

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B 11 AUGUST 2015

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 11 AUGUST 2015
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

David Kennedy, Licensing Section
Parminder Bhomra, Committee Lawyer
Gwin Pountney, Committee Manager

NOTICE OF RECORDING

1/110815

The Chairman to 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

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There were no apologies or nominee members.

**LICENSING ACT 2003 – PREMISES LICENCE GRANT – DUBELLA LOUNGE,
112-116 BOLDMERE ROAD, SUTTON COLDFIELD, B73 5UG**

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

(See document No. 1)

The following persons attended the meeting:-

On behalf of the Appellant

Chris Sherry – Co-owner Dubella Lounge
Freddie Humphreys – Barrister
Carl Moore – Licensing Agent

On behalf of those making representations

There was no-one present on behalf of those making representations.

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy.

Mr Humphreys, in presenting the case on behalf of the appellant and in response to questions from Members, made the following points:-

- a) The Dubella Lounge had been extended in area and a licence grant was requested for the new extended premises.
- b) He gave a description of the Dubella Lounge from its' website giving a flavour and focus of the business with regard to the type of food, clientele and atmosphere of the premises. The premises was described as a primarily food-led establishment with the availability of late night refreshments times concurring with the times for the availability of alcohol.
- c) The establishment was a totally seated area with the primary clientele being young mothers, local businessmen and customers within their 50s and 60s, which was the clientele that the business wished to maintain and serve.
- d) Mr Sherry had arranged for the CCTV system on the premises to be linked to his phone in order to ensure that any problems could be seen instantly. This was not something carried out by every business owner and gave an indication of the care taken by Mr Sherry of his business.
- e) That the issues that had been raised in the objections to the licence had been primarily focussed around noise nuisance. Conditions had been regarding this with Environmental Health whom had no further concerns regarding this.
- f) With regard to noise nuisance there had been only 1 complaint of this in the previous 2 years and this had been as a result of a bar manager who had forgot to close the bi-folding doors at 9pm for a live music event. This had subsequently been addressed via a log-book which had to be signed every evening by staff to state that the windows had been closed and the doors closed at 9pm. Additionally, staff on the premises checked the noise level across the road once this had been done and reduced the music levels further if it could still be heard there.
- g) The premises had bi-folding doors across the front and a double-glazed fire exit. The new frontage would have triple glazed windows thereby reducing sound levels even further. Besides this, in the summertime whilst customers drank outside in the day - after 10pm customers were not allowed to drink outside.

- h) That of the 4 representations received against the licence grant – 2 had been from Highbridge Road regarding noise levels and had been addressed by the conditions agreed with Environmental Health – and 2 from other roads some distance away from the premises and had no basis for a representation as they were perceived concerns regarding noise and a change in the type of area rather than actual current noise problems.
- i) Live music was played at the venue 1 or 2 times per week. The level of the live music at the venue was minimal (with a maximum of 2 performers) and was played as background music rather than as an event in itself or for parties for 50 and 60 year old customers.
- j) The Police and Environmental Health were happy for the licence to be granted. Additional conditions had been agreed with Environmental Health and Mr Sherry had provided his own personal telephone number for the reporting of any problems.
- k) The current seating capacity for the premises was 50, with the extension this would go up to 80 customers with the premises only admitting customers to seating capacity - there was no vertical drinking area within the venue.
- l) The venue would be open until 1am on Friday and Saturday which would be in keeping with other locally licensed premises. Furthermore Temporary Event Notices had been granted in the previous 12 months where events had finished at this time, with only 1 complaint, showing that the management could cope effectively with the additional weekend hours.

In summing up, Mr Humphreys, stressed that Dubella Lounge was a business operating without any issues and the new licence and operating schedule requested was not moving away from this. It would remain a food-friendly environment without any issues as in the past with simply an extension of the area.

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

At 1122 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

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RESOLVED:-

That the application by Edmund Pubs Limited for a premises licence in respect of Dubella Lounge, 112-116 Boldmere Road, Sutton Coldfield, B73 5UB be granted subject to the following conditions to promote the prevention of public nuisance objective in the Act:

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A.	Alcohol and Regulated Entertainment	The hours for the supply of alcohol and provision of regulated entertainment shall apply as follows: 07.00am – 12.01am (Sunday to Thursday) and 07.00am to 01.00am (Friday and Saturday)
B.	Late night refreshment	The hours for the provision of late night refreshment shall apply as follows: 11.00pm – 12.01am (Sunday to Thursday) 11.00pm – 01.00am (Friday and Saturday)
C.	Opening hours	The premises to remain open to the public as follows: 07.00am – 12.30am (Sunday to Thursday) 07.00am – 01.30am (Friday and Saturday)
D.	Other conditions	Other dates and times as specified in the application form.
E.	Doors and Windows	External doors and windows shall be kept closed, other than for access and egress, whenever regulated entertainment is provided (i.e. music levels that require customers to raise voices).
F.	Register of Noise Complaints	The DPS shall maintain a register of noise complaints and actions taken to address them. The register shall be kept at the premises and made available to an officer of a Responsible Authority upon request.
G.	Telephone Number	The DPS shall maintain a telephone number that can be used by local residents to make complaint directly to the premises.
H.	Regulated Entertainment	Regulated entertainment shall cease automatically when the fire exit to Boldmere Road is opened.
I.	Noise limiter Device	A cut out sound limiter device shall be installed at the premises.

The Sub-Committee's reasons for imposing these conditions as agreed between the applicant and Environmental Health (from E to I) are due to the submissions made by the legal representative for the applicant regarding the history, location and management of the current operation of the premises.

The concerns of the other persons were taken into account but considered by the Sub-Committee that the imposition of the agreed conditions together with those specified in the operating schedule would allay their apprehension about an increase in noise nuisance in a residential area.

It was noted that the applicant had operated until the early hours of the morning under Temporary Event Notices without complaint from the Responsible

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Authorities with the exception of 1 that arose from an oversight by the premises management failing to close the bi-folding doors at 9.00pm.

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 arising from the current and proposed operation of the premises.

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

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 their legal adviser.

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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OTHER URGENT BUSINESS

There was no other urgent business.

The meeting ended at 1127 hours.

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CHAIRMAN