

REPORT: Regulatory Committee
DATE: 14 April 2009
REPORTING OFFICER: Chief Executive
SUBJECT: Application to Review the Premises Licence -
Breezes 24 – 28A Widnes Road Widnes.
WARDS: Riverside

1. PURPOSE OF REPORT

To hold a hearing to consider an application for the review of a premises licence under Section 51 Licensing Act 2003. The Police have applied for the review of Breezes 24 – 28 A Widnes Road Widnes which relates to the Prevention of Crime and Disorder and the Protection of Children from Harm licensing objectives.

2. RECOMMENDATION

That the Committee considers the Section 51 application

3. SUPPORTING INFORMATION

- 3.1** An application has been made under section 51 Licensing Act 2003 (“the 2003 Act”) to review the Premises Licence in relation to the above property.
- 3.2** This hearing is held in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 3.3** The procedure to be followed has been circulated to all parties and will be repeated at the beginning of the hearing.
- 3.4** The hearing is solely concerned with the Section 51 application.

4 THE APPLICATION

- 4.1** An application for the review of the premises licence was received on 16 February 2009 from Cheshire Constabulary.
- 4.2** The premises licence permits regulated entertainment and the supply of alcohol and the hours the premises are open to the public are Sunday to Thursday 10.00 to 02.45 and Friday and Saturday 10.00 to 03.15
- 4.3** The Premises Licence holder is Dwight Anthony McLoughlin
- 4.4** The Designated Premises Supervisor is Kathy Tracey Bremner
- 4.5** The review was requested by Cheshire Constabulary on the following grounds:-

On two separate occasions visits have been made to these premises and a number of underage drinkers have been found consuming alcohol in there on both occasion. Investigations into other incidents have revealed a number of other occasions when underage customers have been served alcohol here, suggesting that this is an entrenched culture at this club. Despite attempts by the Police to help address this problem in a variety of ways, the Premises Licence Holder (PLH), Dwight Anthony McLAUGHLIN, and the Designated Premises Supervisor (DPS), Kathy Tracey BREMNER, seem unable or

unwilling to realistically address this issue and prevent underage customers from using their venue.

Furthermore, at a recent incident involving a serious assault at this venue, the staff were unhelpful to the point of being obstructive, and even tried to prevent officers from entering the venue to investigate the incident.

There is also documented evidence that the youths frequenting this venue often go onto commit alcohol fuelled anti social behaviour and public order offences.

This is clearly in contravention of both the Protection of Children from Harm and Prevention of Crime and Disorder licensing objectives. Therefore, I seek a Review of the Premises Licence.

As a result of a number of anecdotal reports suggesting that this venue was being frequented by underage customers (see Appendix 1 for the House File that contains copy reports), a full licensed premises check was carried out there at 10.20pm on Friday, the 5th of December 2008. During this visit a total of 1 x 16 year old male, 3 x 16year old females and a 14 year old female were found consuming alcohol inside. Full details were recorded, in addition to the identity of the member of bar staff who served them, and all offences, including the one for sale of alcohol to children, Contrary to Sec 146 of the Licensing Act 2003, were dealt with by means of Fixed Penalty Notices (FPN).

Further offences were also identified, in so much as McLaughlin was directly employing his own Door Supervisors without the proper authority from the Security Industry Authority, contrary to Section 3 of the Private Security Industry Act 2001.

As a result of these issues both Mr. McLaughlin and Ms Bremner attended at Widnes Police Station on Tuesday, the 9th December 2008 where these offences were discussed and an Action Plan agreed that would address these problems. Both persons were clearly advised as to their responsibilities and warned that further visits would be made.(Appendix 2 for copy Action Plan)

In addition to this Action Plan the police supplied new hi-visibility jackets and a new hand-held metal detector for the use of the Door Supervisors, all of which had been financed by the Crime & Disorder Partnership.

Furthermore, two places had previously been reserved for them on a fake ID seminar, given by a B.I.I. trainer and, again, paid for by the Partnership. The presentation took place during a two hour period prior to a monthly Pubwatch meeting on the 2nd December 2008: it was noted that both persons arrived some 1 hour 50 minutes into the presentation.

Despite all these measures to try and help resolve these problems a flow of incidents continued to be received, which, when investigated, showed that a number of underage customers were regularly gaining access and being served alcohol at this venue. Incidents involving both male and female customers, aged 15 and 16 years were identified. One case involved a 16 year old male and a pregnant 15 year old female, the male was intoxicated and both had just left Breezes. The male was so disorderly he was arrested outside the club for Public Order offences.

Owing to the indications given by these reports a second licensed premises check took place at 11.20pm on Friday, the 30th January 2009. On this

occasion a 17year old, 3 x 16 year olds and 2 x 15 year old were found inside. Four of these were found to be consuming alcohol whilst the fifth had only just arrived. NONE OF THESE PERSONS HAD BEEN ASKED TO PROVIDE ID BY EITHER THE DOOR STAFF OR THE BAR STAFF. (See Appendix 3 for Pro-formas of offenders). All offences identified here will be dealt with by means of FPN in the presence of a responsible adult in the cases of the customers, and the SECOND OFFENCE of sale/permitting the sale of alcohol to children on behalf of the Bar Staff and DPS, respectively. In addition to these offences further infringements were found in respect of a fire door and emergency lighting; details of these matters have been forwarded to County Fire.

At 00.45hrs on the 7th of February 2009, officers were called to the venue where a serious assault had taken place. The assault amounted to a 'glassing' and it was believed that the offender was still on the premises. However, when officers tried to enter the club they found both the Doorstaff and staff, including the PLH, unhelpful and even obstructive towards their attempts to identify an offender, preserve the scene and ensure the safety of those still remaining in the club.

The witnesses are as follows:-

1. PS 3131 Graham Waring:-

Will give evidence as to the details of the underage customers found during the licensed visit on the 5th of December 2008.

2. PC 3273 Claire Jones:-

Will give evidence as to the incidents received in the period between the 5th December 2009 and 30th January 2009. She will also provide evidence as to the findings on the second licensed visit on the 30th January 2009.

3. PS 3484 Rebecca Stokes:-

Will give evidence as to the assault and further events on the 7th of February 2009 and the complete lack of co-operation received from the staff and owners.

4. Insp. Derek Lockie:-

Will give further evidence as to the incident on the 7th February 2009 and the reaction from the club operators.

Appendix 4 contains a number of statistics that show the amount of incidents that have occurred in the vicinity of Breezes and Champions Pizza, a late night refreshment venue situated on the ground floor underneath Breezes.

Whilst these figures must always be viewed cautiously as it is a practical impossibility to totally separate incidents that 'spill over' from other venues situated nearby. However, even regarded at best, they show clearly that the area immediately outside this venue is subject to an unacceptable level of criminal incidents.

Taking these figures together, with the events recorded herein, it is clear that the continued sale of intoxicants to underage customers is contributing to a rising levels of disorder and therefore impinging on the crime and disorder licensing objective both inside and outside the venue.

CONCLUSIONS AND RECOMMENDATIONS

It is clear that all Police efforts have been exhausted in trying to help resolve this issue. In this respect the operators are the authors of their own misfortunes. The operators of this club seem totally unable, or unwilling, to address the issue of underage customers. All issues are further compounded by a hubristic lack of co-operation with Police officers who are trying to investigate offences there.

In terms of disposal I seek the full revocation of the Premises Licence and the removal of the DPS.

The alternative would be to modify the Premises Licence in terms of entitlement and/or Conditions and I submit that this would not address the relevant issues at the relevant times:-

1. The attraction of this venue would seem to be the ready availability of alcohol to underage customers, so to restrict or remove any Regulated Entertainment entitlement would have little or no effect.
2. All these offences have been detected prior to midnight; in the case of the visit carried out on the 5th of December 2008, it was as early as 10.20pm. Therefore any shortening of the trading hours would have to be severe and, again, would probably have the only effect of moving the problem forward in time.
3. The Challenge 21 Proof of Age Scheme is already a Condition of the Premises Licence so there would be no other relevant Conditions to impose.
4. Any modification of Conditions or entitlement would not address the issue of the attitude of the operators towards the Police and other responsible authorities.

If the Committee are minded not to follow this course of action, I would ask that the following measures be considered in order that the attraction of this venue to underage customers be reduced as much as possible:-

1. Removal of all the Regulated Entertainment entitlement from the Premises Licence.
2. Restriction of the times on each day for the retail sale of alcohol and provision of late night refreshments to 11pm with the closure of premises at 11.30pm.
3. The removal of the DPS.

NOTE – Witness statements and Appendices referred to by the Police will be presented to members prior to the hearing.

5.1 REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

No representations were made from any other responsible authority in response to the review application

6.1 REPRESENTATIONS RECEIVED FROM INTERESTED PARTIES

No representations were made from interested parties in response to the review application.

7.0 OPTIONS AVAILABLE TO THE COMMITTEE

7.1 Section 52 of the Licensing Act 2003 states that the Council must, having regard to the application and any relevant representations, take such of the following steps (if any) as it considers necessary for the promotion of the Licensing Objectives.

7.2 The steps which are relevant to this type of application

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor
- To suspend the licence for a period not exceeding 3 months
- To revoke the licence.

Note that the above reference to modifying conditions includes any alteration, omission or the addition of any new condition.

8.0 POLICY IMPLICATIONS

8.1 None

9.0 OTHER IMPLICATIONS

9.1 None

10.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES

10.1 Children and Young People in Halton

None

10.2 Employment Learning and Skills in Halton

N/A

10.3 A healthy Halton

N/A

10.4 A Safer Halton

None

10.5 Halton's Urban Renewal

N/A

11.0 RISK ANALYSIS

N/A

12.0 EQUALITY AND DIVERSITY ISSUES

N/A

13 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Application	Legal Services	John Tully/Kay Cleary

Documents