

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 29 NOVEMBER 2023</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 29 NOVEMBER 2023 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Diane Donaldson in the Chair;

Councillors Jilly Bermingham and Penny Wagg.

### **ALSO PRESENT**

Shaid Yasser – 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)

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1/291123

### **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**

- 3/291123 Apologies were submitted on behalf of Councillor Sam Forsyth and Councillor Diane Donaldson was the nominated substitute Member.
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**MINUTES**

- 4/291123 That the Minutes of the meeting held on 27 September 2023 at 1000 hours, 4 October 2023 at 1000 hours and 1200 hours were circulated and confirmed and signed by the Chair.
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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – MODE RESTAURANT AND BAR, 163 HAGLEY ROAD, LADYWOOD, BIRMINGHAM, B16 8UQ.**

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**On Behalf of the Applicant**

Rebecca Ekemode – Applicant  
Anil – Agent, Greenhill Licences

**Those Making Representations**

No one making representations attended the meeting.

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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. Shaid Yasser, Licensing Section, outlined the report.

At this stage the chair invited the applicant to make their presentation and Rebecca Ekemode made the following points: -

- a) That it was a family run business.
- b) It was her families first business venture.
- c) They were involved in a long standing feud with the previous tenant and he had made an objection as he did not want them to sell alcohol as the objector also had a business selling alcohol for off sales. Both objections were submitted by the same person.
- d) The objector had made threats to her which she had logged with the police.

- e) That she just wanted the Committee to make the right decision.
- f) The only reason the objector had an issue with the application was because he did not want her selling alcohol because he also sold alcohol.

The agent on behalf of the applicant then made the following statements: -

- a) That they had submitted the application in line with policy and regulations.
- b) The only objection submitted was from the previous tenant who occupied the shop two doors away. The objector had misunderstood what the application was for, alcohol would not be taken off the premises.
- c) The objector had a business for off sales.
- d) The premises was a family run restaurant.
- e) There would not be any noise implications, it was a typical restaurant and not a bar or pub.
- f) The premises only had capacity for 30-40 people and would operate as table service.

Rebecca Ekemode confirmed that the premises would not operate as a bar or pub and only had capacity for 20-25 people/covers.

The applicant/representative were invited to make their closing submission and Anil (Agent on behalf of the applicant) made the following closing statements: -

- That it was a small business.
- That Rebecca Ekemode would be the PLH/DPS and had everything in order such as training, CCTV and records.

Rebecca Ekemode added that she would ensure all necessary training was in place, noise would be kept to a minimum and she would ensure all legislation was complied with.

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

05/291123 **RESOLVED:-**

That the application by Rebecca Ekemode for a premises licence in respect of Mode Restaurant and Bar, 163 Hagley Road, Ladywood, Birmingham B16 8UQ, be granted subject to the following conditions

which were agreed with two of the responsible authorities in advance of the meeting:

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1. The conditions which were agreed with West Midlands Police, namely:

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- The DPS or their nominated person will check the CCTV daily, prior to carrying out licensable activity, to ensure it is working and recording. This check to be documented signed, timed and dated by the person checking. This documentation to be made available to any of the responsible authorities on request
  - No children under 18 allowed on the premises unless accompanied by a responsible adult. Irrespective no children under 18 allowed on the premises after 22.00hrs, unless the premises is booked for a private function and not open to the general public. Staff not to be left in sole charge of any child
  - The DPS will ensure all staff working at the premises (whether paid or unpaid) while it is open for licensable activity will be trained in their responsibilities under the licensing act. This training will be documented and signed by both the trainer and trainee. This documented training will be made available to any of the responsible authorities on request
  - The premises will have a documented vulnerability policy. All staff working at the premises (whether paid or unpaid) while it is open for licensable activity will be trained in this policy. This training will be documented and signed by both the trainer and trainee. This documented training will be made available to any of the responsible authorities on request
  - The premises will risk assess the need to deploy door staff. If door staff are deployed at the premises they will sign on and off duty listing their full SIA licence number. Door staff will wear either a high visibility coat, jacket or tabard while on duty. The premises will ensure that up to date contact details, including a phone number will be kept on site for the security provider
  - The premises fire risk assessment will be made available to any of the responsible authorities on request
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2. The conditions which were agreed with Licensing Enforcement, namely:

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- Any refusals of sale of Alcohol will be recorded either electronically or in an incident register or a refusals register and made available to any of the responsible authorities upon request

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued.

The applicant attended the meeting in person, represented by an agent. Two persons had submitted written representations, both of which were in the Committee Report. Neither of those persons attended the meeting.

The applicant addressed the Sub-Committee first, to explain that the premises was a family-owned business. There had been some tensions with the persons making representations; the applicant considered that the objections had been motivated by commercial considerations, as the person(s) making representations operated their own licensed premises selling alcohol by retail.

The agent then confirmed to the Sub-Committee that all the relevant policy documents had been followed when submitting the application, and the advice of the responsible authorities had been followed in terms of the additional conditions. The agent felt that there had perhaps been a misunderstanding among the objectors with regards to the type of licence requested; he clarified that the application was for an “on” licence, where alcohol would not be taken away. The agent noted that one person making representations was a nearby retailer with an “off” licence; the agent repeated the concern that the person could have been principally motivated by commercial considerations.

The agent said that the premises was a restaurant which would be opening into the late evenings, and for private parties. It was a small family business which did not have the ability to accommodate large numbers of people. There would therefore not be any noise implications of the type seen at nearby bars or public houses; many such establishments along the Hagley Road already operated to late hours.

The agent remarked that when looking at the plan the maximum number of people attending would be “between 30 and 40” at any one time; the applicant then said that the numbers would be more like “20 to 25”. All patrons would be seated at tables to have a meal, possibly with wine or other alcohol, as a table service. There was no separate bar area for people wishing to drink without ordering meals.

The agent confirmed that the applicant was a personal licence holder and was the proposed designated premises supervisor. All the matters in the operating schedule were in place, such as CCTV, and staff training on all matters relating to alcohol sales would be given. The application had been drafted with the licensing objectives in mind and there were additional provisions such as a vulnerability policy, on which all the staff would be trained. All the necessary logs would be maintained and made available to the responsible authorities as necessary.

The applicant also confirmed that she would make sure that all the necessary training was in place. She added that she had had conversations with the agent regarding how the premises could keep the noise down, and how to operate in compliance with all the legislation.

The Sub-Committee noted that under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to

grant such applications unless there was good evidence of a risk to the promotion of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact have an adverse effect on the licensing objectives.

The Members considered the written representations carefully, but noted that neither of the objectors attended the meeting to address the Sub-Committee, and the Members therefore did not have the opportunity to ask questions.

Both of the objectors had written to the Sub-Committee to say that they were worried about how the late service of alcohol, and loud music, could disturb the “neighbourhood tranquillity”. However, the Sub-Committee did not see that the trading style of a very small family-run restaurant, serving around 25 patrons, was likely to create any adverse effect on those nearby.

The Sub-Committee noted that the premises was a small restaurant without a separate bar area, not a public house, and the view of the Members was that it was therefore unlikely to create risks to the licensing objectives in the way that those types of premises sometimes did. The Members were also aware that the Hagley Road was a busy area in general, and that there were bars and public houses in the vicinity.

When deliberating, the Sub-Committee noted that the operating schedule had been drafted with regard to the licensing objectives, and had been approved (with additional conditions) by West Midlands Police and Licensing Enforcement. The other responsible authorities had also found all to be in order.

The Sub-Committee therefore resolved that the application could safely be granted together with the additional conditions proposed by the responsible authorities, as the operating schedule properly addressed the promotion of the licensing objectives. The Sub-Committee was satisfied that trading would be unlikely to create a likelihood of public nuisance, as had been suggested in the written representations. The application was therefore granted with the additional conditions agreed between the applicant and the responsible authorities.

In reaching this decision, the Sub-Committee has given due consideration to the City Council’s Statement of Licensing Policy, the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State, the application for a premises licence, the written representations received, and the submissions made at the hearing by the applicant and her agent.

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.

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**GAMBLING ACT 2005 – LICENSED PREMISES GAMING MACHINE PERMIT – THE TENNIS COURT, WALSALL ROAD, PERRY BARR, BIRMINGHAM, B42 1TY.**

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This was a non-invite application.

The application was heard at 1030 hours.

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. Shaid Yasser, Licensing Section, outlined the report.

Members had no questions.

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

06/291123 **RESOLVED:-**

That the application by Regal Gaming Technologies on behalf of Stonegate Pub Company Ltd, for the variation of a Licensed Premises Gaming Machine Permit in respect of The Tennis Court, Walsall Road, Perry Barr, Birmingham B42 1TY, be granted.

The Sub-Committee deliberated the application put forward by the applicant company. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three licensing objectives contained in the Act will be properly promoted.

The premises has the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permits 5 Category C machines. The application was to operate a total of 6 Category C Gaming Machines, within an alcohol licensed premises.

Licensing Enforcement had confirmed that everything was in order after carrying out a site visit. The Sub-Committee therefore granted the variation as requested.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under

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section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received

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**The meeting ended at 1042 hours.**

CHAIR.....