

LICENSING PANEL

Thursday, 11 August 2022

Present:

Councillors D Burgess-Joyce
C Cooke
D Mitchell

10 **APPOINTMENT OF CHAIR**

Resolved – That Councillor David Burgess-Joyce be appointed Chair for this meeting.

11 **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.

12 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - PLATINUM BAR, CONWAY STREET, BIRKENHEAD, CH41 6JD**

The Director of Law and Governance reported upon an application that had been received from Merseyside Police for a Review of a Premises Licence in respect of Platinum Bar, Conway Street, Birkenhead, under the provisions of the Licensing Act 2003.

The Licensing Manager outlined the report and advised that the Licensing Panel may, having regard to the application for the Review and any relevant representations, take such of the following steps as it considered appropriate for the promotion of the licensing objectives:

- To 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; or
- 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.

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

The Licensing Panel were informed that following a Summary Review in November 2021 the Premises Licence had been suspended with immediate effect on 5 November 2021 as an interim step to prevent any further serious crime and disorder occurring at the premises. It was further reported that upon consideration of the review of the Premises Licence on 26 November 2021, the Licensing Panel had determined that the suspension of the Premises Licence be lifted and that the Premises Licence be modified as outlined within the report.

It was reported that this application to review the Premises Licence had been initiated by Merseyside Police due to further incidents of violence occurring at the premises since the determination of the Summary Review on 26 November 2021, Merseyside Police also had concerns in respect of the management's control of the premises. It was reported that Merseyside Police considered that the occurrence of these incidents was undermining the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance.

In respect of the review application, a representation had been received from the Licensing Authority who supported the application to review the Premises Licence by Merseyside Police due to a number of concerns relating to the premises, including breaches of the Premises Licence conditions. A copy of the representation was available.

Merseyside Police were represented at the Hearing by a Licensing Officer and a Police Constable.

The Designated Premises Supervisor attended the meeting together with a Licensing Consultant and a prospective Designated Premises Supervisor/General Manager.

Merseyside Police requested the submission of still images of CCTV footage from the premises. The Licensing Panel were made aware that Merseyside Police had provided the opportunity to the Premises Licence Holder to view their own CCTV images from which the still images had been obtained. Authorisation for this submission was sought from the Premises Licence Holder and his representative. Following some discussion, it was accepted that the still images could be submitted.

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

The Police Licensing Officer advised that herself and the Police Constable were in attendance to represent Merseyside Police who had submitted the

Review application. The Officer referred to the fact that in November 2021 Merseyside Police had instigated a Summary Review of the Premises Licence following serious disorder at the premises. The Licensing Panel were advised that as a consequence of the review further conditions were imposed on the Premises Licence. Merseyside Police reported that since that review hearing they had received a number of reports of violence at the premises and had identified breaches of the conditions imposed on the Premises Licence following the Summary Review. It was submitted that there was a lack of control at the premises.

The Police Licensing Officer referred to the determination notice of 26 November 2021 which set out details of why the premises had been brought to a Summary Review and included the conditions placed upon the Premises Licence by the Licensing Panel. Merseyside Police advised that most of these conditions had not been adhered to. The breaches related to patrons being allowed to enter the premises wearing tracksuits and sports shorts, knife wands not being used in accordance with the Premises Licence condition, door staff not wearing body cameras and not carrying out random and frequent searches to detect drugs or weapons being brought into the premises and not recording incidents of disorder.

The Police Licensing Officer referred to a meeting which took place on 28 April 2022 between a Police Inspector, a Licensing Sergeant, Licensing Constable, Wirral Council and the Designated Premises Supervisor. The Licensing Panel were advised that this meeting had been arranged following an incident when door staff had permitted access to males wearing tracksuits, in contravention of a condition of the Premises Licence and who went on to cause disorder in the premises. The Police Officer reported that the males had been refused entry by the Designated Premises Supervisor but subsequently allowed entry by the door staff, a matter which it was reported raised concerns that the door staff believed they had greater authority than the Premises Licence Holder. It was also reported to the Licensing Panel that it was a cause for concern that the disorder in the premises had not been reported to Merseyside Police or recorded in an incident book. The Licensing Panel were informed that following this incident a decision was made to place the premises on a silver referral for 8 weeks to provide support and guidance to help overcome any issues that may be preventing the Premises Licence Holder operating the premises in an appropriate manner.

The Police Licensing Officer referred to minutes of a further meeting that took place on 21 June 2022 which was attended by Merseyside Police, Wirral Council, the Premises Licence Holder and his Licensing Agent. The Licensing Panel were advised that the meeting had been arranged due to a number of incidents at the premises and continued breaches of the conditions of the Premises Licence which included no body cameras being worn, knife wands not being used and individuals wearing tracksuits being allowed entry to the premises. Merseyside Police reported that it was at this meeting that the

Premises Licence Holder admitted he had only recently purchased body cameras and that they were not being used. A number of incidents of crime and disorder that had occurred at the premises were discussed at this meeting.

The Police Licensing Officer referred to the statement provided by the Police Inspector which outlined concerns regarding the severity of violent incidents at the premises, poor management of the premises and under reporting from door staff. Details of the incidents reported in the statement were outlined to Members of the Licensing Panel. It was explained that following the meeting that took place on 28 April 2022, the premises were placed on Silver which instigated officers being tasked with undertaking regular visits and walk throughs of the premises in a supportive capacity. It was reported that during subsequent visits to the premises further breaches of licence conditions were identified and there were further incidents of violence at the premises and in the vicinity of the premises which resulted in another meeting taking place on 21 June 2022.

The Police Licensing Officer reported that the Police Inspector considered that the premises was not being managed in a safe manner. The concerns included violent incidents at the premises, sightings of OCG members in the premises, breaches of conditions of the Premises Licence and the necessity for persistent Police attendance at the premises. It was reported that the Inspector therefore believed there was no other option but to review the Premises Licence and for Members of the Licensing Panel to consider the revocation of the Premises Licence with reference to Sections 11.18, 11.23 and 11.28 of the Statutory Guidance. It was submitted that the Premises Licence Holder/Designated Premises Supervisor had failed to promote the licensing objectives and had shown little regard to the conditions imposed. It was therefore believed it was pointless adding extra conditions and the removal of the Designated Premises Supervisor would not change anything as he is the Premises Licence Holder.

CCTV still images were provided to Members of the Licensing Panel, the content of which were explained by the Police Licensing Officer.

The Police Licensing Officer and Police Constable responded to questions from the Licensing Consultant representing the Premises Licence Holder who challenged a number of the submissions made by Merseyside Police, these included the number of conditions that had been breached, the clothes worn by customers of the premises, the use of knife wands and the sighting of OCG members in the premises and the nature of the incidents at the premises. Merseyside Police also responded to questions from Members of the Licensing Panel and the legal advisor to the Licensing Panel.

The Premises Licence Holder responded to questions from Members of the Licensing Panel and the legal advisor to the Licensing Panel.

Further to reference to breaches of the licence conditions, the Licensing Consultant submitted on behalf of the Premises Licence Holder that the majority of licence conditions had been complied with. He also submitted that Merseyside Police had provided limited evidence that knife wands were not being used and that individuals wearing tracksuits had been allowed entry into the premises. The Licensing Consultant conceded that body worn cameras had not been worn by door supervisors as the Premises Licence Holder could not afford to purchase them initially but they had now been purchased.

The Licensing Consultant representing the Premises Licence Holder also challenged reference being made to members of organised criminal gangs being allowed entry into the premises and submitted that there was no evidence to support this allegation. In response, Merseyside Police advised the Licensing Panel that the Police Inspector is privy to intelligence that they did not have but did not consider that the reference in the statement would have been made without any reason to do so.

The prospective Designated Premises Supervisor of the premises addressed the Members of the Licensing Panel and advised that he had twelve years' experience working in licensed premises and that he was currently the Designated Premises Supervisor at a chain of restaurant/cocktail bars located in Chester, Manchester and Liverpool.

The prospective Designated Premises Supervisor responded to questions from Members of the Licensing Panel and the legal advisor to the Licensing Panel.

The Licensing Consultant accepted on behalf of the Premises Licence Holder that the management of the premises required improvement. It was proposed that the Designated Premises Supervisor would be replaced and that the concerns of Merseyside Police could be addressed through better management of the premises and through a support programme provided by himself. This support would include risk assessments, undertaking a health check of the operation of the premises, training of staff, record keeping and liaison with Merseyside Police. The Licensing Consultant therefore did not believe there was cause for revocation of the Premises Licence and advised that it was his belief the premises would not be brought back into review further to his involvement.

In determining the Review application Members had regard to the licensing objectives, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003 and also gave consideration to the application made by Merseyside Police, the supporting representation made by the Licensing Authority and the submissions made on behalf of the Premises Licence Holder.

The Licensing Panel had regard to the fact that Merseyside Police had found it necessary to apply for a Review of the Premises Licence following a Summary Review which had been undertaken in November 2021 and following the premises being placed on the licensing matrix at a silver response level in April 2022 due to concerns regarding the operation of the premises. In considering these matters the Licensing Panel had regard to paragraph 11.18 of the Statutory Guidance issued under the Licensing Act 2003.

In coming to their decision, the Licensing Panel had regard to the evidence presented by Merseyside Police relating to incidents of violence at the premises and breaches of licence conditions put in place to prevent crime and disorder at the premises. They also had regard to the submissions made on behalf of the Premises Licence Holder and the Statutory Guidance, in particular, paragraphs 11.18, 11.22 and 11.23. The Licensing Panel noted that the application had been supported by the Licensing Authority who had engaged in joint meetings with Merseyside Police and the Premises Licence Holder and their representatives.

Members of the Licensing Panel had particular regard to the fact that Merseyside Police had found it necessary to Review the Premises Licence following a Summary Review of the Premises Licence in November 2021. It was of concern to the Licensing Panel that despite significant intervention from Merseyside Police to support the operation of the premises in accordance with the licensing objectives, through meetings and high profile visits, incidents of violence continued to occur in the premises and licence conditions were persistently being breached.

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 Premises Licence in respect of Platinum Bar, Conway Street, Birkenhead be revoked.**