

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 5 JULY 2023
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 5 JULY 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Zafar Iqbal and Penny Wagg.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section

Joanne Swampillai – Legal Services

Katy Poole – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

1/050723

NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

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DECLARATION OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/050723 No apologies were submitted.

MINUTES

4/050723 That the public part of the Minutes of the meeting held on 7 June 2023 at 1000 hours and 14 June 2023 at 1000 hours and the minutes as a whole were confirmed and signed by the Chair.

LICENSING ACT 2003 PREMISES LICENCE – VARIATION – THE RHODEHOUSE, 1ST FLOOR, 123 THE PARADE, SUTTON COLDFIELD, B72 1PU

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On Behalf of the Applicant

Carl Moore – Licensing Consultant
Jimmy Franks – Management Consultant

Those Making Representations

No one attended on behalf of those making representations.

* * *

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. Bhapinder Nandhra, Licensing Section, outlined the report.

At this stage the chair invited the applicant to make their presentation and Jimmy Franks, on behalf of the applicant made the following points: -

- a) That he was the current General Manager for the premises and had extensive experience in managing live music venues and nightclubs.
- b) The premises generally hosts events that attract a 45+ age group.
- c) They operated a strict door policy and didn't allow any misbehaviour in any way, shape or form.
- d) The venue generally hosts 60/70s style bands and wasn't attractive to a younger audience.

- e) 95% of guests were more mature.
- f) The DJ/live music finished at 11pm on Fridays and 11.30pm on Saturdays.
- g) The premises were conscious of the local area and worked closely with them.
- h) Mr Franks had also worked as a radio presenter for 35 years, so he was well known in the area.

At this stage the chair Carl Moore made the following points: -

- a) That the reason for the application to extend the hours was in order to keep people at the premises once the live music/DJ finished.
- b) Other premises in the area operated beyond 1am.
- c) During the extra hour they would still serve food and it would allow people to disperse quietly from the area.
- d) The representation made comment about the address, they had not tried to hide where the venue is.
- e) The representation also makes contradictions about music being played until midnight and then that they operated well and complied with the current licence.
- f) They were not seeking to change the hours for music, it was simply to open for one hour longer.
- g) There was no objection from environmental health, and no complaints in relation to noise.
- h) The objector also suggested he was noting things on behalf of the local community, but there is no clarification on that. No one else had made representations.
- i) That he would be surprised if over 45yos were walking down the street being rowdy.
- j) He had emailed, phoned, and left a letter at the address of the objector but they had not received any contact back.

The Chair invited all parties to make a closing submission.

On behalf of the applicant Carl Moore made the following closing statements: -

- That other venues opened until 3am.
- The premises ran a strict door policy and dispersal policy.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the full written decision was sent to all parties as follows;

5/050723

RESOLVED:-

That the application by The Rhodehouse Ltd to vary the premises licence in respect of The Rhodehouse, 1st Floor, 123 The Parade, Sutton Coldfield B72 1PU, under section 34 of the Licensing Act 2003, be granted. Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

The licence holder company wished to vary the licence to extend the hours for the sale of alcohol (for consumption both on and off the premises), to extend the hours that the premises was to remain open to the public, and to vary the premises licence Plan.

The licence holder was represented at the meeting by a licensing consultant and also by the current general manager of the venue. The general manager had over 40 years' experience in live music, through owning and operating nightclubs and live music venues. The licence holder company had appointed him in January 2023 to take over in a consultancy role to run The Rhodehouse premises, which was a licensed live music venue.

The age group of the clientele was predominantly 45 plus. The manager operated a very strict door policy, in common with his other premises, and was careful to ensure that his management style ensured that the licensing objectives were upheld at all times. He had created an atmosphere of more of a social venue than a live music premises, offering mainly 1960s and 1970s style bands, which did not attract a younger audience. He estimated that 95% of patrons were of a more mature age.

The premises adhered strictly to all the conditions of its licence. Currently the DJ and live music ended at 23.00 hours on a Friday, and 23:30 hours on Saturday. The general manager was very conscious of the local community and worked closely with those living nearby, giving them his mobile number and email address so they could contact him at any time. He had also visited them. He lived locally and had 30 years' experience as a radio presenter; he observed that he was well known in the area and easily contactable.

He operated a very strict policy regarding patrons leaving the venue, via the door team at the premises, and asked the Sub-Committee to note that "we just overall have nice people come in that I personally do not see causing a problem at all". He had taken careful note of video evidence of patrons departing from the premises at the end of trading

on Friday and Saturday night, and had noted that 95% of them left to go into other licensed premises such as restaurants and bars.

He had run The Jam House venue in a residential area in central Birmingham for 14 years. He had adopted a “delayed exit” policy for patrons, as he was conscious of the needs of residents. When a group of patrons were leaving and there was another group behind them, the door team stopped them from leaving until the first group had been dispersed out of the area. This avoided a large crowd of people emerging onto the side street and heading towards the main street at any one time.

The licensing consultant also addressed the Sub-Committee to explain that the reason that the additional hours had been sought was because a number of other licensed premises, in and around the surrounding area, were licensed to 03:00 hours. He described these other premises as “literally on the doorstep” of The Rhodehouse. He observed that whilst The Rhodehouse had requested alcohol sales to 01:00 hours, this would mean that the premises would still be ending their alcohol sales up to two hours earlier than others.

He noted that the extra time would also have the benefit of encouraging patrons to stay and then disperse from the area quietly, rather than all leaving at the same time, namely as soon as the bands finished, and then going to other venues nearby, which perhaps could potentially create noise in the street. Patrons had given feedback asking for an extension to the hours so they could remain at The Rhodehouse beyond the current times.

The licensing consultant had read the representation from a local resident which was in the Committee Report. The licensing consultant took issue with the suggestion that the premises had been playing music until midnight; he confirmed that this was absolutely not the case and music always ceased at the times dictated by the terms of the licence.

He further noted that the objector confirmed that the club was in fact following the terms of the current licence. The licensing consultant therefore asked the Sub-Committee to reflect on the fact that the objector was suggesting that the premises was playing loud music and that this was a disruptive influence in the area, yet also saying that it was a credit to the premises to be adhering properly to the conditions of the licence. In addition, the premises was not proposing to change the end time for the music, which would remain at 23:00 hours.

Regarding the potential for impact from noise, the objector had mentioned the elderly people’s accommodation nearby. However, the premises had been liaising with them and spoke to them quite regularly. If there were any issues, they knew to phone The Rhodehouse, but had not done so; moreover, no representation had been submitted by the Environmental Health department of the City

Council. They were the experts in dealing with public nuisance created by noise; the licensing consultant noted that this tended to suggest that there had been no complaints from anybody in relation to any noise.

The licensing consultant noted that the objector suggested that he acted for the local community. He asked the Sub-Committee to reflect on whether the representation had been submitted on behalf of the local community, or on the objector's own account.

The objector lived en route to car parks used by patrons; the licensing consultant suspected that persons leaving other venues at 03:00 had been walking to the car parks, and the objector had perhaps not noticed that The Rhodehouse would be closed by then. The premises' own patrons were not at all likely to create noise when heading towards the car parks, given that they were the over 45 age group. In any event, the licensing consultant observed, even if the variation application were to be granted, alcohol sales at the premises would end at 01:00 hours, whereas other nearby premises were licensed to later hours.

The premises and the licensing consultant had tried on numerous occasions to contact the objector by telephone, had emailed him, and had also been round to his address and left a note. However, there had been no response from him, and he had also not attended the meeting.

When deliberating, the Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application. The Sub-Committee also took into consideration the written representations of the local resident living nearby, but noted that as this person had not attended the meeting, there was no opportunity to ask questions.

The Members bore in mind paragraph 9.12 of the Guidance issued under s182 of the Act, namely the need for robust evidence in decision making. The representations which had been received were concerned with the potential for public nuisance, especially noise, and also the risk of rowdiness from patrons, if the variation were to be granted.

The Sub-Committee noted that there had been no objection from the responsible authorities. West Midlands Police had found all to be in order. The Sub-Committee was mindful of the fact that Environmental Health, the expert authority on the potential for public nuisance, had made no representations.

A number of other venues in the area were open to 03:00 hours and were situated in very close proximity to The Rhodehouse. The premises prioritised the licensing objectives carefully, and were strict in all aspects of management – particularly with regard to dispersal.

After hearing directly from the general manager during the meeting,

the Members felt that had taken his responsibilities seriously, and was a highly experienced and trustworthy person who was keen to ensure that the licensing objectives would be properly promoted. The Members agreed that he was an impressive person with an extensive background in running late-night venues, in whom they could feel confident. The Members felt reassured that the licence holder company had appointed a person who could be trusted to operate safely.

The Sub-Committee determined that the applicant's responsible style of management, and the operating schedule, would enable the premises to uphold the licensing objectives for the additional times, and therefore granted the application.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 of the Licensing Act 2003 by the Home Office, the application for the variation of the premises licence, the written representations received and the submissions made at the hearing by the applicant company via its licensing consultant and general manager.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

EXCLUSION OF THE PUBLIC

6/050723

RESOLVED:-

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

CHAIR.....