

**LICENSING ACT SUB-COMMITTEE****7 JULY 2023**

<b>REPORT TITLE</b>	<b>APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003</b>
<b>REPORT OF</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

**REPORT SUMMARY**

The purpose of this report is to consider an application to vary a Premises Licence under the provisions of the Licensing Act 2003. The application is made by **Lateral Wylde Limited** and relates to the premises known as **Lateral, 83 Banks Road, West Kirby, CH48 0RA**.

**RECOMMENDATION/S**

The Licensing Act Sub-Committee are asked to determine an application to vary a Premises Licence in respect of the above premises having regard to the representations made in respect of the application.

## SUPPORTING INFORMATION

### 1.0 REASON FOR RECOMMENDATION

- 1.1 It is a statutory requirement for this Sub-Committee to determine the application to vary the licence due to relevant representations being received.

### 2.0 OTHER OPTIONS CONSIDERED

- 2.1 There is no provision for other options to be considered due to relevant representations having been received.

### 3.0 BACKGROUND INFORMATION

- 3.1 The Licensing Authority have received an application to vary a Premises licence under the provisions of the Licensing Act 2003.

- 3.2 The table below shows the hours permitted under the current Premises Licence and details of the variation application in terms of hours for licensable activities to take place.

	<b>Current Hours:</b>		<b>Hours applied for:</b>
	<b>Sale by Retail of Alcohol (consumption 'on' the premises)</b>		<b>Sale by Retail of Alcohol (consumption 'on' and 'off' the premises)</b>
	Sunday to Saturday 17:00 to 21:30		Sunday to Saturday 12:00 to 23:00
	<b>Hours Open to the Public</b>		<b>Hours Open to the Public</b>
	Sunday to Saturday 08:30 to 22:00		Sunday to Saturday 08:30 to 23:30

- 3.3 The application also includes a request to remove the following conditions from the current Premises Licence:

- Along with the Designated Premises Supervisor, two other members of staff must hold a valid personal licence.
- An Anti-Drug policy must be implemented and a secure place to store controlled drugs prior to collection must be available. The Police must be notified of any seizures of controlled drugs. A Drugs Register must be maintained.

- 3.4 The applicant had originally requested Live Music from 18:00 until 22:00 seven days a week and Recorded Music from 08:30 until 23:30 seven days a week. This part of the application was however submitted in error and has subsequently been withdrawn.

- 3.5 As part of the application process applicants are required to submit an Operating Schedule that sets out how they will conduct/manage their business to promote the four Licensing Objectives. A copy of the full variation application and the current plan showing the licensed area is available.

- 3.6 Members of the Licensing Act Sub-Committee are advised that the proposals set out in the Operating Schedule may become conditions of licence should the application to vary be granted.

3.7 Following discussions with Merseyside Police during the consultation period the applicant has agreed to have the following conditions placed on the Premises Licence should the application to vary be granted. These conditions are in addition to those proposed by the applicant in their operating schedule:

- CCTV shall be installed at the premises in the form of a recordable system capable of providing clear, good quality images in all lighting conditions. Cameras shall encompass all entrances and exits to the premises, any external seating or smoking areas, all areas where the sale, supply or consumption of alcohol occurs and all other areas where licensable activities take place. Equipment shall be maintained in good working order and any faults or breakdown rectified as soon as reasonably practicable. The system will be checked on a regular basis to ensure it displays the correct time and date. The system shall record in real time and operate whilst the premises are open to the public. The recordings shall be retained for a period of 31 days and made available to any authorised officer on reasonable request for evidential purposes, in accordance with Data Protection Legislation. The recording equipment shall be kept in a secure environment under the control of the Premises Licence Holder or other responsible, named individual. There shall be sufficient members of trained staff available to be able to download or view CCTV evidence with the minimum of delay at the reasonable request of an authorised officer.
- Challenge 25 will be adopted as the proof of age policy. All members of staff engaged in the sale of alcohol at the premises shall seek credible, photographic proof of age evidence from any person who appears to be less than 25 years of age and is seeking to purchase alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport, Military ID, photographic driving licence or proof of age card, carrying a Pass logo and hologram. Any sales refusals shall be recorded. Challenge 25 posters will be present in overt locations.
- Any incidents of crime and disorder witnessed by staff will be recorded in an incident book/electronic log and reported to Merseyside Police in a timely manner. The time and nature of the incident shall be recorded, including any action taken by members of staff. Incidents recorded shall be retained for 12 months. The incident book/log shall be made available for inspection at all reasonable times by any authorised officer.
- All staff shall be trained with regard to the content of the premises licence including opening times, licensable activities, and all conditions. Training shall be recorded in documentary form and will be available for inspection at all reasonable times by an authorised officer. The records will be retained for at least 12 months.
- No open vessels, glasses, bottles or alcohol containers will be allowed to be taken beyond the licensed area as indicated on the plan. (Unless covered by a pavement licence).

### 3.8 **RELEVANT REPRESENTATIONS**

The following representations have been received in respect of the application.

#### **Local Residents**

In respect of this application, seven representations have been received from Local Residents. The representations relate to public nuisance being caused to local residents by customers both inside and outside the premises which the residents advise is currently a problem. The local residents consider that if the application is granted for later hours and 'off' sales of alcohol then public nuisance would be exacerbated. Copies of the representations are available.

## **Ward Councillor**

A representation has been received from a Ward Councillor, Councillor Tony Cox, who supports the representations received from Local Residents. A copy of the representation is available.

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

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

## **4.0 FINANCIAL IMPLICATIONS**

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

## **5.0 LEGAL IMPLICATIONS**

- 5.1 Section 18(3) of The Licensing Act 2003 provides that where relevant representations are made, the authority must hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and having regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives.

- 5.2 Section 4 of the Licensing Act 2003 provides that the Licensing Authority must carry out its functions under this Act with a view to promoting the Licensing Objectives which are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

and that in carrying out its licensing functions the Licensing Authority must have regard to its licensing statement published under section 5 of the Licensing Act 2003, and any guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

- 5.3 The Licensing Authority has a duty to ensure that premises are operated in accordance with Licensing Act 2003 Licensing Objectives. If the Licensing Objectives are undermined this could result in the revocation of a Premises Licence.

## **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

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

## **7.0 RELEVANT RISKS**

- 7.1 There are none arising directly from this report.

## **8.0 ENGAGEMENT/CONSULTATION**

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

## 9.0 EQUALITY IMPLICATIONS

9.1 The potential impact has been reviewed and it is considered that there will be no direct impact on any of the protected groups.

## 10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are none arising from the content of this report.

## 11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no community wealth implications arising directly from this report.

**REPORT AUTHOR:** *Richard Leyland*  
*Licensing Team Leader*  
email: [richardleyland@wirral.gov.uk](mailto:richardleyland@wirral.gov.uk)

## APPENDICES

None

## BACKGROUND PAPERS

- Application to vary a Premises Licence
- Representations received from Local Residents
- Representation received from a Ward Councillor
- Wirral Council's Licensing Policy
- Statutory Guidance issued under Section 182 of the Licensing Act 2003
- The Licensing Act 2003

## TERMS OF REFERENCE

This report is being considered by the Licensing Act Sub-Committee who are delegated to determine such matters in accordance with Section 9.3 of the Licensing Act Committee's Terms of Reference referred to in Part 3, Section B of the Council's constitution.

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Licensing Panel	12 February 2021