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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

Monday to Thursday	10:00 to 04:00
Friday and Saturday	10:00 to 05:00
Sunday	10:00 to 05:00

Live Music

Monday to Thursday	20:00 to 04:00
Friday and Saturday	20:00 to 05:00
Sunday	20:00 to 05:00

Recorded Music and Anything of a Similar Description

Monday to Thursday	10:00 to 04:00
Friday and Saturday	10:00 to 05:00
Sunday	10:00 to 05:00

Late Night Refreshment

Monday to Thursday	23:00 to 04:00
Friday and Saturday	23:00 to 05:00
Sunday	23:00 to 05:00

Hours Open to the Public

Monday to Thursday	10:00 to 04:30
Friday and Saturday	10:00 to 05:30
Sunday	10:00 to 05:30

(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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