



## Licensing Act Committee

<b>Date:</b>	<b>Thursday, 17 June 2021</b>
<b>Time:</b>	<b>5.30 p.m.</b>
<b>Venue:</b>	Floral Pavilion, Marine Promenade, New Brighton, CH45 2JS

Members of the public are encouraged to view the meeting via the webcast, (see below) but for anyone who would like to attend in person, please contact the box office at the Floral Pavilion by telephone on 0151 666 0000, in advance of the meeting. All those attending will be asked to wear a face covering (unless exempt) and are encouraged to take a Lateral Flow Test before attending. You should not attend if you have tested positive for Coronavirus or if you have any symptoms of Coronavirus.

This meeting will be webcast at  
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## AGENDA

### 1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee are 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.

### 2. MINUTES (Pages 1 - 4)

To approve the accuracy of the minutes of the meeting of the Licensing Act Committee held on 14 October 2020.

### 3. MINUTES OF THE LICENSING PANEL (Pages 5 - 44)

To approve the accuracy of the minutes of the Licensing Panel meetings held on 11 December 2020, 12 February 2021, 21 April 2021, 28 April 2021 and 29 April 2021.

#### **4. APPOINTMENT OF THE LICENSING PANEL**

The Committee is requested to appoint the Licensing Panel for the ensuing year.

In 2020/21, each Licensing Panel was comprised of three members and one reserve member drawn from the pool of fifteen Committee members. The Chair was appointed on the day of each meeting.

## LICENSING ACT COMMITTEE

Wednesday, 14 October 2020

Present: Councillor A Hodson (Chair)

Councillors	M Collins	D Mitchell
	C Cooke	L Rowlands
	G Davies	J Stapleton
	K Greaney	I Williams
	AER Jones	KJ Williams
	C Jones	S Williams

Apologies Councillors T Norbury

### 1 MINUTES' SILENCE

The Chair asked that the Committee observe a minutes' silence in tribute to the memory of former Councillor Bill Davies who had served on Licensing Committees for a number of years and who had sadly passed away on 2 October, 2020.

### 2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the 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.

### 3 MINUTES

**Resolved** – That the accuracy of the minutes of the meetings of the Licensing Act 2003 Committee held on 22 May 2019, the special meeting held on 25 July 2019 and the meeting held on 13 November 2019 be approved.

### 4 MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE

**Resolved** – That the accuracy of the minutes of the meetings of the Licensing Act 2003 Sub-Committees held on 25 April 2019, 8 May 2019, 22 May 2019, 14 June 2019, 22 August 2019, 29 November 2019, 12 June 2020, 15 July 2020, 17 July 2020, 22 July 2020 and 14 August 2020 be approved.

## 5 APPOINTMENT OF LICENSING PANEL

The Committee was requested to appoint the Licensing Panel with the term of membership to be continued until amended or otherwise changed by this Committee and until such time as a new Licensing Panel is appointed.

The Chair explained that each Licensing Panel is to be comprised of three Members drawn from the pool of fifteen Committee Members with the Chair being appointed on the day of each meeting.

The Legal Advisor to the Committee outlined the terms of reference as stated in paragraph 12.3 of the Constitution and agreed at Council on 28 September 2020 which state:

### **“12.3 Licensing Panels (Licensing Act)**

Sub-Committees of three (3) members of the Licensing Act Committee with responsibility for the Council’s functions to deal with applications, determinations and reviews of licences, permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005. Up to two (2) further members of the Licensing Act Committee may attend with the Licensing Panel as observers.”

### **Resolved –**

- (1) That the Licensing Panel be appointed with the term of membership to be continued until amended or otherwise changed by this Committee and until such time as a new Licensing Panel is appointed.**
- (2) That each Licensing Panel meeting with the terms of reference outlined above be comprised of three members to be drawn from the following pool of fifteen Committee Members:**

**Councillors George Davies, Karl Greaney, Adrian Jones, Chris Jones, Tony Norbury, Jean Stapleton, Irene Williams, Jerry Williams, Andrew Hodson, Mike Collins, Les Rowlands, Steve Williams, Dave Mitchell and Chris Cooke (1 vacancy).**

## 6 UPDATE FROM THE LICENSING MANAGER

At the request of the Chair, the Licensing Manager provided an update on the work that had been carried out to support local businesses during the pandemic.

It was reported that meetings had taken place with licensees to provide them with a briefing in terms of the new regulations and the implications of those and also to provide advice and support, in particular financial support for those businesses who had had to close.

The Licensing Manager was pleased to report that further to the inspection of over 90% of premises during the last two to three weeks a high level of compliance had been demonstrated, however if it had been found that premises had not complied with the regulations warning letters had been issued and in one case a Fixed Penalty Notice.

The Licensing Manager advised that work was ongoing in conjunction with Environmental Health and other agencies in order to keep people safe and to keep Wirral well.

The Chair gave thanks to all those involved for their hard work and support.

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## LICENSING PANEL

Friday, 11 December 2020

Present:

Councillors	AER Jones	A Hodson
	D Mitchell	L Rowlands
	T Norbury	

### 1 APPOINTMENT OF CHAIR

Resolved –

- (1) That Councillor D Mitchell be appointed Chair to consider the application in respect of Johnny Pie, Pye Road, Heswall, together with Councillors A Jones and T Norbury.
- (2) That Councillor A Hodson be appointed Chair to consider the application in respect of Thirty Six, Conway Street, Birkenhead, together with Councillors D Mitchell and L Rowlands.

### 2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel 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.

### 3 10:00 AM - APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - JOHNNY PYE, PYE ROAD, HESWALL

The Legal Advisor to the Licensing Panel 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 the Licensing Authority for a Review of a Premises Licence in respect of Johnny Pye, Pye Road, Heswall, under the provisions of the Licensing Act 2003.

The Director of Law and Governance advised that the Panel 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 the conduct of the premises in respect of non-compliance with the requirements of their Premises Licence and Covid-19 legislation/guidance.

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

In response to the review application, a representation had been received from the Premises Licence Holder, Marston Plc. A copy of the representation was available.

The Licensing Authority was represented by Mr A Bushell who was in attendance at the meeting together with Ms J Moran, Licensing Enforcement Officer.

Ms M Hazelwood, John Gaunt & Partners Solicitors represented the Premises Licence Holder and was in attendance with Mr J Bentley, Area Manager and Ms V Dale, Designated Premises Supervisor.

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

Mr A Bushell, Licensing Operations Manager acting as the Responsible Authority Officer for the Licensing Authority outlined the reasons why he had believed it was necessary to review the Premises Licence. He explained that the Licensing Authority have been playing a key role in Wirral Council's response to the COVID-19 pandemic. He reminded the Licensing Panel that the Government had introduced a number of measures in the form of regulations and guidance for the safety of the public in order to reduce the risk to public health, in particular regulations relating to the operation of licensed premises. It was recognised by Mr Bushell that the restrictions had resulted in very difficult circumstances for many businesses in the hospitality sector. He advised the Licensing Panel that in order to support businesses at this time officers from the Licensing Authority and Environmental Health had provided information and guidance to assist them to comply with the regulations. Mr Bushell provided extensive detail of the number of engagement visits that had

taken place at the Johnny Pye starting with a visit in advance of the re-opening of licensed premises in July 2020.

Mr Bushell advised that on 3 July 2020 a visit was made to the premises by a Licensing Officer in order to establish whether measures had been put in place in readiness for pubs being permitted to re-open from 4 July 2020. He reported that during the visit it was noted that measures had been put in place in readiness for re-opening and that advice was provided to the Designated Premises Supervisor (DPS), Victoria Dale, in respect of the showing of a live football match at the premises. The DPS was advised that in accordance with Government guidance, broadcasts should not be shown if they were likely to encourage customers to raise their voices above normal speaking level, due to the increased risk of transmission of the COVID-19 virus.

Mr Bushell informed the Licensing Panel that on 4 September 2020 a report had been made to Wirral Council in relation to concerns about the lack of social distancing within the premises. It was alleged that there were numerous young people socialising, hugging, and dancing inside the premises. The individual who had made the report was concerned that the premises was an 'outbreak waiting to happen'.

Members of the Licensing Panel were informed that a Licensing Officer had subsequently visited the Premises later that day and spoke to the DPS regarding the complaint. It was reported that the premises was quiet at the time of the visit and that the required measures were in place. It was further reported that whilst the marquee was empty at the time of the visit, the Licensing Officer had cause to advise the DPS that the tables inside the marquee were not spaced out sufficiently.

Mr Bushell informed Members that on 15 September 2020 a further report was made to the Council by a member of the public who alleged they had visited the premises on Saturday 12 September 2020 during the latter stages of the Liverpool v Leeds football match which was being broadcast in the premises. It was reported that the pub was 'packed' and there was no attempt made to maintain social distancing or take any details for NHS Test and Trace purposes. It was also reported that the volume on the televisions was such that people had to raise their voices to be heard, there were no screens separating groups inside the premises, and there was one screen at the bar which nobody was using.

The Licensing Panel were advised that on 20 September 2020 a Licensing Officer visited the premises, and again advised the DPS of the details of the complaint that had been received. It was reported that the DPS acknowledged that it had been busy during the showing of the football match but that she had tried to keep everybody seated. Members of the Licensing Panel were informed that the officer had asked the DPS to review the operation of the premises should she wish to continue to show football matches, this included

implementing table service. Members of the Licensing Panel were advised that in response to advice provided, the DPS had expressed concern regarding the cost of implementing further measures in the premises, which were designed to protect the safety of the public and asked if such measures could be avoided. In response to this comment the DPS was advised that this was not possible and that further visits may take place to ensure compliance. The Licensing Panel were informed that at this visit the DPS had been encouraged to attend online Licensed Premises Network Meetings. The Licensing Officer advised of the importance of the meetings as it was a useful tool the Licensing Authority use to provide advice and guidance to the licensed trade about the current guidance and regulations and the DPS had been advised of potential outcomes where compliance failures are identified in premises.

Members of the Licensing Panel were made aware that on 21 September 2020 a further report had been made to Wirral Council, stating that the premises had hosted an event with live music where there was 'no social distancing whatsoever', and that videos had been posted on the Premises' Facebook page. The Licensing Panel were provided with the following details in respect of a visit to the premises that was conducted on 28 September 2020 by an Environmental Health Officer to carry out a COVID-19 inspection as part of visits to a number of premises. The officer reported that whilst they could see that there was information on the bar regarding the Marston's App and that there was also a book as an alternative method of recording customer's details, there was no NHS QR Code Poster displayed, which was a legal requirement. It was also noted by the officer that some of the tables appeared to be too close together. The officer had been unable to continue the inspection at this time as they were advised that the manager had not been available that staff were busy. The officer returned later that afternoon with a colleague who was also conducting COVID-19 compliance visits. It was noted on arrival that the NHS QR Code Poster had subsequently been displayed. The officers explained the purpose of their visit to the DPS. The DPS was reported to have become very defensive with the officers. It was further reported that the officer tried to explain that the legislation had been updated making it a legal requirement for the NHS QR Code Poster to be displayed. The tables that had been mentioned to a member of staff earlier in the day had been moved further apart. The DPS then started to explain that the business had been financially affected by the new restrictions and that if the officers insisted that tables be removed she "may as well shut the pub".

The Licensing Panel were further informed that on 7 October 2020 Merseyside Police had contacted Wirral Council to advise they had received a complaint about the premises. It was reported that the premises were not operating the NHS Test and Trace System, staff and customers were not wearing face coverings, table service was not being operated and there was no hand sanitiser available. It was reported to the Licensing Panel that as a result of the information provided by Merseyside Police a Licensing Officer

visited the Premises on the evening of 7 October 2020. The Licensing Panel heard that as the officer walked towards the premises and past a window she noticed two females dancing near to the bar and hugging each other. It was reported that when the officer walked into the premises the DPS was present and the officer introduced herself. The Licensing Panel were informed that when the officer expressed concern regarding the actions of the two females the DPS responded by saying that the two females were members of staff and were 'just having a bit of fun' and it was nothing more than that.

The Licensing Panel were informed of a number of matters that were a cause of concern to the officer during this visit as they were contrary to the requirement of the regulations, including a group of males who did not appear to be from the same household sitting together. It was reported that when the officer began to highlight these issues the DPS become immediately aggressive towards the officer. The events of the visit on that evening were described to the Licensing Panel which culminated in the DPS using foul and abusive language to the officer repeatedly, directing the officer to leave the premises, which caused customers of the pub to go quiet and look towards the officer.

The Licensing Panel were made aware that at this point the Licensing Officer, who is female, noticed that one of the males sat with the DPS's husband in the pub was making hand gestures replicating oral sex, in the officer's direction. The officer subsequently became very concerned for her safety and made the decision to terminate the visit and leave the premises. It was further reported that as the officer approached the exit of the premises the husband of the DPS made an insulting remark towards her. One of the other males sitting with him also repeated this insulting remark.

The Licensing Panel were made aware that the officer who had been subjected to the aggressive behaviour of the DPS had many years' experience as a Police Officer before joining the Licensing Authority as an Enforcement Officer. It was further reported that the officer described the events that took place in the premises that evening as one of the worst experiences of her professional life and the only time she has felt vulnerable and threatened.

Mr Bushell reported that on 8 October 2020, in his role as the Licensing Operations Manager, contacted the Premises Licence Holder, Marston's Plc, to discuss what had happened on the 7 October 2020 and advise that the behaviour of the DPS towards an authorised officer was unacceptable. The Licensing Panel were advised that Mr Bentley, an area manager for Marston's PLC agreed that such behaviour was unacceptable and that he would be meeting with the DPS. The Licensing Panel were made aware that Mr Bentley reported back to Mr Bushell on 9 October 2020 advising that after speaking with the DPS he could report that having considered her actions she believed that she should not have acted in the way that she did and that she

would like to apologise for her behaviour. It was further reported to the Licensing Panel that no apology had subsequently been received either directly to the Licensing Officer or to the Licensing Authority.

Mr Bushell advised the Licensing Panel that as a result of the matters described by complainants to the Local Authority and Merseyside Police, and the incident that took place on 7 October 2020 he considered it appropriate to request CCTV footage from the premises in order to see how the premises was being managed. The Licensing Panel were made aware that the Premises Licence has a condition attached which reads, "CCTV must be installed with recording facilities; such recordings must be retained for a period of 30 days and made available within a reasonable time upon request by the Police."

Mr Bushell explained that on 12 October 2020 he visited the premises along with officers from Merseyside Police Licensing Unit when a request was made for CCTV footage. Mr Bushell advised that during this visit he met the DPS who wished to provide him with an account of what had happened during the visit by the Licensing Officer on 7 October 2020. He reported that the DPS explained that she was feeling under pressure that day and was feeling emotional due to the recent passing of a member of staff. He further advised that the DPS did not deny that she had said what she was reported to have said to the Licensing Officer and that she acknowledged that her behaviour was unacceptable.

The Licensing Panel were made aware that during the visit the DPS explained that the CCTV system that was in place when she took over was inadequate and had since been replaced with a better system. It was reported that the DPS was able to show live footage on her mobile phone and was able to demonstrate that historical footage was available. However, the DPS stated she did not know how to make recordings of the CCTV and she would have to ask her "electrician" to do it for her. The Members of the Licensing Panel were made aware that as the footage was on a mobile phone screen and the DPS was unable to download the footage, it was agreed that the DPS would be left with a USB memory stick, provided to her by Merseyside Police during the meeting, for the footage to be downloaded onto and that she would advise when it was ready to collect. The Police Officers advised the DPS that she must ensure she knows how to use the CCTV system, and not rely on an electrician. It was further reported to the Licensing Panel that The DPS had been requested to provide CCTV footage pertaining to a number of dates and times, which included the Liverpool v Leeds football match, the date of the incident involving the Licensing Officer, and the Friday and Saturday evenings of the weekend which had just passed.

Members of the Licensing Panel were informed that it had been agreed that this would be provided no later than Wednesday 14 October and that despite several requests from Mr Bushell the CCTV coverage had never been

provided. It was reported that the failure to provide the CCTV footage was a breach of the condition attached to the Premises Licence, and of particular importance denied the Licensing Authority the opportunity to investigate potential offences as well as the serious matter that occurred on 7 October 2020.

Mr Bushell advised the Licensing Panel that the manner in which this premises currently operated as described by a number of complainants, and through observations made by Local Authority Officers undermined the Public Safety licensing objective. He further reported that in his 16 years working in Regulation for Local Authorities, he had never experienced nor was he aware of any colleague who has been subjected to such behaviour when carrying out their duties. He stated that due to the actions of the DPS, a situation had escalated inside the premises which had resulted in attendees at the premises focussing their attention on the officer as the DPS shouted expletives towards her, supported by her husband and his friend. He advised the Licensing Panel that the behaviour of the DPS on 7 October 2020 led to a situation that made the officer feel she was threatened and had to leave the premises immediately for her own safety. It was his view that this could have led to disorder at the premises. The officer advised the Licensing Panel that in his opinion this clearly undermined the licensing objective in respect of the Prevention of Crime and Disorder.

It was submitted by Mr Bushell that the position of DPS is the most important position in relation to running both a legal, and socially responsible licensed premises. It was acknowledged by him that the running of a pub can be a difficult task and therefore Premises Licence Holders should be certain that the person they appoint as a DPS have the necessary skills and expertise to do so professionally and competently. He further submitted that it was the belief of the Licensing Authority that when running a premises in the current climate, such skills and experience were even more important, and an experienced DPS could make a vast difference. He expressed concerns in respect of both the attitude and behaviour of the DPS at the premises which had resulted in a number of complaints regarding the operation of the premises. Moreover, the failure to provide CCTV coverage on the part of the DPS was of particular concern as it had prevented the Licensing Authority from carrying out a more detailed investigation into the operation and management of the premises.

Members of the Licensing Panel had been provided with detailed written submissions from Ms Hazlewood, Solicitor from Messrs John Gaunt Solicitors acting on behalf of the Premises Licence Holder. The written submissions provided included a detailed rebuttal of the reports relating to alleged failings at the premises in respect of compliance with COVID –19 Regulations and also set out references in the Statutory Guidance and outlined the steps that may be taken when determining a Review application.

Ms Hazlewood addressed the Licensing Panel and requested that they hear an apology from the DPS in respect of her behaviour towards the Licensing Officer on 7 October 2020. The DPS read out a statement of apology.

Ms Hazlewood highlighted from her written submission the position of the Premises Licence Holder was that the premises was compliant with COVID-19 Regulations when inspected by officers and that reference to some concerns within the Review Application had not been reflective of the way in which the premises was being managed. Mr Bushell challenged this as he had made reference to specific breaches that had been identified. In response to this challenge it was accepted that the operation of the premises had not been perfect. It was further accepted that on 21 September 2020 the premises had put on an event which had not gone to plan and that the DPS had found it difficult to manage and as a consequence stopped the event, however this had been after it was shown on Facebook.

It was submitted to the Licensing Panel on behalf of the Premises Licence Holder that the Licensing Authority had failed to demonstrate any material or significant failing of compliance and that the application submitted by Mr Bushell made reference to the extent of compliance achieved and effort made in this regard. Ms Hazlewood advised the Licensing Panel that a graduated approach should have been applied by the Licensing Authority to address their concerns and believed that it had not been necessary to review the Premises Licence.

The Licensing Panel heard from Ms Hazlewood that it was the Respondent's case that Health is not a licensing objective, the licensing objective was one of public safety and that the two are distinguishable. It was further submitted that whilst the choice of language on the 7 October 2020 was not pleasant the use of industrial language or profanities are in themselves not a criminal offence and therefore there had been no evidence of crime and disorder within the premises. The Licensing Panel were also advised that during this visit on 7 October 2020 there had been no evidence of breaches of the COVID-19 Regulations. This again was disputed by Mr Bushell.

The Licensing Panel were advised that there had been no malicious intent as to the failure to supply CCTV footage or in respect of the failure of the system to record and that this had been beyond the control of the DPS. Ms Hazlewood advised that the condition in respect of CCTV could be improved and updated.

Ms Hazlewood advised Members of the Licensing Panel that the allegation as to the suitability of the DPS failed to take into account the operation of the premises since her appointment particularly during the reopening of licensed premises during July and August 2020 and in dealing with the challenges of customer behaviour. She informed Members of the Licensing Panel that the report of the incident on 7 October 2020 had provided no understanding as to

the emotionally charged day into which the officer arrived. Ms Hazlewood believed that this matter could be dealt with by way of a written warning from the Licensing Panel.

Ms Hazlewood requested Members of the Licensing Panel to consider the quality of the evidence provided by the Licensing Authority in particular evidence in respect of any failure to promote the licensing objectives. She asked that the Members of the Licensing Panel take into account that there were no representations from any other Responsible Authorities or residents.

In determining the Review application the Members of the Licensing Panel gave serious consideration to the submissions made by the Licensing Authority as well as the representations made on behalf of the Premises Licence Holder.

Members of the Licensing Panel noted that there had been four separate reports to the Council regarding concerns relating to the failure of the premises to operate in compliance with the COVID-19 Regulations. They accepted the submissions made by the Licensing Authority that this had caused the safety of the public to be put at risk. Whilst it was submitted to the Licensing Panel that there was a separation to be recognised between public health (which was not a licensing objective) and public safety, it was the view of the Members of the Licensing Panel that the requirements placed on the hospitality industry, in particular licensed premises, through the COVID 19 Regulations was to protect the public from harm and that therefore a failure to comply with these regulations did put the safety of the public at risk.

The Licensing Panel noted the submissions made on behalf of the Premises Licence Holder in that there had been compliance on the part of the premises, however they also accepted the challenges made to this by the Licensing Authority in particular in respect of an event that took place on 21 September 2020 and the observations made by the Licensing Officer on 7 October 2020. Members of the Licensing Panel were particularly concerned that the Licensing Officer had been unable to complete the inspection of the premises on 7 October 2020 and that her safety had been put at risk due to the actions of the DPS. Members of the Licensing Panel accepted the observations of the Licensing Officer on 7 October 2020 that there had been breaches identified on that evening and they were particularly concerned that the Licensing Authority had been denied the opportunity to investigate this incident further as well as undertaking an investigation of the operation of the premises on a number of identified dates due to the failure of the DPS to provide CCTV footage as requested. It was noted by the Members of the Licensing Panel that this was despite having demonstrated to the Licensing Operations Manager the existence of such coverage on her mobile phone. Members of the Licensing Panel further noted that it had been accepted by the Premises Licence Holder that this did constitute a breach of the conditions of the Premises Licence, which in itself is an offence under the Licensing Act 2003.

In respect of the submissions made on behalf of the Premises Licence Holder that the Licensing Authority should have applied a graduated approach to dealing with problems identified at the premises, the Licensing Panel accepted that this approach had been applied through a number of visits to the premises when advice and guidance had been provided to the DPS. It was of concern to the Members of the Licensing Panel that this approach had culminated in what had been accepted by the Premises Licence Holder as totally unacceptable behaviour on the part of the DPS.

In coming to their decision, the Licensing Panel had particular regard to the circumstances giving rise to the review application which included reports to the Licensing Authority in respect of poor management of the premises including the inability to provide CCTV coverage when requested to do so by Merseyside Police, observations made by officers when visiting the premises and a display of unacceptable behaviour from the DPS towards an Authorised Officer which had not been disputed. It was the view of the Members of the Licensing Panel that these represented poor management decisions made by the DPS which had put the safety of the public at risk.

Members of the Licensing Panel had particular regard to Paragraph 11.21 of the Statutory Guidance which directs the Licensing Authority to take particular action when the cause of the problems identified at the premises directly relate to poor management decisions made by the DPS. They concluded that there had been a series of poor management decisions made by the DPS.

In determining the Review Application the Licensing Panel 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 2020.

**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 Designated Premises Supervisor be removed.**
- (3) That the Premises Licence in respect of Johnny Pye, Pye Road, Heswall be modified to include the following conditions:**
  - CCTV must be installed at the premises and coverage must be provided in the form of a recordable system capable of providing images of evidential quality in all lighting conditions. CCTV cameras must encompass all entrances and exits to the premises and all areas where the sale, supply or consumption of alcohol occurs.**

- **The CCTV system must record in real time and operate whilst the premises are open for licensable activities. The CCTV recordings must be kept available for a period of 31 days and be available to view by an Authorised Officer on request, for evidential purposes.**
- **There must be sufficient members of trained staff, in addition to the Designated Supervisor, available to be able to download evidence with the minimum of delay. The CCTV equipment must be maintained in good working order and checked on a regular basis to ensure it displays the correct time and date.**

**4 2.00 PM - APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - THIRTY SIX, CONWAY STREET, BIRKENHEAD**

The Legal Advisor to the Licensing Panel 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 David Doyle to vary a Premises Licence in respect of Thirty Six, Conway Street, Birkenhead.

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 application submitted was also to amend the plan attached to the Premises Licence to include an outside area and the applicant had proposed a number of conditions in relation to this.

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 to include a number of conditions on the Premises Licence should the variation be granted. These conditions were set out within the report.

In respect of the application a representation had been received from the Licensing Authority. The representation related to concerns of noise nuisance as the applicant wished to include the outside area on the Premises Licence. The Licensing Authority reported that complaints had previously been received from local residents relating to noise coming from inside the licensed premises.

A representation had been received from Environmental Health. The representation related to concerns in respect of noise nuisance emanating from the outside area should entertainment be permitted beyond 23:00 due to residential properties within the vicinity of the premises.

A representation had also been received from Ward Councillor Jean Stapleton, which related to residents being disturbed by loud noise coming from the outside area at a later hour. Copies of all representations were available.

The applicant's legal representative, Mr Holland attended the meeting by way of video conference.

Mr A Bushell, representing the Licensing Authority and Mr N Joughin representing Environmental Health also attended the meeting by way of video conference.

The Licensing Manager confirmed that all documentation had been sent and received and that photographs had subsequently been received from the applicant and shared with Members of the Licensing Panel.

The Licensing Manager outlined the report.

Mr Holland, on behalf of the applicant, advised that the premises was currently managed by very experienced operators and that the business only operated at the weekend. Mr Holland informed Members that it would be the intention of the applicant to draw people to the area and create jobs through the provision of a different type of hospitality venue within the nighttime economy of Birkenhead. Members of the Licensing Panel viewed photographs and maps showing the location of the land as well as development that had taken place to date, including the location of a music deck with a built-in noise limiting device and strategically placed speakers.

Mr Holland reported that the outside area would be supervised at all times and that the noise limiter would be set in accordance with the recommendations from Environmental Health. He also informed Members that the applicant would be content for all the conditions that had been applied to the Premises Licence granted in August 2020 for this outside area to now be applied to this Premises Licence should the variation be granted. It was highlighted to the Licensing Panel by Mr Holland that there had been no representations from residents in respect of the application. Mr Holland also made reference to the fact that Merseyside Police were content that the conditions relating to plastic vessels and glass bottles that were currently on the Premises Licence did not need to be amended in respect of the outside area.

Mr Bushell, acting as the Responsible Authority Officer for the Licensing Authority, informed the Members of the Licensing Panel that he had submitted his representation due to concerns that the licensing objectives would be undermined should the application to vary the Premises Licence be granted, however, following a site visit, Mr Bushell advised that he was content that the premises could be managed in accordance with the licensing objectives should the application be granted. Mr Bushell did however express some concern at the use of glass bottles being permitted in the outside area as he believed this could undermine the purpose of using polycarbonate/plastic vessels.

The Environmental Health Officer, Mr Joughin advised that he was content with the measures proposed by the applicant which included the use of directional speakers and a sound limiting device. Mr Joughin reported that he was satisfied that this device could be set at a maximum noise level that could not be exceeded by the DJ and that this would limit the noise from the outside area so as not to cause a public nuisance. Mr Joughin reported that having taken these matters into consideration his concerns had been addressed and he subsequently had no objections to the application.

Members of the Licensing Panel had regard to the representations made by the Licensing Authority and Environmental Health both in writing and orally at the hearing. They noted that there had been a representation made by a Ward Councillor.

Members of the Licensing Panel were advised that following discussions with Merseyside Police, the applicant had agreed to include a number of conditions should the application to vary the Premises Licence be granted. Subsequently no representation had been made by Merseyside Police.

In determining the application, Members of the Licensing Panel gave consideration to the submissions made by Mr Holland on behalf of the applicant as well as the representations made by Environmental Health and the Licensing Authority and noted the written concerns expressed by a Ward Councillor. Members also had particular regard to the discussions that had taken place with Merseyside Police resulting in agreement in respect of conditions to be applied should the variation be granted. They also took into consideration that Merseyside Police did not consider it necessary or appropriate to make a representation following these discussions and took into account the experience of the applicant in running licensed premises.

In coming to their decision Members of the Licensing Panel had regard to the willingness of the applicants to work with Environmental Health to prevent public nuisance and the particular measures that would be put in place to promote the licensing objectives.

In determining the application Members also had regard to the fact that the premises was located within Birkenhead's centre of night time economy.

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.

In determining the application Members of the Licensing Panel 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.

**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 Thirty Six, Conway Street, Birkenhead be granted with the following hours:**

**Sale by Retail of Alcohol**

<b>Monday to Thursday</b>	<b>10:00 to 04:00</b>
<b>Friday and Saturday</b>	<b>10:00 to 05:00</b>
<b>Sunday</b>	<b>10:00 to 05:00</b>

**Live Music**

<b>Monday to Thursday</b>	<b>20:00 to 04:00</b>
<b>Friday and Saturday</b>	<b>20:00 to 05:00</b>
<b>Sunday</b>	<b>20:00 to 05:00</b>

**Recorded Music and Anything of a Similar Description**

<b>Monday to Thursday</b>	<b>10:00 to 04:00</b>
<b>Friday and Saturday</b>	<b>10:00 to 05:00</b>
<b>Sunday</b>	<b>10:00 to 05:00</b>

**Late Night Refreshment**

<b>Monday to Thursday</b>	<b>23:00 to 04:00</b>
<b>Friday and Saturday</b>	<b>23:00 to 05:00</b>
<b>Sunday</b>	<b>23:00 to 05:00</b>

**Hours Open to the Public**

<b>Monday to Thursday</b>	<b>10:00 to 04:30</b>
<b>Friday and Saturday</b>	<b>10:00 to 05:30</b>
<b>Sunday</b>	<b>10:00 to 05:30</b>

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

- Alcohol will not be served in the outdoor area after 02:00 daily**
- No live music will be played in the outdoor area after 23:00 on any day.**
- The volume of recorded music in all outdoor areas will be reduced to background level after 23:59 each day.**
- No recorded music will be played in the outdoor areas after 02:00 on any day.**
- The provision of late night refreshment will cease in the outdoor area no later than 02:00 each day.**

**(4) That the conditions agreed with Merseyside Police along with the conditions that are currently attached to the Premises Licence, granted on 20 August 2020, relating to the outside area be applied to this Premises Licence.**

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## LICENSING PANEL

Friday, 12 February 2021

Present: Councillors A Hodson  
K Greaney  
D Mitchell

### 5 APPOINTMENT OF CHAIR

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

### 6 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel 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.

### 7 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - LATERAL, 83 BANKS ROAD, WEST KIRBY

The Legal Advisor to the Licensing Panel 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 Lateral Wylde Limited for a Premises Licence in respect of Lateral, 83 Banks Road, West Kirby.

It was reported that the premises do not currently have a Premises Licence. 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. It was reported that following discussions with Merseyside Police, the applicant had agreed to include two conditions on the Premises Licence, one relating to CCTV and the other relating to the requirement for customers to provide proof of identity as stated within the report.

In respect of the application 16 representations had been received from local residents who were objecting to the application. The representations related to antisocial behaviour and concerns of noise nuisance from entertainment coming from the premises and nuisance being caused by customers both inside the premises and within the vicinity of the premises.

Two representations had also been received from local residents who were in support of the application as they considered that the granting of the application would not undermine the Licensing Objectives.

Representations had also been received from Local Councillors Tony Cox, Alison Wright and Jeff Green who supported the representations submitted by local residents who were against the application. Copies of all representations were available.

The applicant attended the meeting by way of video conference.

Ward Councillor, Councillor Wright also attended the meeting by way of video conference as well as six local residents and a legal representative of a number of local residents.

The Licensing Manager confirmed that all documentation had been sent and received including documents which had been submitted by the applicant and local residents and which had been served on all parties. Ward Councillor Jeff Green had also submitted a written statement which would subsequently be read out during the hearing.

The Licensing Manager outlined the report.

The applicant advised that they had submitted a broad application in order to provide future flexibility and avoid the use of Temporary Event Notices. The applicant advised the Panel that they considered the residents to have taken the business model intended out of context. They outlined the way in which they would operate the premises and explained that it would be a bistro with table service where the serving of alcohol would be restricted to the evening time and would be accompanied by food. The applicant informed the Panel that it would not be a vertical drinking establishment.

The applicant outlined details of the business model for the premises which included the serving of plant based food and Scandinavian cuisine. They advised that the premises would be run as a coffee shop during the day up until 5.00 pm during which time alcohol would not be served and that table service would be provided after this time with a menu and accompanying drinks for approximately 30 covers. They informed Members that there would be experienced staff working at the premises who would be trained to a high standard. A chef would also be employed to develop the food offer for the

business and the overall offer of the business would be based on quality and not quantity.

The applicant stated that they recognised that noise could escape to accommodation above the premises and in seeking to remedy this they had commissioned an acoustic consultant to prepare an Environmental Noise Impact Report which had been provided to Members in advance of the hearing. The applicant made particular reference to page 106, Section 5 of the report. In response to questions, the applicant advised that they would be willing to comply with the recommendations of the report in respect of the installation of mineral wool insulation within the void.

In response to concerns regarding the transmission of noise from live music, the applicant gave an undertaking that no live music would be played at the premises, also that they would be willing to implement a limit on the level of recorded music through an 'App' that would be linked to the speaker which would be strictly managed to play background music only. It was explained that there would be no wall mounted speakers in the premises in order to reduce the transmission of noise.

The applicant responded to questions from Members of the Licensing Panel, Councillor Alison Wright, Mr D K Abraham, Legal Advisor to the Panel and the representative of some local residents as well as the local residents in attendance.

In response to questions raised, the applicant advised that they would be willing to work together with local residents to mitigate concerns and would arrange for bottles not to be disposed of between the hours of 7.00 pm and 9.00 am and make arrangements with a view to waste disposal and deliveries also taking place during a reasonable time of the day. They would also seek to limit the number of people wishing to smoke outside to four at any one time and any seating placed outside during the day would be removed in the evening. The applicant also stated that they intended to implement a Challenge 21 Policy but would be willing to change this to a Challenge 25 Policy.

The applicant informed the Panel that they currently run a successful coffee shop in Heswall and that one of the partners, Mr Norton also had experience working in licensed premises. Mr Norton further confirmed that he would be the Designated Premises Supervisor should the application be granted.

Ward Councillor, Alison Wright addressed the Panel and informed Members that the particular concerns were in respect of noise nuisance and the potential for anti-social behaviour caused by customers both inside and outside the premises. Councillor Wright raised concerns in respect of the hours applied for and the impact on the health and wellbeing of the residents who live above the premises.

The Licensing Manager read out a statement from Ward Councillor Jeff Green, who referred to the licensing objective of the prevention of public nuisance and his concerns in respect of the detrimental effects that live music being played at the premises would have on the amenity of local residents, in particular those living directly above the premises.

Councillor Wright responded to questions from Members of the Licensing Panel and Mr D K Abraham.

The legal representative of a number of local residents made reference to the inter relationship between Planning and Licensing and expressed concerns that vertical drinking may occur at the premises. He submitted to the Panel that the applicants were inexperienced in operating a licensed premises and made reference to paragraph 6.4 of the Council's Licensing Policy. It was his view that the intention was to operate the premises as a bar. He made reference to paragraph 6.30 of the Council's Licensing Policy and paragraph 2.16 of the Statutory Guidance which relate to particularly to public nuisance. He made reference to a similar application that had been concluded some years previously and which had resulted in the revocation of the Premises Licence. He stated his concerns in respect of the lack of a dispersal policy. He believed there was a very real risk that the premises would cause a public nuisance. He described the locality of the premises and made reference to the proximity of residential properties and retail establishments which close at 5.00 pm. He also referred to complaints made due to noise disturbance from coffee machines, music and construction work.

In summarising his concerns, the legal representative expressed his disappointment in the lack of communication between the applicant and local residents in respect of this application and felt that this would have assisted. He stated that should the Licensing Panel be minded to grant the application, he believed the hours applied for should be reduced, that there should be no extension of hours on Boxing Day or New Years Eve, appropriate conditions should be attached and that if the premises is run well they could then ask to extend their hours of operation in the future.

In advance of the hearing a report had been submitted by Mr Vivian of Big Sky Acoustics Limited. Mr Vivian addressed the Licensing Panel and advised that he believed it might be possible for the premises to operate during the day time. It was his view that the building was weak acoustically and he believed that a reduction in hours may not be sufficient to mitigate nuisance. He expressed concern that the applicants' acoustic report did not address licensing matters. He confirmed that he had not visited the premises.

A number of local residents addressed the Panel and expressed a number of concerns including noise nuisance that had been experienced when coffee was being prepared at the premises and by recent renovations undertaken,

the potential for nuisance to be caused by people smoking outside the premises and lack of communication from the applicant. A local resident referred to the fact that a further fire assessment should be undertaken.

In response to the representations made, the applicants stated that they would manage the premises responsibly so as not to cause a nuisance to local residents or undermine the licensing objectives. They also emphasised that it would be background music only that would be played predominantly at the premises and they would be content to reduce the hours of operation.

Members of the Licensing Panel had regard to the representations made by all parties.

In coming to their decision, Members took into account that the business would not be operated as originally described in the application and that a number of concessions had been made by the applicant in light of the representations made by the residents and Ward Councillors.

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, Environmental Health and the Fire Authority and had particular regard to the fact that no evidence was submitted to support the representations that antisocial behaviour may be caused by the operation of the premises.

In determining the application Members of the Licensing Panel 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.

**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 Lateral, 83 Banks Road, West Kirby be granted with the following hours:**

**Sale by Retail of Alcohol**

**Sunday to Saturday 17:00 to 21:30**

**Hours Open to the Public**

**Sunday to Saturday 08:30 to 22:00**

**(3) That in addition to the conditions set out in the operating schedule and the condition relating to CCTV agreed with Merseyside Police, the following conditions be placed on the Premises Licence:**

- **Appropriate mineral wool insulation material must be installed within the void in the ceiling of the bistro in accordance with the recommendation set out in the Environmental Noise Impact Report.**
- **All windows and external doors shall be kept closed after 19:00 except for the immediate access and egress of patrons.**
- **The premises must use a noise limiting App linked to a speaker to control the sound of music to a background level.**
- **Notices must be prominently displayed at the exit requesting patrons to respect the needs of local residents and to leave the area quietly.**
- **There must be no more than four customers permitted to smoke outside the premises at any one time.**
- **Deliveries must not take place at the premises between 19:00 and 09:00.**
- **Bottles or broken glasses must not be disposed of from the premises between the hours of 19:00 and 09:00 so as not to cause a disturbance to residents in the vicinity of the premises.**
- **The premises must produce and operate in accordance with a noise management policy which must include a dispersal policy.**
- **All members of staff at the premises must seek credible photographic proof of age from any such person who appears to be under the age of 25 years and who is seeking to purchase alcohol. Such credible evidence, which must include a photograph of the customer, must either be a passport, photographic driving licence or proof of age card carrying a PASS logo. All occasions where persons have been refused must be recorded in writing.**

## LICENSING PANEL

Wednesday, 21 April 2021

Present: Councillors A Hodson (Chair)  
K Greaney  
AER Jones  
T Norbury

### 8 APPOINTMENT OF CHAIR

#### Resolved –

- (1) That Councillor A Hodson be appointed Chair to consider the matter in respect of Claremont Farm together with Councillors K Greaney and T Norbury.
- (2) That Councillor A Hodson be appointed Chair to consider the matter in respect of 625 together with Councillors A Jones and T Norbury.

### 9 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel 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.

### 10 10.00 AM: APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - CLAREMONT FARM, OLD CLATTERBRIDGE ROAD, BEBINGTON

The Chair of the Licensing Panel 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 Claremont Farm Limited for a Premises Licence in respect of Claremont Farm, Old Clatterbridge Road, Bebington.

It was reported that the premises do not currently have a Premises Licence. 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. It was reported that following discussions with Merseyside Police, the applicant had agreed to include a number of conditions on the Premises Licence.

In respect of the application seven representations had been received from local residents who were objecting to the application. The representations related to concerns of anti-social behaviour and public nuisance being caused to local residents should the application be granted. Copies of all representations were available.

The applicant attended the meeting by way of video conference together with the Operations Manager, Claremont Farm Events.

Three local residents 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.

The applicant addressed the Panel and reported that he already held a Premises Licence for the building located on the farm. He submitted that he had made this application to support his business due to the restrictions that had been put in place in respect of the pandemic and the granting of the application would provide an extended area to facilitate events. He advised Members of the Panel that he intended to screen films to an outdoor audience who would wear headphones to avoid any noise disturbance and also to provide acoustic music and classical music nights. He further advised that he had run these events over the last 12 months under Temporary Event Notices and during this time no complaints had been received either by himself or the Licensing Authority. He believed it was no longer viable to continue applying for Temporary Event Notices.

In response to questions from Members of the Licensing Panel, the applicant advised that all events would be ticket only and no admittance would be permitted on the door. He explained that this system would enable strict control on the number of people able to attend events. Members of the Panel were informed that sufficient parking was available on site to accommodate members of the public attending events.

In response to questions from local residents, the applicant gave assurances that if no disturbance had been experienced during the previous events there would be no disturbance from any future events should the application be granted.

Members of the Licensing Panel were informed that as well as the conditions proposed in the operating schedule by the applicant, conditions proposed by Merseyside Police had also been agreed to by the applicant to manage the operations taking place should a Premises Licence be granted. The Panel were also advised there were no representations received from any of the Responsible Authorities.

A local resident addressed the Panel and reported upon his experience that events at the premises had been extremely well run and had seldom given rise to any problems. He further reported that when issues had arisen, the applicant did take action to address the concerns raised. Members of the Licensing Panel were advised that the business was managed responsibly and that due to the assurances provided by the applicant the resident was content to withdraw their representation.

The Licensing Panel heard from another local resident who expressed concern regarding noise and light pollution that may be caused from events being held at this site however, the resident did advise the Panel that he had not experienced any disturbance from any events that had taken place last year.

In determining the application the Licensing Panel 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 Licensing Panel had regard to the written representations from local residents in respect of their concerns regarding an outdoor music venue being in close proximity to residential properties and the effects of noise nuisance from music and people attending events at the site. Members gave particular consideration to the business model provided by the applicant as well as the extensive conditions that the applicant was prepared to have attached to the Premises Licence to manage any licensable activities in accordance with the licensing objectives.

In coming to their decision, Members gave consideration to the fact that following discussions with the applicant, a resident who lived in close proximity to the premises had withdrawn his representation as he was content by the assurances provided by the applicant that any concerns that may arise in the future would be addressed.

In determining the application Members also had regard to the fact that no representations had been received 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 Claremont Farm, Old Clatterbridge Road, Bebington be granted with the following hours and with the conditions set out in the operating schedule and agreed with Merseyside Police:**

**Sale by Retail of Alcohol**

**Sunday to Saturday 11:00 to 23:00**

**Exhibition of Films**

**Sunday to Saturday 11:00 to 23:00**

**Live Music**

**Sunday to Saturday 11:00 to 23:00**

**Hours Open to the Public**

**Sunday to Saturday 09:00 to 23:00**

**11 2.00 PM: APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 625, 86 BANKS ROAD, WEST KIRBY**

The Chair of the Licensing Panel 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 625 Limited for a Premises Licence in respect of 625, 86 Banks Road, West Kirby.

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

In respect of the application eleven representations had been received from local residents. A petition containing 32 signatures had also been received. The representations related to concerns of anti-social behaviour occurring within the vicinity of the premises and public nuisance being caused to local residents should the application be granted.

A representation had also been received from Ward Councillor Alison Wright 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 his legal representative.

Four local residents and Ward Councillor Alison Wright 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 and informed Members of the Licensing Panel that further to consideration of the representations made, the applicant had amended the application to reduce the hours applied for.

The applicant addressed Members of the Licensing Panel and advised that they lived in the area and had been involved in the running of a family business in West Kirby for 20 years. They outlined the experience they had in running licensed premises and explained that the premises would be operated by father and son. The applicant provided details of the business model for the premises which included a menu built around the seasons in order to provide the freshest local produce and highlighted the fact that it would be a family run restaurant bringing business to the local area. They outlined the way in which they would operate the premises and explained that the premises was not permitted to operate as a bar/pub and that the main focus was food where customers would be seated at tables and table service would be provided.

The applicant informed Members of the Licensing Panel that there would be 45-50 covers in total with 16 of these being outside where customers could only drink alcohol when they were seated. Members of the Panel were also informed that the tables outside would be no smoking. They referred to the comprehensive conditions they would be willing to have attached to the Premises Licence should the application be granted which included CCTV, regular litter and glass collections in the outside area, a Challenge 25 Policy, staff training and a refusals register.

The Licensing Panel were made aware that the applicant recognised that noise could escape to accommodation above the premises and the applicant

advised that any music would be limited to background music and in seeking to address any problems they would liaise with the residents who lived above the premises.

The applicant believed that the business would be at a disadvantage should they not be allowed to sell alcohol however they advised that they would probably still open as a restaurant should the application be refused.

In response to questions from Councillor Wright and local residents who expressed concerns regarding noise nuisance and nuisance being caused by customers both inside the premises and within the vicinity of the premises, the applicants confirmed that they would be willing to work together with local residents to mitigate these concerns and would arrange for the disposal of bottles during limited hours and make arrangements with a view to waste disposal and deliveries also to take place during a reasonable time of the day. They also advised that seating placed outside during the day would be removed at night and a muffler would be added to the extractor fan should this cause a problem.

Members of the Licensing Panel heard from Councillor Wright, Ward Councillor who spoke in respect of her own representations and on behalf of local residents. It was highlighted to the Panel that the particular concerns were in respect of noise nuisance and the potential for anti-social behaviour caused by customers both inside and outside the premises. Councillor Wright raised concerns in respect of the hours applied for and the impact on the health and wellbeing of the residents who lived above the premises and also concerns of an additional licensed premises in the location of existing licensed premises.

The residents who lived above the premises advised the Panel that they had experienced disturbance by recent renovations undertaken and they had great concerns in respect of public nuisance being caused by customers attending the premises. They expressed concern regarding the escape of noise through the void in the ceiling. A number of other local residents in attendance at the meeting expressed concerns in respect of noise nuisance and the potential for anti-social behaviour caused by customers attending the premises.

In response to the representations made, it was submitted by the applicants that they would manage the premises responsibly so as not to cause a nuisance to local residents or undermine the licensing objectives. They emphasised that it would be background music only that would be played at the premises and they would be content to reduce the hours of operation, they further stated that they would take any necessary measures to mitigate the escape of noise through the ceiling.

In determining the application the Licensing Panel 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 way in which the premises would be managed and that the applicants would be willing for the hours applied for to be reduced due to consideration of the representations made.

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, Environmental Health and the Fire Authority and had particular regard to the fact that no evidence had been submitted to support the representations that antisocial behaviour may be caused by the operation of the premises.

Members also took into account the willingness of the applicant to liaise with local residents and address any concerns they may have.

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 625, 86 Banks Road, West Kirby be granted with the following hours:**

**Sale By Retail of Alcohol**

<b>Monday to Sunday</b>	<b>11:00 to 22:30</b>
<b>New Years Eve</b>	<b>11:00 to 00:30</b>

**Hours Open to the Public**

<b>Monday to Sunday</b>	<b>11:00 to 23:00</b>
<b>New Years Eve</b>	<b>11:00 to 01:00</b>

**Late Night Refreshment**

<b>New Years Eve</b>	<b>23:00 to 01:00</b>
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**(3) That in addition to the conditions set out in the operating schedule, the following conditions be placed on the Premises Licence:**

- **In consultation with an Environmental Health Officer the Licence Holder must take appropriate measures in respect of the void between the ceiling of the premises and the property above to mitigate the transmission of noise through this void.**
- **All windows must be kept closed during the operation of the business.**
- **Deliveries must only take place at the premises between 9.00 am and 5.00 pm.**
- **The collection of external waste bins from the premises must only take place between 9:00 am and 5.00 pm.**
- **The disposal of bottles or broken glasses into bins outside the premises must only take place between 9.00 am and 5.00 pm.**
- **The outside area must be cleared and chairs stacked by 10.00 pm and all external furniture placed inside the premises by no later than 11.00 pm.**
- **Alcohol may only be served to customers seated at the bar who are waiting to be seated at a table.**

## LICENSING PANEL

Wednesday, 28 April 2021

Present: Councillor A Hodson (Chair)  
D Mitchell  
T Norbury

### 12 APPOINTMENT OF CHAIR

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

### 13 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel 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.

### 14 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - LAIRDS SPORTS CLUB, ST PETERS ROAD, ROCK FERRY

The Chair of the Licensing Panel 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 Lairds Sports Club '93 for a Premises Licence in respect of Lairds Sports Club, St Peters Road, Rock Ferry.

It was reported that the premises previously held a Club Premises Certificate which had been surrendered as the Club had ceased trading in January 2017 and sold to developers and the application was being made for a different site. 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. It was reported that following discussions with Merseyside Police and Trading Standards, the applicant had agreed to include a number of conditions on the Premises Licence.

In respect of the application 20 representations had been received from local residents who were objecting to the application. The representations related to concerns of anti-social behaviour and public nuisance being caused to local residents should the application be granted.

Ten representations had also been received from interested parties who considered that the licensing objectives would not be undermined should the application be granted. Copies of all representations were available.

The applicant's representative who was the Secretary of Lairds Sports Club attended the meeting by way of video conference.

Two local residents also attended the meeting by way of telephone call.

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

The Licensing Manager outlined the report.

The applicant's representative informed Members of the Licensing Panel that the Club had been established since 1955 and that there had previously been a social club operating from a location on the East side of St Peter's Road, Rock Ferry, however, due to financial circumstances this land had been sold and the proceeds had been put into building a new Club on the football pitch site on the West side of St Peter's Road. Members of the Licensing Panel were advised that in recent years there had been an increase in residential properties within the vicinity of the Club.

The applicant's representative reported that the hours applied for were consistent with the previous licensing hours permitted for the old Club. He further reported that there had been no history of complaints connected to the use of the Club as a social venue. He acknowledged that parking had always been a problem in the area, particularly on match days and that other amenities in the road also caused issues related to parking. Members of the Licensing Panel were made aware that due to a planning restriction, the car park attached to the premises must be closed by 9.00 pm and would be limited to be used by up to 12 vehicles.

The applicant's representative referred to the objections raised and highlighted the fact that although the application had been made to sell alcohol from 11.00 am, the reason for this would be to accommodate events such as funerals or christenings which he anticipated may be booked approximately ten to twelve times a year and that it would not be the intention to regularly serve alcohol from 11.00 am.

The applicant responded to questions from Members of the Licensing Panel and the local residents who were in attendance.

In response to questions from local residents who had expressed concerns regarding noise nuisance and nuisance being caused by customers both inside the premises and within the vicinity of the premises, the applicant's representative confirmed that the Club would be willing to work together with local residents. Following a proposal to mitigate these concerns, the applicant's representative agreed to a number of measures which included having a quarterly forum with local residents, a steward managing customers leaving the premises and prior notification of any big events being provided to local residents.

The local residents in attendance advised that a large number of houses surrounded the Club and that local residents had experienced disturbance from music emanating from the previous Club and from customers leaving the premises late at night. They advised that they had great concerns as the new premises was located in closer proximity to their properties. One local resident emphasised that a compromise would be required to take into consideration the impact of the operation of the premises on the significant number of families who lived in close proximity to the premises. The local residents welcomed the proposal of a quarterly forum and they requested that they be provided with contact details of the Club should they experience any problems.

The local residents accepted that the Club would require a Premises Licence to support the activities on offer, however, they highlighted a number of matters that were of particular concern which included disturbance that may be caused to local residents by customers drinking and smoking outside of the building; music emanating from the fabric of the building as well as music being played outdoors and the number of hours applied for.

In response to the representations made, by the applicant's representative reported that acoustic panels were being installed in the walls of the function room, speakers would be pointing into the room and not directed outside the building and that the door to the Club house serving the conference room would remain closed after 9.00 pm in accordance with planning restrictions. He further advised that no customers would be permitted to take drinks to the outside area after 9.00 pm and emphasised that no music would be played outside of the building.

In determining the application the Licensing Panel 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 way in which the premises would be managed and also that the applicant's representative had provided assurances that they would be willing to work with local residents to address any problems 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 and Environmental Health and had particular regard to the fact that no evidence had been submitted to support the representations that antisocial behaviour may be caused by the operation 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 Lairds Sports Club, St Peters Road, Rock Ferry be granted with the following hours:**

**Sale by Retail of Alcohol**

**Monday to Saturday 11:00 to 22:30**  
**Sunday 12:00 to 22:00**

**Live and Recorded Music**

**Following deregulation of Regulated Entertainment, Live and Recorded Music is permitted (subject to attendance limitations) until 23:00**

**Hours Open to the Public**

**Monday to Saturday 09:00 to 23:00**  
**Sunday 11:00 to 22:30**

**Non-Standard Timings**

**Sale By Retail of Alcohol**

**Bank Holiday Sundays 19:00 to 23:00**  
**Boxing Day 19:00 to 23:00**  
**New Year's Eve 19:00 to 23:00**

**Hours Open to the Public**

**Bank Holiday Sundays 19:00 to 23:30**



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## LICENSING PANEL

Thursday, 29 April 2021

Present: Councillor A Hodson (Chair)  
D Mitchell  
T Norbury

### 15 APPOINTMENT OF CHAIR

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

### 16 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel 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.

### 17 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - WIRRAL SAILING CENTRE, SOUTH PARADE, WEST KIRBY

The Chair of the Licensing Panel 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 Wirral Council for a Premises Licence in respect of Wirral Sailing Centre, South Parade, West Kirby.

It was reported that the premises do not currently have a Premises Licence. 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. It was reported that following discussions with Merseyside Police, the applicant had agreed to include a number of conditions on the Premises Licence.

In respect of the application four representations had been received from local residents who were objecting to the application. The representations related to concerns of anti-social behaviour occurring within the vicinity of the

premises and public nuisance being caused to local residents should the application be granted.

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

The applicant attended the meeting by way of video conference.

Two local residents 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 and informed Members of the Licensing Panel that further to consideration of the representations made, the applicant had amended the application to reduce the hours applied for and had also withdrawn the Non-Standard Timings in respect of Christmas Eve, Boxing Day and New Year's Eve.

The applicant advised Members of the Licensing Panel that the intention was to operate the premises as a café during the daytime and to offer a high end restaurant service during the evening which would be table service only.

The applicant further advised that the premises would not facilitate vertical drinking as no bar service would be available. The applicant reported on the number of covers both inside and outside the premises, that no music would be played outside on the balcony and that this area would be cleared by 9.00 pm.

The applicant responded to questions from Members of the Licensing Panel, local residents and Mr D K Abraham, Legal Advisor to the Panel.

In response to questions from local residents, the applicant advised that they would be content to have conditions applied to the Premises Licence confirming that the outside balcony area would be cleared by 9.00 pm and that the doors leading onto the balcony would remain closed from 9.00 pm. The applicant emphasised that the business would operate professionally with the aim that the facility would be one for the people of West Kirby to be proud of.

The local residents in attendance addressed the Panel and advised that they had expressed concerns regarding noise emanating from the premises caused by music being played and customers allowed onto the balcony at a late hour. However, further to hearing that the application had been amended and the assurances given by the applicant that no music would be played on the balcony, the doors leading onto the balcony would be closed at 9.00 pm

and that the balcony would be cleared of customers and closed by 9.00 pm, they advised that their concerns had been addressed.

Members of the Licensing Panel were informed that as well as the conditions proposed in the operating schedule by the applicant, conditions proposed by Merseyside Police had also been agreed to by the applicant to manage the operations taking place should the application for a Premises Licence be granted. The Panel were also advised there were no representations received from any of the Responsible Authorities.

In determining the application the Licensing Panel 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 Licensing Panel had regard to the representations from local residents and the Ward Councillor. Members gave particular consideration to the business model provided by the applicant and the willingness of the applicant to have conditions attached to the Premises Licence to mitigate any public nuisance that may be caused through the operation of the premises. In coming to their decision, Members also gave consideration to the fact that further to the representations being received the applicant had reduced the hours applied for and withdrawn the request for Christmas Eve, Boxing Day and New Year's Eve.

In coming to their decision, Members also had regard to the fact that no representations had been received 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.

Members noted that in respect of public safety, the applicant would give consideration to placing appropriate signage outside the 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 Wirral Sailing Centre, South Parade, West Kirby 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                      08:30 to 23:00**

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

- **The doors to the balcony area must be closed by 9.00 pm**
- **The balcony area must be cleared of customers by 9.00 pm.**