

# WIRRAL COUNCIL

## LICENSING ACT 2003 COMMITTEE LICENSING ACT 2003 SUB-COMMITTEE

18 SEPTEMBER 2013

SUBJECT:	APPLICATION FOR A PROVISIONAL STATEMENT UNDER THE PROVISIONS OF THE LICENSING ACT 2003
WARD AFFECTED:	HOYLAKE AND MEOLS WARD
REPORT OF:	STRATEGIC DIRECTOR OF REGENERATION & ENVIRONMENT
KEY DECISION?	NO

### 1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to consider an application for a Provisional Statement under the provisions of the Licensing Act 2003. The application is made by **Pebbles (Hoylake) Limited** and relates to the premises to be known as **Pebbles, North Parade, Hoylake**.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 This application was listed to be considered on 8 August 2013 but due to a declaration of interest made at the start of the hearing the matter was adjourned to be considered at a future date.
- 2.2 These premises are currently vacant and were previously used as a public toilet.
- 2.3 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, a Provisional Statement is required to be submitted. If a Provisional Statement is granted, the applicant is required to apply for a Premises Licence.
- 2.4 When a person applies for a Premises Licence in respect of premises for which a Provisional Statement has been made, representations by Responsible Authorities and other persons will be excluded in certain circumstances. These are where:
- the application for a licence is in the same form as the licence described in the provisional statement;
  - the work in the schedule of works has been satisfactorily completed;
  - given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
  - there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made

### **3.0 APPLICATION**

3.1 The application for a Provisional Statement is as follows:

#### **Sale by Retail of Alcohol**

Sunday to Saturday 08:00 to 21:30

The applicant has indicated that the sale of alcohol will be for consumption on the premises only.

#### **Hours Open to the Public**

Sunday to Saturday 08:00 to 21:30

#### **Regulated Entertainment (Live Music, Recorded Music and Performance of Dance)**

Sunday to Saturday 12:00 to 21:30

3.2 The applicant has advised that whilst the application refers to a closing time of 21:30, the premises will close at dusk between 1 September and 31 March in accordance with a condition imposed by the Planning Authority.

3.3 Members are advised that in accordance with The Live Music Act 2012, Live Music is no longer considered as the provision of regulated entertainment at a premises open for the supply of alcohol if it takes place between 08:00 and 23:00, the Live Music is unamplified or the Live Music is amplified and takes place in presence of an audience of no more than 200 persons.

### **4.0 PROMOTION OF LICENSING OBJECTIVES**

4.1 Applicants are required to submit as part of their application an operating schedule that sets out how they will conduct/manage their business in accordance with the four Licensing Objectives. A copy of the full application is available.

4.2 Members of the Licensing Act 2003 Sub-Committee are advised that the proposals set out in the operating schedule may become conditions of licence should the licence be granted.

### **5.0 RELEVANT REPRESENTATIONS**

5.1 The following Representations have been received in respect of the above application.

Nine representations have been received from local residents. Three petitions have also been received signed by a total number of 77 local residents who are against the application. The representations and petitions relate to concerns that if the application is granted, public nuisance from entertainment coming from the

premises will be caused and the increased traffic within the vicinity of the premises will also cause a nuisance. Copies of the representations and petition are available.

A representation has also been received from Ward Councillor, John Hale. The representation supports the concerns expressed by local residents. A copy of the representation is available.

- 5.2 There have been no representations received from the following Responsible Authorities:

Wirral Safe Guarding Children Board  
Trading Standards  
Planning Authority  
Fire Authority  
Environmental Health  
Public Health  
Wirral Licensing Authority  
Merseyside Police

## **6.0 RELEVANT RISKS**

- 6.1 There are none arising directly from this report.

## **7.0 OTHER OPTIONS CONSIDERED**

- 7.1 There is no provision for other options to be considered.

## **8.0 CONSULTATION**

- 8.1 Statutory consultation has been undertaken in respect of this application.

## **9.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 9.1 There are no specific implications arising from this report.

## **10.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 10.1 There are no specific implications arising from this report.

## **11.0 LEGAL IMPLICATIONS**

- 11.1 A decision of this Committee can be subject to Appeal.

## **12.0 EQUALITIES IMPLICATIONS**

- 12.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

## **13.0 CARBON REDUCTION IMPLICATIONS**

- 13.1 There are no specific implications arising from this report.

## **14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

14.1 The Planning Authority have advised of the following condition imposed on the Planning Decision:

- The café hereby permitted shall be closed between 21:30 hours and 08:00 hours from 1 April to 31 August inclusively, and close between dusk (30 minutes before sunset) and 08:00 hours between 1 September and 31 March inclusively.

14.2 The Planning Officer has advised that the reason for this condition being imposed is as follows:

- 1, Residential amenity - it was considered necessary to limit opening to no later than 21.30 hours to keep noise and general disturbance within reasonable limits.
- 2, Birds - a more stringent restriction was imposed for the period when birds are 'overwintering' - i.e. using the north Wirral shore for feeding/loafing/roosting. The application site is within the Mersey Narrows and North Wirral Foreshore Special Protection Area (SPA) and Ramsar site, and the Dee Estuary Special Area of Conservation (SAC) - these are internationally and nationally imposed designations. These designations mean that the proposed use of the building had to be 'screened' under the 'Habitat Regulations' to ascertain whether 'Appropriate Assessment' was required - put simply, because there are potential impacts to internationally important populations and assemblages of over-wintering birds, accredited ecologists had to be appointed by the Council, and Natural England consulted to reach a view whether there would be a significant impact to those birds if planning permission was granted. As part of this screening, it was agreed that a condition was necessary to restrict opening hours during the over-wintering period to limit the disturbance - particularly in relation to activity around sunset and overnight.

## **15.0 RECOMMENDATION**

15.1 The Licensing Act 2003 Sub-Committee are asked to consider the application for a Provisional Statement in respect of the above premises.

## **16.0 REASONS FOR RECOMMENDATION**

16.1 It is a statutory requirement for this Committee to determine the application due to relevant representations received.

**REPORT AUTHOR:**            **Richard Leyland**  
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## **APPENDICES**

- Application for a Provisional Statement
- Representations from Local Residents and a Ward Councillor

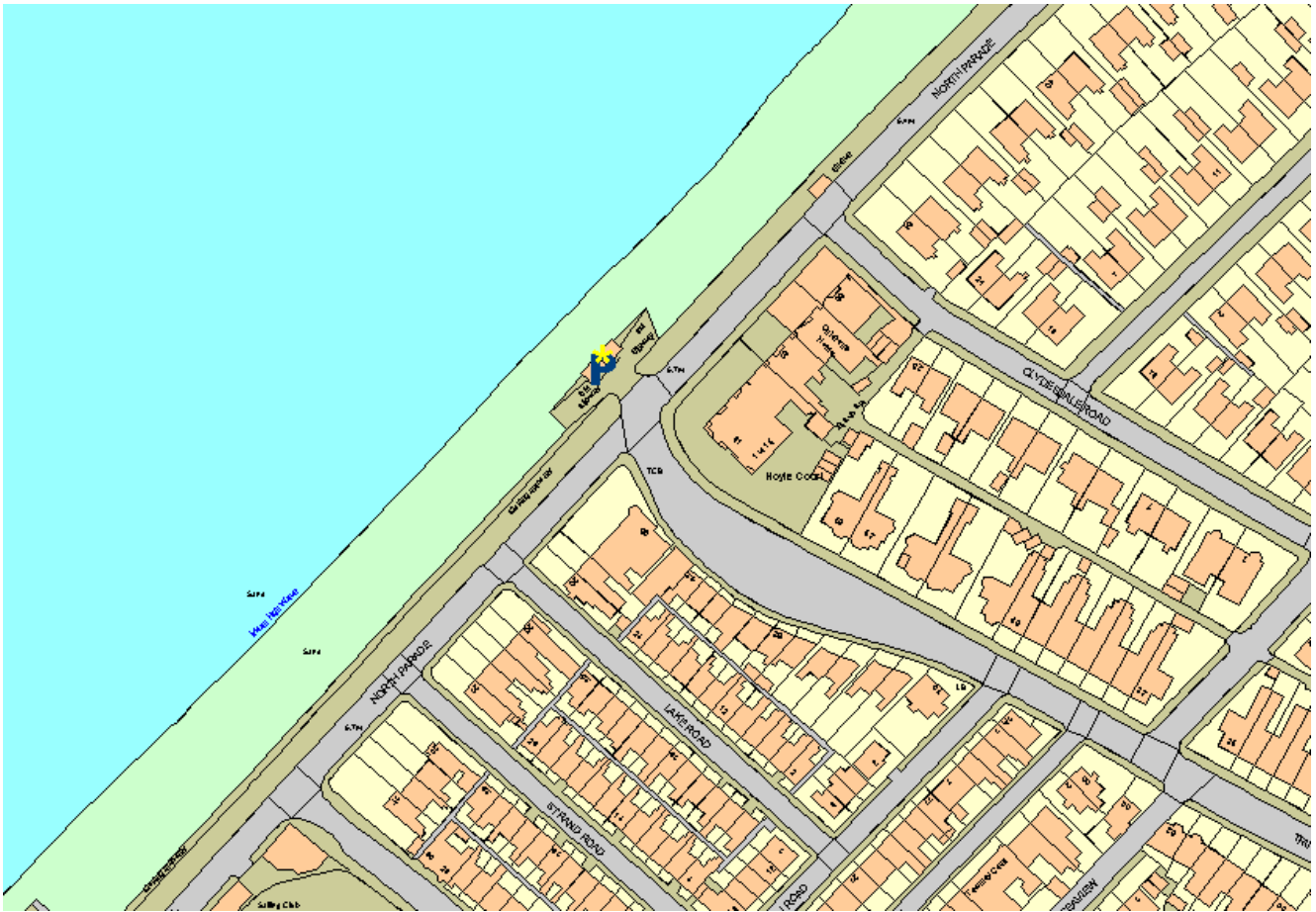
**REFERENCE MATERIAL**

- None

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>

# Location plan of Premises



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