

BIRMINGHAM CITY COUNCIL

LICENSING SUB- COMMITTEE B 21 JUNE 2016
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**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE B HELD
ON TUESDAY 21 JUNE 2016
AT 1000 HOURS IN COMMITTEE ROOM 1,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair;

Councillors Nawaz Ali and Gareth Moore

ALSO PRESENT:

Shaid Yasser – Licensing Section
Joanne Swampillai – Legal Services
Gwin Pountney – Committee Services.

NOTICE OF RECORDING

01/210616 The Chairman advised the meeting 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

02/210616 No apologies were received.

APPOINTMENT OF SUB-COMMITTEE

03/210616 The appointment by the City Council of the Sub-Committee and Chairman for the Municipal Year 2016/2017 was noted.

It was further noted that Members of the Sub-Committee may nominate another Member of their respective Party Group to attend in their place.

DELEGATIONS TO SUB-COMMITTEE

04/210616 The delegations to the Sub-Committee were noted as follows:-

To determine matters relating to the Licensing Act 2003, the Gambling Act 2005, hackney carriage licences and private hire licences and such business as may be referred by the Director of Regulation and Enforcement.

DATES OF MEETINGS

05/210616 It was noted that the Sub-Committee would meet on Tuesdays at 1000 hours, subject to business.

06/210616 **MINUTES**

The public section of the Minutes of the meeting held on 31 May 2016, were noted.

LICENSING ACT 2003 PREMISES LICENCE – GRANT – CLOUD NINE, 76 GOOCH STREET NORTH, BIRMINGHAM, B5 6QU

The following reports of the Director of Regulation and Enforcement were submitted:-

(See Document No. 1)

The following persons attended the meeting.

On behalf of the Premises Licence Holder

Mr Mohammed Malik – Premises Licence Holder

On behalf of those making representations

No-one present.

Councillor Moore declared that he had been on the Planning Committee that had approved the planning application for the residential apartments directly opposite the application site.

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

Mr Malik in presenting his case and in response to questions from Members made the following points:-

- a) A noise assessment had been undertaken prior to planning approval being granted which had showed that even with all the windows and doors of the premises open, noise levels still only reached 75db at the highest level, as the property is enclosed in a courtyard. It had been carried out over a 3 day weekend period at different times of the day when noise levels were at their lowest in the surrounding area.

(See Document No. 2)

Licensing Sub-Committee B – 21 June 2016

- b) The premises as situated in the LGTB quarter and would be a late night premises close to Bristol Road. There were also 2 other late night venues in close proximity of the premises that had been granted a licence.
- c) The 17 logged incidents presented to the Sub-Committee were a normal number for premises within the locality. Of these only 3 had been reported by customers, the rest had been reported by premises staff themselves.
- d) Audio equipment and a noise limiter would be fitted on the premises in accordance with the City Council's requests and high grade glass had been used in the windows to prevent noise escape from the premises.
- e) That the finance for door staff for the premises had been found by reaching an agreement for payment in arrears with the service provider.
- f) A search policy had been put in place to search everyone entering the premises. The security team would use wands/detectors for body searches with a separate table for handbag searches. A Challenge 25 policy would also be applied.
- g) That West Midlands Police had had concerns regarding the late night entertainment and the location of the premises – as they were near to a residential area known for crime and disorder.
- h) That the premises would operate as a bar/mocktail lounge and a small shisha lounge.
- i) That the premises were already open until 12.00pm and no complaints or objections had been received regarding this.
- j) That the Community Watch team checked the whole Digbeth area every hour to ensure that everything was ok in the area and the Police visited the premises every 4 days.
- k) That the noise assessment was over 2 years old as it had been carried out prior to planning permission being granted.
- l) That the area was much busier now than at the time of the assessment, with increased background noise and the opening of 2 pubs in the locality.
- m) That the premises staff would validate the car park tickets for patrons. However, most of the trade be via through traffic i.e. young professionals and students within the area, therefore there should not be any problems with parking. The car park had 1000 spaces.
- n) That door staff would be present on Friday and Saturday nights and events nights. No live entertainment or events would be held on nights when there were no security staff present.

Licensing Sub-Committee B – 21 June 2016

- o) That the full capacity for the venue was 90 people and a system would be put in place to monitor attendance.
- p) The main form of business would be a desserts bar, mocktails, shisha lounge and use of pool tables.
- q) Last orders would be 40 minutes before the closing time with the doors being shut 1 hour before closing.
- r) That a smoking area was located at the rear of the premises.
- s) That the CCTV system had a 1 Terabyte hard drive with footage being saved for 30 days.

In summing up, Mr Malik indicated that whilst he appreciated the concerns raised by the Sub-Committee regarding the safe management of the premises he would do his best to ensure not only the safety of the business but also of any local residents within the area.

He stressed that he had worked with the Council throughout the licence application process and had put additional CCTV in front of the premises to assist the authorities and was doing his best to make Birmingham a better place.

At 1053 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1125 hours and the decision of the Sub-Committee was announced as follows:-

07/210616 **RESOLVED:-**

That the application by Mr Mohammed Malik for a premises licence in respect of Cloud Nine, 76 Gooch Street North, Birmingham B5 6QU

BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS to promote the prevention of crime and disorder and the prevention of public nuisance objectives in the Act.

The conditions that have been agreed with the Licensing Enforcement Department of Birmingham City Council, as detailed in email correspondence from 27th May 2016 onwards between Mr Mohammed Malik and the Licensing Enforcement Officer Doug Wright. (West Midlands Police have withdrawn their representations based on the conditions as agreed between the applicant and Licensing Enforcement):-

Licensing Sub-Committee B – 21 June 2016

- 1) Alcohol will not be permitted to be drunk on the premises, or brought onto the premises
- 2) If staff believe that customers have alcohol in their possession they will be asked to submit to a search. If they decline or are found to be in possession of alcohol they will be refused entry or asked to leave the premises.
- 3) A record of all searches will be kept at the premises and produced to Officers on request
- 4) A refusal of entry log will be kept at the premises and produced to Officers on request
- 5) Door supervisors will be on duty at the premises on Friday and Saturday nights between the hours of 22:00 and closing. Also at any times that the Premises holds a Special Event
- 6) Door Supervisors will wear High Visibility Jackets
- 7) Door Supervisors will wear their SIA badge in a position where it can clearly be seen
- 8) Door Supervisors will sign in and out of a register at the start and finish of each shift. The register must be kept on the premises and produced to Officers on request
- 9) A Profile for each Door supervisor must be kept at the premises and be available for inspection by Officers on request. The profile must contain:
 - A copy of the Door Supervisors SIA Badge
 - Photographic ID (Passport or DVLA Licence)
 - Proof of address dated within the last 6 months (Utility Bill or DVLA)Profiles must be kept at the premises for 6 months from the date of the Door Supervisors last shift.
- 10) No one under the age of 18 is permitted on the premises after 18:00 hours
- 11) Challenge 25 will be promoted at the premises. Staff will be trained in Challenge 25 and signage will be displayed
- 12) Any person attempting to enter the premises, or make a purchase from the premises, will be asked to prove they are over 18 if they look under 25.
- 13) The only forms of Identification which will be accepted are Passport or DVLA Licence
- 14) A record of all refusals will be kept in the refusals log.
- 15) The premises will have a working CCTV system consisting of a minimum of 20 cameras. The system will be recording at all times when the premises is open for business. Images must be made available to Officers on request.

The Sub-Committee's reasons for imposing these conditions are due to the submissions made by West Midlands Police and Licensing Enforcement regarding the location and impact of the proposed operation of the premises.

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 a significant public nuisance or risk to crime and disorder arising from the proposed operation of the premises.

However the concerns of the responsible authority were taken into account by imposing suitable conditions that would allay their apprehension about the potential for public nuisance and crime & disorder from arising in connection with the proposed operation of the premises.

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

The Sub-Committee carefully considered representations put forward by Birmingham City Council Planning Department, but in the absence of a

representation by Environmental Health or any local residents, they were not persuaded on the balance of probabilities that there was a significant risk of public nuisance arising from the proposed operation of the premises.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will 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 the applicant and those making representations in writing.

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.

Councillor Moore wished it to be noted that he had voted against this decision.

GAMBLING ACT 2005 VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT HARE AND HOUNDS, KINGSBURY ROAD, MINWORTH, SUTTON COLDFIELD, B76 9DD

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

(See Document No. 3)

Shaid Yasser, Licensing Section, made introductory comments relating to the report.

Having considered the application it was-

08/210616 **RESOLVED:-**

That the application by Mitchells and Butler Leisure Ltd, for the variation of a Licensed Premises Gaming Machine Permit in respect of the Hare and Hounds, Kingsbury Road, Minworth, Sutton Coldfield, B76 9DD be granted.

The Sub Committee deliberated the application, including policies and procedures, put forward by the applicant and 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.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, the application for the

variation of a Licensed Premises Gaming Machine Permit, and the findings of the Licensing Enforcement Department (who carried out an inspection of the premises on 21st April 2016, and identified no matters for concern in relation to the existing gaming machines being made available for use, and stated they had no concerns if the Licensing Sub-Committee were minded to grant the application).

All parties are reminded that under the provisions contained within Schedule 13 to the Gambling Act 2005, the applicant has 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

09/210616 No items of other urgent business were submitted.

EXCLUSION OF THE PUBLIC

10/210616 **RESOLVED:-**

That in view of the nature of the business to be transacted which included exempt information of the category indicated that the public be excluded from the meeting:-

Minutes – Exempt Paragraphs 3 and 4

PRIVATE

MINUTES

- 11/210616 The private section of the Minutes of the meeting held on 31 May 2016 were noted and the Minutes as a whole were confirmed and signed.
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12/210616 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

No items of other urgent business (exempt information) were submitted.

The meeting ended at 1140 hours.

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CHAIRMAN