

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B 26 SEPTEMBER 2017
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**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 26 SEPTEMBER 2017
AT 1000 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair

Councillors Mike Leddy and Des Flood

ALSO PRESENT

Shaid Yasser, Licensing Section
Joanne Swampillai, Committee Lawyer
Katy Poole, Committee Manager

NOTICE OF RECORDING

- 1/260917 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 2/260917 Apologies were received from Cllr Lynda Clinton and Cllr Nawaz Ali. It was noted that Cllr Barbara Dring and Cllr Mike Leddy were the Nominee Members respectively.

LICENSING ACT 2003 PREMISES LICENCE – GRANT

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

On behalf of the applicant

Shaid Yasser, Licensing Officer explained that the applicant had been invited to the meeting, however, did not wish to attend; explaining that the applicant felt the information provided in the application was adequate.

Those making representations

Maria Widdows – Local Resident

Paul Baker – Local Resident

Following introductions by the Chairman, Shaid Yasser, Licensing Section, made introductory comments relating to the report.

In response to questions from Members of the Sub-Committee, Ms Widdows made the following points:-

- a) That her main objection had been the late evening license.
- b) That she lived further down from the premises and had concerns regarding anti-social behaviour and an increase in noise levels.
- c) That she lived in a residential area.
- d) That there were other restaurants in the local area, to which Ms Widdows had noted the opening and closing times. Most of which, she concluded, opened no later than 11:30pm.
- e) That there were multiple flats opposite and above, as well as a residential street running parallel behind and next to the premises road.
- f) That 3 out of the 4 licensing objectives apply to this application; public nuisance, prevention of crime and disorder, and protection of the public.
- g) Poppas Pizza recently had a mass brawl which had been published in the media. A food establishment which is local to the one featured in this application.
- h) That there were other takeaways in the area that did not sell or serve alcohol which close at a similar time to this application, but they do not want to serve alcohol. Therefore Ms Widdows felt these were not causing a huge problem.
- i) That there was an opportunity for public nuisance due to the opening times listed on the application.
- j) That the other restaurants in the local area usually close as she is going to bed especially on week days. Although on the weekends, it can get noisy.
- k) That there were filter lanes outside her house which meant that parking and noise associated with traffic was an issue for her and the residents

locally, without additional traffic and noise associated with this premises.

- l) That the late night drinking bar, Brew House closed at 11pm from Sunday to Thursday and then 12 midnight Friday and Saturday. The Quinto Lounger operated similar opening times. Then other local restaurants close earlier; anywhere from 10:30pm and 11:30pm.
- m) That she feared the premises will end up operating as a late night drinking facility; if so she felt it ought to be situated in the city centre where there are no residents.
- n) That she had been having issues with men urinating outside her house, along with issues of people signalling rude gestures to passing cars. Ms Widdows explained that she had felt scared and had waited till the men had gone.
- o) That there had been issues with litter, including; glass, bottles, general rubbish.
- p) That if the premises were to open even later than other premises in the area, it is going to heavily reduce the quiet sleep time during the night. This had been a growing concern for her due to the fact she had children.
- q) That she had real concerns about the public nuisance this premises could contribute to, in the primarily residential area.
- r) That the premises is not located on the busier stretch of road, it is nearer the residential area, directly by the flats.
- s) She also had concerns that if the later opening hours were granted it would set a precedent for all the other businesses in the area; others may want to be opening later into the evenings.
- t) That there had been issues with people parking opposite her house playing loud music.
- u) That she had lived there for a year and a half.
- v) That she was not sure that if alcohol were only to be served with meals it would ease her concerns, or solve any problems.
- w) That the opening times were the biggest issue.
- x) That if times were in line with other restaurants she would not be so concerned.
- y) That she had been surprised that there had been no objections from the police; she had thought this would have added to crime and disorder in the area and that the police would have been involved.

Licensing Sub Committee B – 26 September 2017

In response to questions from Members of the Sub-Committee, Mr Baker made the following points:-

- a) That the New Year's Eve opening times had raised the biggest concern for Mr Baker.
- b) That up-market restaurants would not want to open till early hours of the morning; they just do not do that.
- c) That he had lived in the area for 14 years and had objected to the previous license.
- d) That he felt there had been a clear difference in weekday and weekend activity in the local area.
- e) That if alcohol was only served along with meals and food that would be more acceptable.
- f) However, he was not sure why these longer opening hours were needed if they were a restaurant, he was concerned regarding what they were trying to achieve.
- g) That he had no objection to the premises occupying as a restaurant, as it beats having an empty premises, but he only wanted it ran professionally.
- h) That conditions on the license would help to ensure the nature of the business is in line with other establishments in the area; especially regarding opening times.
- i) That he was in agreements and supported Ms Widdows points.

In summing up, Ms Widdows made the following points:

- a) That the times should be in line with the other restaurants in the local area.
- b) That she had made her points.

Mr Baker made no further comments and felt he had nothing further to add.

At 1038 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1129 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

3/260917 **RESOLVED:-**

Bodega Cantina, 26 Birmingham Road, Sutton Coldfield, B72 1QG

That the application by Mybodega Limited for a premises licence in respect of Bodega Cantina, 26 Birmingham Road, Sutton Coldfield, B72 1QG **BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS** to promote the prevention of crime and disorder, public safety and the prevention of public nuisance objectives in the Act:

- The opening and closing times of the premises shall be no earlier than 1200 (noon), and no later than 0000 (midnight), daily
- The provision of late night refreshment is permitted until 0000 (midnight), daily
- The hours for the sale of alcohol shall be from 1200 (noon) to 2330 hours, daily.
- The alcohol sales shall be On Sales for consumption on the premises only – Off Sales are not permitted at any time
- Alcohol shall only be sold to patrons ordering meals for consumption whilst seated at tables
- The further conditions agreed in advance with the Licensing Enforcement department of Birmingham City Council shall apply, namely:

1. All members of staff will receive training regarding the:-
 - four licensing principles contained in the Licensing Act 2003;
 - responsible retailing of alcohol, and law regarding sales of alcohol;
 - protection of children from harm and this must include how to competently check customers' identification where necessary;
 - permitted hours during which licensable activities can take place, and the conditions attached to the premises licence.
2. The training provided to staff will be recorded and each member of staff will sign and date the training records to confirm they have received and understood the training provided.
3. The staff training records will be kept at the premises and made available to any Responsible Authority upon request.
4. A notice must be prominently displayed in the premises requesting that customers respect the needs of local residents and other businesses in the vicinity and to leave the premises quietly.
5. The premises licence holder will implement and operate a challenge 25 age verification policy to prevent the sale or supply of alcohol to persons under 18 years of age; a copy of the written age verification policy must be signed by all members of staff to confirm they have read and understand the policy and this signed copy must be maintained at the premises and available for inspection by any Responsible Authority on request; a notice will be displayed at the premises and clearly visible to customers informing them that a challenge 25 policy is in operation at the premises.
6. The Premises Licence holder shall ensure CCTV will be installed to meet the requirements of West Midlands Police; images will be retained for a period of 31 days and made available to any Responsible Authority on request

The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but did not accept that there was evidence of an overwhelming risk to the promotion of the licensing objectives arising from the proposed operation of the premises. West Midlands Police and Environmental Health had not objected. Licensing Enforcement had agreed conditions with the applicant in advance of the meeting.

However the Sub-Committee felt that there was uncertainty over whether the premises was to be a restaurant or a late-night drinking venue. Unfortunately however, the applicant did not wish to attend the meeting, and Members were therefore unable to ask him any questions.

The concerns of other persons (local residents, who did attend the meeting) were heard. They explained that it was a predominantly residential area, although there were businesses in the vicinity. However the other alcohol premises in the area were restaurants, rather than late-night drinking establishments. The hours proposed by the applicant were akin to those of a late-night bar/ public house, and therefore there were risks that the nuisance & anti-social behaviour recently seen in the area could increase if the Sub-Committee were to grant the Licence to the late hour requested by the applicant.

The concerns of residents were taken into account by imposing suitable conditions regarding the opening & closing times, the hours for alcohol sales, and also by ensuring that the premises served alcohol only with meals (in other words, operation as a restaurant rather than as a late-night drinking venue). The Sub-Committee considered these conditions sufficient to allay residents' apprehensions. The Sub-Committee also considered it sensible to impose the conditions in order to ensure that the licensing objectives could be upheld by the applicant.

Those other matters detailed in the proposed operating schedule and which are not addressed above, and the relevant mandatory conditions under the Licensing Act 2003, will also form part of the licence issued.

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 information in the application, the written representations received and the submissions made at the hearing by those making representations (local residents).

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.

OTHER URGENT BUSINESS

4/260917 There was no urgent business.

The meeting ended at 1212 hours

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CHAIRMAN