and Saturday            08:00 to 02:00

**Live Music (unchanged)**

Sunday to Saturday            23:00 to 00:00

**Recorded Music**

Sunday to Thursday            23:00 to 00:00  
Friday and Saturday            23:00 to 02:30

**Late Night Refreshment**

Sunday to Thursday            23:00 to 00:00  
Friday and Saturday            23:00 to 02:30

**Hours Open to the Public**

Sunday to Thursday            08:00 to 00:00  
Friday and Saturday            08:00 to 02:30

**Non-Standard Timings:**

**Sale by retail of Alcohol**

Christmas Eve                    08:00 to 02:00  
Boxing Day                        08:00 to 02:30

An extension from the terminal hour on New Year's Day until 08:00.  
To commence at 07:00 for the three days of The Grand National Event.  
Bank Holiday Sundays            08:00 to 02:30

**Live Music (unchanged)**

An extension from the terminal hour on New Year's Day until 08:00.

**Recorded Music**

Christmas Eve                    23:00 to 02:30  
Boxing Day                        23:00 to 03:00

**An extension from the terminal hour on New Year's Day until 08:00.**

**Bank Holiday Sundays            23:00 to 03:00**

**Late Night Refreshment**

**Christmas Eve                    23:00 to 02:30**

**Boxing Day                        23:00 to 03:00**

**An extension from the terminal hour on New Year's Day until 05:00.**

**Bank Holiday Sundays            23:00 to 03:00**

**Hours Open to the Public**

**Christmas Eve                    08:00 to 02:30**

**Boxing Day                        08:00 to 03:00**

**An extension from the terminal hour on New Year's Day until 08:00.  
To commence at 07:00 for the three days of The Grand National Event.**

**(3) That in addition to the conditions set out in the operating schedule, the following conditions be placed on the Premises Licence:**

- The outside area at the front of the premises adjacent to the Travelodge must be closed and cleared no later than 21:00.**
- The outside area at the front of the premises adjacent to the Travelodge must be regularly monitored by staff to prevent persons congregating in this area after 21:00.**

**37    2.00 PM - APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - THE SPORTS BAR, 60-62 ARGYLE 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 Lewis Holdgate for a Premises Licence in respect of The Sports Bar, 60-62, Argyle Street, Birkenhead.

It was reported that the premises previously held a Premises Licence however this licence had lapsed as the Premises Licence Holder, Chevron Leisure Ltd had dissolved. The hours applied for were set out within the report.

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 the Licensing Authority the applicant had agreed to amend the operating schedule.

In respect of the application nine representations had been received from local residents. The representations related to a history of anti-social behaviour caused by customers of the premises and noise nuisance from entertainment coming from the premises at a late hour.

Representations had also been received from Ward Councillors, Councillor Pat Cleary and Councillor Steve Hayes who 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 the proposed Designated Premises Supervisor.

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

The Licensing Team Leader confirmed that all documentation had been sent and received and that two local residents had requested that Councillor Hayes also speak on their behalf and also that the local resident in attendance was representing himself as well as another local resident.

The Licensing Team Leader outlined the report.

The applicant, Mr Holdgate, reported that he had made the application for a Premises Licence to remain open an hour after the terminal hour for the sale of alcohol to allow for a staggered dispersal of customers which would be 1.00 am Sunday to Thursday and 3.00 am Friday and Saturday.

Mr Holdgate advised Members of the Sub-Committee that he had worked at the premises for a number of years. He informed Members that he had been engaged in a supervisory role for the two years prior to the termination of the previous Premises Licence but had not been responsible for the overall management of the premises. He advised that he had been aware of complaints in respect of noise coming from the premises causing a disturbance to local residents and informed Members that he considered he would be able to address some of those concerns by closing doors and windows and installing a noise limiter as well as further sound proofing measures. He advised Members of the Sub-Committee that he accepted there had been occasions when music could be heard by residents living in close proximity to the premises as he lived above the premises and had heard the noise from music emanating from the premises.

The local resident in attendance at the meeting advised Members of the Sub-Committee that he had experienced noise nuisance from the premises over a number of years. He provided detailed evidence of incidents of anti-social behaviour caused by customers of the premises. He reported that local residents had witnessed incidents of fighting and aggressive behaviour outside the premises and that bottles and glasses had been thrown into the car park of local residents' properties. He informed Members of the Sub-Committee that other tenants had been forced to move house due to the disturbances that they had experienced. He provided details of his own experiences which included abusive behaviour towards

him from customers of the premises and criminal damage to property. He also submitted press reports in relation to incidents of crime and disorder that had occurred inside and outside the premises.

The local resident subsequently read out a statement from another local resident who had experienced abusive behaviour verbally and physically from customers of the premises. He advised that the mental health of this resident had been affected by this and also from noise emanating from the premises which had resulted in him suffering from sleep deprivation. He reported that this resident believed that the licensing objectives had not been upheld when the premises had previously held a Premises Licence.

The Licensing Team Leader displayed a map of the area to clarify where the premises was situated.

Councillor Cleary, Ward Councillor addressed the Sub-Committee and advised that he had received many complaints from local residents when the premises had previously held a licence, in respect of noise emanating from music playing at the premises and customers of the premises as well as incidents of crime and disorder that had occurred within the vicinity of the premises. Councillor Cleary provided a detailed list of complaints from local residents which had occurred over a number of years and advised that irrespective of the change in ownership the applicant had been employed at the premises for four years, however, nothing had been done to address any of the issues raised which had included significant acts of criminal behaviour.

Councillor Hayes, Ward Councillor addressed the Sub-Committee and reiterated the concerns expressed by Councillor Cleary. He advised that a number of incidents had also been reported directly to him. He referred to the detailed log of incidents from local residents that he had provided prior to the hearing.

In response to the representations made by the local residents and the Ward Councillors, the applicant acknowledged that there had been incidents of disturbance at the premises but advised that he had reported such incidents immediately to the Police and to the Licensing Authority. He informed Members of the Sub-Committee that in order to address the issues of criminal activity at the premises, it had been necessary to change the door supervisor company. He reported that, in response to concerns relating to the external area at the rear of the premises, he would be prepared to prohibit that area from being used by customers.

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 matter, Members of the Sub-Committee had regard to the significant nuisance caused to local residents by customers of the premises and noise, principally music, emanating from the premises. Members had particular concerns that the applicant had undertaken a supervisory role at the premises and had been unable to demonstrate a capacity to manage the premises in such a way as to uphold the licensing objectives.

In coming to their decision, Members of the Sub-Committee had regard to the fact that no representations had been made by Merseyside Police, however they considered that the evidence that had been provided from local residents had been so compelling that they were satisfied there had been a significant issue in respect of anti-social behaviour at the premises over an extended period. Members therefore believed that there were no measures that could be put in place to satisfy them that no nuisance would be caused by the operation of these 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 application for a Premises Licence in respect of The Sports Bar, 60-62 Argyle Street, Birkenhead be refused.**