

LICENSING PANEL

Wednesday, 18 January 2023

Present: Councillor A Hodson (Chair)
C Davies
D Mitchell

28 APPOINTMENT OF CHAIR

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

29 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.

30 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 2 PRINCES PAVEMENT, BIRKENHEAD CH41 2XY

The Director of Law and Governance reported upon an application that had been received from Modi Stores Limited for a Premises Licence in respect of 2 Princes Pavement, Birkenhead, CH41 2XY.

It was reported that the premises is situated within a Cumulative Impact Assessment (CIA) area in Birkenhead with the hours applied for set out within the report. The Licensing Panel were advised that due to the proposed location of the premises being within the CIA area, the following matters must be taken into account in consideration of the application:

- whether the applicant has demonstrated in their operating schedule that they will not be adding to the cumulative impact of licensed premises selling alcohol for consumption off the premises only within the CIA area
- whether the Licensing Authority would be justified in departing from its' CIA in light of the individual circumstances of the case
- whether the granting of the application would undermine the licensing objectives and that conditions would be ineffective in preventing the problems identified within the CIA

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the application be granted.

In respect of the application, a representation had been received from Merseyside Police who believed that the granting of the application would undermine the prevention of crime and disorder licensing objective due to ongoing issues with street drinking and alcohol related crime within the area. A copy of the representation was available.

The applicant attended the meeting together with the Business Development Manager of Go Local, a representative from the Post Office, a Licensing Agent and their legal representative. Two Constables from Merseyside Police were also in attendance.

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

The Licensing Manager outlined the report.

The legal representative for the applicant informed Members of the Panel that the applicant was aware that the premises is situated within the Cumulative Impact Assessment area for Birkenhead and had therefore taken this into account in preparing their operating schedule. It was therefore acknowledged that the applicant must demonstrate that this was an exceptional application and that they would not be adding to the cumulative impact of premises selling alcohol for consumption off the premises only, in this area, should the application be granted.

The Members of the Licensing Panel were informed that the application had been made to operate the premises as a Post Office and convenience store and that the applicant had been approached by the Post Office to operate the services of a Post Office at this location due to the fact that such services were no longer offered within this area of Birkenhead. It was reported that the applicant was currently operating a Post Office on another site in Wirral. Members were advised that due to the recognised demand for a Post Office in this area, the Post Office was currently supporting the applicant in the operation of a temporary Post Office near to the proposed new premises.

It was submitted on behalf of the applicant that in order for a Post Office to be viable in this area, it would be necessary for it to operate in conjunction with a diverse retail offer and that the business model for this particular premises would be a convenience store. Also, in order for a convenience store to operate successfully it would be necessary for it to provide a 'complete basket of goods' which would include the sale of alcohol. It was reported that there is

a restriction within the lease for these premises in respect of the provision of alcohol at this location in that it must not exceed 15% of the net retail floor area.

The applicant was aware that individuals with alcohol and drug problems do frequent the area and are known to congregate on benches near to this location. It was submitted by the applicant's representative that the alcohol on offer at these premises would not attract this cohort of individuals who seek to purchase super strength alcohol at low cost, often in single cans as there would not be alcohol for sale under special offer or promotion; there would be no sales of beer, lager or cider with an alcohol content above 6.5% ABV except for specialist branded premium priced products and certain brands of alcohol and that single cans of alcohol would not be sold from these premises.

Members were further advised that other measures would be in place to prevent anti-social behaviour or crime and disorder should the application be granted, these included comprehensive CCTV which would include coverage outside the premises and staff training with regard to their responsibilities under the Licensing Act 2003. It was also submitted on behalf of the applicant that the premises would work with Merseyside Police and would not sell alcohol to individuals who are identified as a cause for concern. It was reported that the structure of the premises would include a double door entry controlling access and egress to the premises, details of how the premises would be staffed were provided which included the applicant and his wife working full time at the premises.

Members were made aware that the business would operate under the brand of 'Go Local'. The Business Development Manager for 'Go Local' advised that they would enter into a joint business plan with the applicant and hold meetings every three weeks. They informed Members that should the applicant not conform with the 'Go Local' brand their partnership could be terminated which would be detrimental to the sustainability of the business and the viability of the Post Office.

Members were advised that the applicant had extensive retail experience which included operating and managing premises selling alcohol, was currently operating a Post Office and that the operation of a Post Office was the driving force behind the application.

The legal representative on behalf of the applicant, the Licensing Agent and the Business Development Manager of Go Local responded to questions from Members of the Licensing Panel and the legal advisor to the Licensing Panel.

Merseyside Police reported that they had made a representation in respect of the application as the premises is situated in the Cumulative Impact Assessment area in Birkenhead and it was their view that the granting of the application would add to the cumulative impact of licensed premises selling

alcohol for consumption off the premises only. An Officer in attendance referred to the cumulative impact within the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003, highlighting references to the Police being the main source of advice on crime and disorder.

The Officer from Merseyside Police referred to the statement of the dedicated Police Officer for Birkenhead Town Centre and highlighted that the area in which the proposed premises would be located is a hotspot for anti-social behaviour, violence and public disorder and that a number of individuals who have persistently caused issues in Birkenhead Town Centre are now subject to Criminal Behaviour Orders. The Officer referred to other measures that the Police were having to consider to reduce the incidents of crime and disorder in the area of Birkenhead Town Centre.

Members were advised that it was the view of Merseyside Police that the Operating Schedule submitted by the applicant did not propose sufficiently robust conditions that could satisfy the Police that the premises would not add to the cumulative impact of licensed premises selling alcohol for consumption off the premises only. Merseyside Police also submitted that the proposed conditions were vague and made particular reference to a proposed condition relating to CCTV at the premises.

In response to questions regarding Merseyside Police being reassured by what had been presented by the applicant, the Officer advised that whilst he had been appeased in some respects there remained a concern that there would be an additional premises in the CIA area selling alcohol.

The Officers from Merseyside Police responded to questions from the legal representative of the applicant and Members of the Licensing Panel.

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. The Licensing Panel also had regard to:

- whether the applicant had demonstrated that they would not be adding to the cumulative impact of licensed premises selling alcohol for consumption off the premises only, within the CIA area
- whether the Licensing Authority would be justified in departing from its' CIA in light of the individual circumstances of the case
- whether the granting of the application would undermine the licensing objectives and that conditions would be ineffective in preventing the problems identified within the CIA area

The Members of the Licensing Panel accepted the evidence of Merseyside Police that the premises is located in an area that is identified as a hotspot for anti-social behaviour linked to individuals frequenting the area and seeking to purchase cheap alcohol and utilise the daily offers available from various stores. In considering this evidence Members considered the impact that these premises could have on the current issues highlighted by Merseyside Police. Members also had regard to the business model presented and the measures put forward that could become conditions of the Premises Licence.

In coming to their decision, Members of the Licensing Panel gave consideration to the fact that the driving force behind the business would be the operation of a Post Office which relied upon an additional offer being available in order for it to be viable. Consideration was given to the retail experience of the applicant and the support that would be provided to the premises through the 'Go Local' brand which could be withdrawn if concerns were identified through regular meetings with the owner of the premises. Members of the Licensing Panel subsequently concluded that the premises could operate and be managed in a way that would not add to the cumulative impact within the CIA area identified within the Council's Statement of Licensing Policy. It was the view of the Licensing Panel that this was an exceptional application which justified the Licensing Panel departing from its' CIA. In considering the concerns raised by Merseyside Police in respect of the applicant's operating schedule the Licensing Panel took into consideration Section 10 of the Statutory Guidance with particular reference to paragraph 10.5 and considered that the conditions proposed could be worded appropriately to give strength to their meaning and provide a robust structure for the business to operate without undermining the licensing objectives.

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 2 Princes Pavement, Birkenhead CH41 2XY, be granted with the following hours:

Sale by Retail of Alcohol (For consumption 'Off' the Premises)

Sunday to Saturday 08:00 to 18:00

Hours Open to the Public

Sunday to Saturday 08:00 to 18:00

(3) That the following amendments to the proposed conditions submitted within the operating schedule be made:

- **CCTV must be installed at the premises and coverage be provided in the form of a recordable system capable of providing clear quality images in all lighting conditions. Cameras must encompass both inside the premises and the vicinity immediately outside the premises. The CCTV equipment must be maintained in good working order in accordance with the manufacturer's instructions. The system must record in real time and operate at all times the premises are open to the public. The recordings must be kept available for a period of 31 days and made available to Merseyside Police or an Authorised Officer as soon as practicable and in any case within 48 hours of a request, in accordance with relevant Data Protection Legislation. The recording equipment must be kept in a secure environment under the control of the Premises Licence Holder or other responsible named individual. There must be sufficient members of trained staff available on the premises to be able to download or view CCTV evidence with the minimum of delay at the reasonable request of Merseyside Police or an Authorised Officer.**
- **The premises must maintain a refusal log book in which it is recorded each time the sale of alcohol is refused and a record made of the reason for the refusal. The refusal log book must be reviewed on a weekly basis by the Designated Premises Supervisor who must sign the log book showing that a review has taken place and a record of any action necessary as a result of the review. The refusal log book must be made available upon request to Merseyside Police or an Authorised Officer.**
- **The premises must maintain an incident log book. The incident log book must be reviewed on a weekly basis by the Designated Premises Supervisor who must sign the log book showing that a review has taken place and a record of any action necessary as a result of the review. The incident log book must be made available upon request to Merseyside Police or an Authorised Officer.**

- **The display of alcohol on the premises must not exceed 15% of the net retail floor area of the premises.**
- **Prior to being authorised to sell alcohol, staff employed at the premises must receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Refresher training must be provided to staff at least every three months. The training records of staff must be maintained and kept up to date and made available for inspection upon request of Merseyside Police or an Authorised Officer or in the case of online training within 48 hours.**