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LICENSING ACT 2003 SUB-COMMITTEE

Friday, 30 November 2018

Present:

Councillors A Hodson
 AER Jones
 T Norbury

22 **APPOINTMENT OF CHAIR**

Resolved – That Councillor T Norbury be appointed Chair for this meeting.

23 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Sub-Committee were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

24 **APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - WHITTS END WINE BAR, 43 MARKET STREET, HOYLAKE**

The Corporate Director for Business Management reported upon an application that had been received from Whitts End Limited to vary a Premises Licence in respect of Whitts End Wine Bar, 43 Market Street, Hoylake, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence with the hours outlined within the report.

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

Four representations had been received from local residents. A representation had also been received from the Hoylake Residents Group. The representations related to concerns that should the application be granted nuisance would be caused by customers using the outside area. Copies of the representations were available.

The applicants attended the meeting.

A local resident was in attendance to make representations on behalf of himself and also on behalf of other local residents.

The Licensing Manager confirmed that all documentation had been sent and received and that a petition and letters in support of the application had been distributed prior to the original scheduled hearing and provided a further copy for Members.

The Licensing Manager outlined the report.

The applicants addressed the Sub-Committee and advised that as local residents they work with local residents and the local community. They reported that they had managed the premises opposite these premises and had never had any issues with noise disturbing neighbours. They advised that the variation would be to allow drinking on and off the premises and also to allow people to drink in the outside area until 11.00 pm. They stated that the premises were not overlooked by any residential properties and explained how the premises is operated and the measures that were currently in place to ensure that the Licensing Objectives were upheld which included soundproof doors being fitted, making recorded periodic checks outside the premises and checking the level of sound emanating from music.

The applicants stated that complaints about noise from the premises related to noise caused by another premises within close proximity to Whitts End. The applicant did however inform Members that there had been an occasion in the summer when windows had been left open beyond 9.00 pm and that this had caused a nuisance to local residents. The applicants referred to the letters and petition that supported the application and which stated that the conditions of the Premises Licence had been adhered to.

The applicants responded to questions from Members of the Sub Committee, the local resident and Miss V Silvester, Legal Advisor to the Sub Committee.

In response to questions, the applicants advised that the petition had been signed in the premises by customers of the premises.

The local resident informed Members that he was in attendance both representing himself and on behalf of other neighbours who lived in close proximity to the premises. He advised Members that he had experienced noise nuisance when customers had used the outside area prior to the premises being under the current management and also prior to any restrictions being in place and that this disturbance had resulted in him being unable to use his outside space. He informed Members that he was not opposing the application to allow the consumption of alcohol both on and off the premises but advised that should the restriction in respect of the outside area be removed it would be intolerable to live in his premises and he would consider moving house. He reported that the area was densely populated and believed that should drinking be allowed in the outside area beyond 9.00 pm this would erode the privilege of residents rights for the peaceful enjoyment of their homes.

The local resident responded to questions from Members of the Sub-Committee and Miss V Silvester, Legal Advisor to the Sub Committee.

In determining the application the Licensing Act 2003 Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under section 182 of the Licensing Act 2003.

In determining the application Members gave consideration to the measures put forward by the applicant to address the concerns raised by local residents however they considered that these measures would not prevent noise nuisance emanating from the outside area.

Members also took into consideration the fact that there were no representations from any of the Responsible Authorities in respect of the application to vary the Premises Licence, in particular from Environmental Health or the Licensing Authority.

Members also had regard to the provision within the Licensing Act 2003 for the Premises Licence to be reviewed where problems associated with the Licensing Objectives occur after the grant or variation of a Premises Licence.

Resolved –

- (1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.**
- (2) That the application to vary the Premises Licence in respect of Whitts End Wine Bar, 43 Market Street, Hoylake, be granted to permit the sale of alcohol on and off the premises.**
- (3) That the following condition be removed from the Premises Licence:**
 - There must be no drinking in the outside area beyond 9.00 pm.**
- (4) That the following condition be placed on the Premises Licence:**
 - There must be no eating or drinking in the outside area of the premises beyond 9.00 pm.**

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