BIRMINGHAM CITY COUNCIL

LICENSING
SUB-COMMITTEE C
9 APRIL 2025

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 9 APRIL 2025 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair.

Councillors Jilly Bermingham 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)

****

1/090425 **NOTICE OF RECORDING/WEBCAST**

The Chair advised the meeting that the meeting would 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.

2/090425 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at the meeting.
If a disclosable pecuniary interest was declared, a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they had been granted a dispensation.
If other registerable interests were declared, a Member may speak on the matter only if members of the public were 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 was a 'sensitive interest', Members did 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 was set out via http://bit.ly/3WtGQnN. This included, at Appendix 1, an interests flowchart which provided a simple guide to declaring interests at meetings.

3/090425 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

No apologies had been submitted.

LICENSING ACT 2003 – PREMISES LICENCE – GRANT – HOUSE OF CHILLI RESTAURANT AND LOUNGE, 111-114 WARSTONE LANE, JEWELLERY QUARTER, BIRMINGHAM, B18 6NZ

On Behalf of the Applicant

Patrick Burke – Agent
Sandra Ariyo – Company Director
Blessing Oki – Company Director

Those Making Representations

Jocelyn Warren – Business Owner and Nearby Home Owner
Jimmy Clarke – Chair of the Neighbourhood Forum

* * *

The Chair introduced the Members and Officers present and asked if there were any preliminary points for the Sub-Committee to consider. No preliminary points were made.

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. Patrick Burke made the following points: -

a) That planning permission for change of use had been applied for due to the extra hours.

b) Following receipt of the objections to the application Mr Burke had contacted them outlining the application with the proposed conditions.

c) There had been no objections submitted by any of the responsible authorities.

d) Planning did make comment on the application due to the hours, Mr Burke responses explaining they would apply for the consent and until that was approved they would operate within the current planning consent hours.

e) There had been multiple email exchanges with the residents and had proposed to reduce the hours to address their concerns.

f) There were also a number of conditions which would address their concerns such as; last entry, capacity 60 guests maximum and designated smoking area with a two person limit.

g) The premises was operating a seated only service, on a reservation only basis. There is also a dress code.

h) CCTV was recorded and kept for 31 days.

i) The consultant reminded the Sub-Committee of the relevant caselaw, namely R (on the application of Daniel Thwaites plc) v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin), which emphasised the principles laid down by the Licensing Act 2003 and its accompanying Guidance – namely that there should be light touch bureaucracy applied to applications for licences, and that restrictions should only be attached to premises licences where they were necessary to promote the licensing objectives.

j) The case highlighted the fact that decisions on applications should be made on evidence, and not based on speculation. The consultant considered that the two letters of representation in the Committee Report were speculative in content, and reminded the Sub-Committee that if the authority gave weight to speculative opinions, it would in fact fail to follow the Guidance issued by the Secretary of State under section 182 of the Act, and its own Statement of Licensing Policy.

k) That the objectors main concerns were parking, anti-social behaviour, litter and noise. However parking issues would always be a concern for every business operating from the premises.

Sandra Ariyo addressed the Committee, stating that she was the Director of the company and cared about the community. She explained that she had listened carefully to the objections and taken steps to mitigate concerns.

In answer to a questions from the Committee Lawyer, Sandra Ariyo stated that she worked in supported living for 16-18yos. She had previous experience working in restaurants and hotels and believed that her experience in support work would give her a good understanding of peoples behaviour.

The Chair then invited the objectors to make their presentation. Jimmy Clarke made the following points: -

a) That the resident's forum was the voice of residents in the area.

b) They spoke to residents and gave them a survey to complete to establish what they thought of the application.

c) The area was densely populated by residents.

d) The premises was in a retail unit with planning consent until 11pm.

e) There were also flats surrounding the premises and opposite.

f) The other end of the Jewellery Quarter was less residential and if this had been in that area it was unlikely that they would have objected to the application.

g) He had engaged with Patrick Burke and the owners via emails and face to face meetings.

h) There were a number of concerns such as noise nuisance, littering and anti-social behaviour.

i) The premises had a 40-60 person capacity with 3 covers a day – suggesting that there would be a lot of people attending the premises which would create noise. They were also concerned regarding parking.

j) There was no where on the premises to put residential bins.

k) When he met with the applicant he felt it was constructive, but there was a strong feeling amongst residents that the premises would cause noise and disturbance.

l) The intended planning use for the premises was not a bar/restaurant and there was currently no planning consent in place to operate under the hours requested.

m) The residents were again contacted to see if they had any objection to the reduced hours and they still objected to the application. If it was not in a residential area people would support it.

n) The residents still strongly opposed the application.

o) There had been a history of issues with other premises in that area, hundreds of complaints had been made regarding those venues over the past 3 years.

p) He had attached a map of the area to show the Committee where the residential was.

q) He requested that the application be refused.

r) He did not think that the owners of the venue had the appropriate experience to run the premises properly.

s) The venue was in the wrong area.

The Chair then invited the second objector to make their presentation, Jocelyn Warren made the following points: -

a) That she only lived 50 meters away from the premises and had lived there for over 25 years.

b) That when she first moved to the area there was not many residents and it was not very nice. There had been significant development for the better.

c) The area was highly residential, there were occasional retail premises but not many.

d) They did some development and they weren't allowed to consider restaurant, bars or music venues – it was retail only.

e) That residents were very concerned as venues were not very respectful and it was hard to manage noise outside of premises.

f) The noise had such an impact on residents; people slamming car doors, taxis, shouting etc.

g) That they had been heavily involved in discussions with the applicant and they appreciated what had been said but the application was not appropriate in that area.

h) That they wanted to see the area thrive and develop but not where there are hundreds and thousands of residents.

Following some questions from Members to Jimmy Clarke, he gave the following response: -

a) That around 300 residents received the survey and another 100 via Whatsapp. 45 were returned on the first survey and 32 on the second one.

The Chair invited both parties to make a brief closing submission.

Jimmy Clarke made the following closing statements: -

a) That it was a densely populated residential area.

b) Other areas were more suitable.

c) There would be significant issues with the venue operating in a residential area.

Jocelyn Warren advised the Committee that she was thankful for the partnership working and was hopeful to find some sort of agreement.

The Chair then invited Patrick Burke to make a closing statement and he made the following submissions on behalf of the applicant: -

a) That the planning consent issues were not relevant. The old A1 planning did not exist anymore and therefore it was Class E which was for any commercial use.

b) Prior to submitting the application, they applied to planning for bar/restaurant permission. They had only had to request planning permission due to the hours.

c) The premises was going to be operating as an up-market restaurant – SIA door staff would not be required as it is not a bar.

d) Both Directors had experience within the industry and also had transferrable skills.

e) That Jimmy Clarke stated that 100s of residents were contacted via the survey yet only 31 gave responses – which was not many at all. There had only been two letters of objection to the application.

f) The surveys were done after the application period, and he was confused as to why those people did not make formal representations to the application and instead submitted a response to a survey.

g) That residents needed to understand that it was a commercial premises and if it was refused then anyone could operate a retail business from the premises which would still cause issues with parking, noise and disturbance.

Both of the Directors made some closing comments relating the their responsibilities as licence holders and their experience in the trade.

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

4/090425 **RESOLVED**

That the application by Oluwatosin Sandra Ariyo for a premises licence in respect of House of Chill Restaurant and Lounge, 111-114 Warstone Lane, Jewellery Quarter, Birmingham B18 6NZ, be granted with the shortened hours and new conditions proposed by the applicant during the meeting (as amended by the Sub-Committee), to promote the prevention of crime and disorder and the prevention of public nuisance licensing objectives, as follows:

Hours of Operation:

- Tuesday to Thursday: 11:00 – 23:30
- Friday & Saturday: 11:00 – 00:30
- Sunday: 13:00 – 23:30

Additional conditions to be adopted onto the licence:

- Last entry to the premises to be 1 hour before closing
- No congregating outside after closing
- Capacity to be 40–60 patrons maximum
- Designated smoking area outdoors to have a strict 2-person limit
- No outdoor seating or pavement licence

- No music or speakers outside
- Alcohol to only be served with food orders
- No vertical drinking; the premises to offer seated-only service
- All private events will follow the same food + drink policy, namely alcohol service to only accompany food orders, and service to only be to seated patrons
- 24-hour CCTV coverage to be recorded with recordings to be kept for a period of 31 days and the footage to be made available to the responsible authorities on request
- Clear dispersal policy to ensure no loitering allowed

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, who was a director of the business, attended the meeting, together with another person who was also a director of the business. They were represented by a licensing consultant.

Written representations had been received from two other persons (local residents); these were in the Committee Report at Appendices 1 and 2. Both residents attended the meeting in person to address the Sub-Committee.

The Sub-Committee considered the submissions made by the applicant via her licensing consultant, and by those who had made representations. The Sub-Committee noted in particular that in offering the concessions the consultant remarked that it would be “a fair compromise which would allow the business to operate while minimising disruption to local residents”. This inspired confidence in the applicant as a person who wanted to start a new restaurant venture, and to also be part of the community in the Jewellery Quarter.

The Sub-Committee also noted that shortly before the meeting started, the person at Appendix 2 had submitted a further document commenting on the shortened hours and new conditions offered by the applicant.

The consultant confirmed that he had emailed the persons who had made representations, to outline the application and to explain to them that no objections had been submitted by any of the responsible authorities. The consultant intended to apply for an amendment to the conditions on the Planning consent that was granted in 2017, and until it was granted the premises would operate within the hours of the Planning consent.

He confirmed that the requested hours had been reduced, and described it as “a significant change” from what had originally been requested. The decision had been made to offer shortened hours as a result of the concerns expressed by the two local residents. The consultant led the Sub-Committee through the proposed new conditions. These had also been drafted in response to the concerns expressed by the residents.

The applicant then addressed the Members directly, to state that she was not just a business owner, but also “someone who genuinely cares about being a responsible part of the community”. She understood the concerns raised by the

residents, but said that she intended to bring “quality, professionalism and care”. This was reflected in the suite of new conditions.

She assured the Sub-Committee that she would not tolerate antisocial behaviour. She had worked as a support worker for young people aged between 16 and 18, and with vulnerable adults. She understood the behaviour of different people because she had worked with a lot of people, young and old alike. She also gave details of her various work experience in the hospitality industry.

She had taken her knowledge in the social care area into consideration when starting her hospitality business. She remarked that the restrictions which had been offered as part of the application were intended to attract mature patrons and “not just anybody”. The House of Chill would be a reservation-only restaurant, to enable the premises to accept only those patrons which it wanted. She considered that her past experience would help her well in her business. The Members found all to be in order.

The consultant reminded the Sub-Committee of the relevant caselaw, namely *R (on the application of Daniel Thwaites plc) v Wirral Borough Magistrates’ Court [2008] EWHC 838 (Admin)*, which emphasised the principles laid down by the Licensing Act 2003 and its accompanying Guidance – namely that there should be light touch bureaucracy applied to applications for licences, and that restrictions should only be attached to premises licences where they were necessary to promote the licensing objectives.

The case highlighted the fact that decisions on applications should be made on evidence, and not based on speculation. The consultant considered that the two letters of representation in the Committee Report were speculative in content, and reminded the Sub-Committee that if the authority gave weight to speculative opinions, it would in fact fail to follow the Guidance issued by the Secretary of State under section 182 of the Act, and its own Statement of Licensing Policy. The Sub-Committee noted this.

He observed that the objectors’ main concerns seem to centre around parking, antisocial behaviour, litter and public nuisance; he considered that the applicant had addressed these properly. He remarked that within the Jewellery Quarter, there would always be issues with parking, regardless of the type of business at the site. The Sub-Committee noted that parking was not a relevant consideration in any event.

The Sub-Committee was aware 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 when considering the representations made against the application.

Upon considering the written representations, the Sub-Committee noted that the fears expressed by the objectors seemed rather speculative. Nonetheless, the applicant (via the consultant) had endeavoured to address the concerns, and to

reassure all present in the meeting that she intended to operate responsibly. This inspired confidence.

The person at Appendix 2 was the Chair of the Jewellery Quarter Neighbourhood Forum. He said that around 10,000 residents lived in the area. He considered that it was a densely residential area, but the Sub-Committee noted that businesses of all kinds operated there, including numerous licensed premises. The Planning issues he mentioned could not be taken into consideration by the Sub-Committee as Licensing and Planning were separate regimes.

Whilst it was correct that residents lived nearby, the fears relating to the potential for noise nuisance were speculative as the premises was to be a fine dining restaurant with a maximum capacity of 60 persons; this was not likely to create disturbance. Certainly the Environmental Health department had not had any concerns.

He stated that three other applications in residential areas had had “quite drastic consequences” for people living nearby in recent years, “including significant disturbance”. The Sub-Committee did not accept that simply because noise was perhaps created by other operators, it meant that the same problem would arise at the House of Chill.

He had surveyed the residents, and 45 respondents had put forward objections around the premises being in “the wrong area of the Jewellery Quarter”, that it would attract unnecessary noise and nuisance, it would affect parking and also that there was not sufficient storage for bins. Parking was not a relevant consideration.

He stated that the style of operation would require patrons to be dispersed from the venue; this had been offered in the conditions. He did not feel that “the level of experience was there” to make sure that dispersal happened correctly, but the applicant had outlined her hospitality trade experience in the meeting.

He said that the venue did not have the correct storage bins and that there was nowhere to put them, but then remarked that there was “nowhere in that building to put residential bins” and they were currently on the street whilst a solution was being worked out with the City Council. The Sub-Committee noted that there was therefore an existing problem with waste bins, not only commercial but even residential waste bins, that was not the fault of the applicant.

He had noted the shortened hours and conditions offered by the applicant, and thereafter had again surveyed the residents to get their opinions. 32 residents had replied. He informed the Sub-Committee that they still objected to the venue opening, citing concerns about “noise, antisocial behaviour, lack of parking, refuse management and the biggest one again, location suitability”. However, the Sub-Committee considered that the shortened hours and suite of conditions had in fact satisfactorily addressed the promotion of the licensing objectives.

He was concerned that a Grant decision would lead to “high levels of enforcement activity by the City Council”, but the Sub-Committee noted that

Environmental Health had not objected; nor, in fact, had any responsible authority.

He said that based upon experience during the past three years with several venues around the Jewellery Quarter, “hundreds” of complaints had been made – saying that these ranged “from minor infractions to much more serious ones”. He said that the residents would continue to put in these complaints, which was something he wanted to avoid.

The Sub-Committee considered this submission to be overtly speculative and accordingly disregarded it. “Hundreds of complaints” about other (entirely unrelated) premises had nothing whatsoever to do with the instant applicant, and in fact tended to confirm that there was an existing problem which perhaps had encouraged speculative concerns.

He asked that the Sub-Committee refuse the application in full. He did not see that a fine dining restaurant should need to open “until past midnight, or 01.00, or 02.00 hours”, but the applicant had already shortened the hours to 00.30 at the latest. The Members considered that his recommendation that the closing time should be 23.00 hours was unrealistic.

He said that there was “no demonstrated community need” for the premises, which was an unusual remark to make, and in any event this type of personal opinion was not relevant. Similarly, Planning concerns were not relevant. He remarked that he did not think that the applicant had the requisite experience, which was speculative.

His own “list of conditions that would be the absolute bare minimum”, as he described it, was not taken up by the Sub-Committee as it focused on speculative concerns which were not borne out by the evidence. No responsible authority had objected.

The person at Appendix 1 then addressed the Sub-Committee and confirmed that she represented residents living in the block located approximately 30 metres from the premises. She said that over the last 20 years, the area had seen “significant development”, but the immediate vicinity was a residential area. She made submissions regarding Planning issues, but these were not relevant and were not taken into consideration.

She remarked that there was “a lot of noise already in the evenings when venues empty”. The Sub-Committee noted that this was therefore an existing problem. She mentioned “litter, antisocial behaviour, disruption - that area outside of the premises currently is covered in litter”; the Sub-Committee again noted that this was therefore an existing problem. She felt that the concessions offered were “just not enough”, but the Sub-Committee did not agree. The shortened hours and new conditions addressed the promotion of the licensing objectives adequately.

When deliberating, the Sub-Committee noted that the operating schedule had been drafted with consideration of the licensing objectives, and had been approved by the all of the responsible authorities. This was reassuring, as the

Police were the experts in the prevention of crime, disorder and antisocial behaviour, and Environmental Health were the experts in the prevention of public nuisance, but neither of them had had any objections.

Furthermore, the applicant had shown a willingness to cooperate with neighbours via a reduction of the hours and the addition of tailored conditions. This was very reassuring. There was no reason to suppose that a carefully-managed premises would create crime, disorder and antisocial behaviour, or a risk of public nuisance, or other risk to the licensing objectives.

The consultant reminded the Sub-Committee that of the 10,000 residents within the Forum, there had been 45 and 32 responses to the two surveys.

The Sub-Committee further noted that the premises intended to operate on a reservation-only basis, and would adopt a smart dress code requirement for patrons. The applicant had a background in social care and behaviour management; the Members agreed with the consultant that these were transferable skills that would be useful in restaurant management. She was accustomed to dealing with different types of people and had also worked in the hospitality trade previously.

The submissions relating to Planning were not relevant, but the Sub-Committee noted that the consultant observed that if the applicant wanted to operate as a restaurant to 23.00, she could do so; he said that this was a new measure which had been introduced by HM Government to “get the country moving again” and to encourage business.

The consultant had assured the Members that the premises would be an upmarket restaurant with mature clientele. The Sub-Committee determined that noise was not likely to arise, and also determined that a request for door staff was not necessary as the Police had not had any concerns. The applicant remarked that the nearby Red Lion (public house) had been operating without problems; she asked that she should be given the same opportunity to operate in the location, and to “prove ourselves based on our own merits”. The Sub-Committee agreed that this was the correct course to take.

Having examined the new conditions, the Sub-Committee removed those which were unenforceable. The premises had offered a provision for soundproofing/sound limitation, but the Sub-Committee did not add this as Environmental Health had not raised concerns.

The Sub-Committee also did not see that any extra measures were required beyond those which had been offered by the applicant, as all potential risks to the upholding of the licensing objectives had already been satisfactorily addressed, such that the Police and the other responsible authorities had not raised any objection.

The Members were satisfied that any potential for issues had been sufficiently addressed in the application and new conditions. There was a proper focus on the promotion of the licensing objectives, and a responsible style of trading had been proposed.

After careful consideration, the Sub-Committee determined that the application could safely be granted with the reduced hours and some of the new conditions. The Members considered that by granting the application, the licensing objectives in the Act would be properly promoted. The Sub-Committee was satisfied that trading would be safe, and considered that all areas of concern had been addressed.

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 via her consultant, and by those making representations.

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.

The meeting ended at 1110 hours.

Chair……..