

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE C
27TH OCTOBER 2021**

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 27TH OCTOBER 2021 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nicky Brennan in the Chair,

Councillors Mary Locke and Diane Donaldson.

ALSO PRESENT

Shaid Yasser – Licensing Section
Katy Townshend – Committee Services
Joanne Swampillai – Legal Services

(Other Officers were also present for web streaming purposes but were not actively participating in the Meeting)

NOTICE OF RECORDING/WEBCAST

1/271021 The Chairman advised, and the Committee noted, that this Meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/271021 DECLARATION OF INTERESTS

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this Meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the Meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/271021 No apologies were submitted.

MINUTES

- 4/271021 The Chairman asked Members to agree the Minutes of the Meeting held on 6th October 2021, to which all Members confirmed their agreement and the Chair signed the Minutes.
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LICENSING ACT 2003 PREMISES LICENCE – VARIATION – THE OLD HARE & HOUNDS PUBLIC HOUSE, 426, LICKEY ROAD, REDNAL, BIRMINGHAM, B45 8UU.

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

On Behalf of the Applicant

Ms. Sarah Taylor – Poppleston Allen Solicitors
Mr. Ryan Pallett – Retail Business Manager
Mr. James Baynham – Designated Premises Supervisor

Those Making Representations

There were no persons present making Representations at the Meeting although their written Representations had been noted.

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The Chairman then introduced the Members and Officers present and asked if there were any preliminary points for the Sub-Committee to consider.

The Chairman next explained the Hearing procedure prior to inviting the Licensing Officer, Shaid Yasser to outline the report.

Afterwards, the Chairman invited the applicant or their representative to outline their application, at which stage Ms. Sarah Taylor made the following points: -

- a) That the application is for the Premises to have an extension of hours for licensing activities from Sunday to Thursday, and starting earlier on Sundays, thus amending opening hours accordingly., thus giving the Premises some flexibility Sundays to Thursdays.
- b) The purpose of the application was to give the Premises some flexibility Sundays to Thursdays as the Premises had a terminal of licensing activities at 23:00 hours, which was considered as reasonably early for a Pub.
- c) Due to Covid, licensing Premises have been hit quite hard. Therefore, following discussions, both Premises Management and Ms. Taylor started looking at ways in which Premises could recover, and this Premises was

identified, like others in Birmingham, as one that possibly could have an extension of hours.

- d) The history of the Premises was checked, by Ms. Taylor, on her system, in relation to any possible noise issues etc., raised by local residents and no issues were found at the time.
- e) The Premises “drinking up time”, for example on Friday and Saturday, appeared to be too short at 20 minutes and therefore a 10-minute extension was added on to the opening hours.
- f) The application was made so that the Premises would have flexibility to trade a little later Sundays to Thursdays if required.
- g) In addition, the Premises would also have certainty for any of their Events to take place slightly later and this would inform the residents as to when the Premises would be opening at a later time.
- h) With regard to residential representations, both Ms. Taylor and the DPS, Mr. James Baynham, sent e-mails to the residents offering to arrange a suitable time to speak with them about any concerns they had and for them to provide their contact details. No response to the initial e-mail were received and only Mr. Baynham received a response from a Councillor confirming that he was going to maintain his representation.
- i) One withdrawal of a representation was received, shown in Appendix 3, due to them being happy with the Conditions that had been agreed with the Police.
- j) A follow up was made to both the remaining residents and the Councillor outlining the Conditions agreed with the Police, which were as follows:
 - Ms. Taylor had discussions with Mr. Mark Swallow, WMP, and Mr. Swallow was concerned about the potential of people entering the Premises late, if this was granted, e.g. 10 minutes before midnight. It was therefore agreed, with WMP, that the last admission into the Premises would be 23:30 hours, preventing the need for Door Staff at the doors and limiting the number of people entering the Premises after a certain time.
 - The WMP were reassured that, as the Premises had no licence to do so, no regulated entertainment will take place outside of the Premises.
 - In relation to comments from Reps with regard to the concerns about noise nuisance disturbing local residents and travelling across the road, an attempt was made to try to speak to residents. Ms. Taylor received an e-mail from Mr. Tom Prescott stating that he did not agree, and as Mr. Prescott is not present at the Hearing, no more can be said.
 - There has been a withdrawal of Representations from both a residential Rep and the WMP, but there has been no Representations, or comments made, by Environmental Health, confirming a list of complaints or a history of any concerns or issues raised about the Premises.

Ms. Taylor then invited, the Manager, Mr. James Baynham to comment on the discussions that took place at Residents Association Meetings about the history of the Premises as to any concerns raised previously as the Premises had been used as a Hub before.

- i. Mr. Baynham confirmed that RAMs are held at the Premises quite regularly and at the last RAM he attended recently, when asked, there were no points relating to any concerns or issues raised against the Licence extension for the Premises or the Premises itself.

So that the Committee Members are aware, Ms. Taylor then asked Mr. Baynham to confirm how the RAMs is communicated to others.

- ii. Mr. Baynham stated that the Residents Association has a Site Manager, who organises the RAMs and the Residents Association book the RAM's by contacting the Venue and about 30-40 people attend.

Due to the concerns about noise, in particular, a concern from one of the Representations regarding music noise (although mention was made regarding the Nightclub next door to the Premises and so it is not certain where the noise is coming from), Ms. Taylor then asked Mr. Baynham to confirm to the Committee what nights of the week music is played at the Premises and what it would be like when seeking the extension.

- iii. Mr. Baynham stated that during the week, only background music is played internally by a normal Pub PA system, not very loud, and on weekends, the music is increased slightly, again internally, not externally, and once a month a DJ is at the Premises.

Ms. Taylor then informed the Chairman that, following discussions she has had with Mr. Baynham, in relation to the representation raised regarding the management of customers outside the Premises, customers are asked to move from the rear of the Premises to the front terrace of the Premises. With regard to the extension until midnight being applied for, Ms. Taylor asked Mr. Baynham to explain the dispersal and management of these customers.

- iv. Mr. Baynham stated that customers are asked to move around to the front where they can take their drinks and smoke outside at the front, and when they have finished smoking, they can return into the Premises. This is operated at 23:00 hours, in line with the Licence, and this will continue to be operated in this manner out of courtesy for the neighbourhood thus avoiding any issues.
- h) Concerning the issues with car parking at the Premises, and dispersal, it appears that, apart from the Premises next door, there are not many other Premises located in the immediate area for customers to visit and so customers tend to leave the Premises completely, (as they can't go from Premises to Premises), by driving away themselves, or by Taxi transport.

- i) Work has also been carried out on the Car Park, in terms of ANPR and putting gates on the Car Park to make sure that it is being used properly and not causing a disturbance with local residents or issues with parking.
- j) In terms of the contents of the Representations, Ms. Taylor tried to speak with Councillor Delaney but has been unable to do so. She had also sent him an e-mail similar to the one sent to the residents outlining the Conditions that were agreed with the Police.
- k) Councillor Delaney mentioned noise and disturbance caused to elderly residents over the road, late at night, i.e. noise of people drinking outside and car doors slamming etc. Again, after checking the history of the Premises and having dealt with the Premises for a long time, Ms. Taylor was not able to see any issues and nothing had been raised from EHO.
- l) Mr. Prescott's representation refers to ASB and noise issues that might arise from extended trading hours.
- m) Miss Dern mentions Joe Joe Jim's, next door to the Premises, which shows some difficulty in identifying whether there are any noise issues related to, or applying to, the Premises. The concerns raised only refers to potential noise but there is no evidence. In addition, EHO is not present at the Hearing in relation to any noise issues or complaints and WMP are satisfied with the agreed Conditions.
- n) The only concern raised within the Representations was the later opening hours. Application was made for the sale of alcohol early on Saturdays, from 10:00 hours, for brunch service and breakfast, as other Pubs were doing the same, in order for the Premises to be flexible and adapt. Again, there has been no evidence to show that this was an issue raised in the representations.
- o) If residents had raised an issue with the Manager at the Premises, Mitchells & Butlers are responsible and very proactive. They hold Residents Meetings and provide a point of contact so that residents can contact someone at the Premises if required.
- p) There are also Conditions on the Licence to show how the Premises could take reasonable steps to work with the residents and there is no evidence to show that there has been a breach of, or any Enforcement action, in respect of the Premises.

The Chairman then invited Members to present their questions, at which Councillor Locke asked the following questions:

- 1) If people are going to be monitored when going outside the Premises, for example, to have a cigarette, how can a person be sure that the people going

back inside the Premises are the same ones that went out in the first place and not someone else?

- 2) Also, with regard to the background music in the Bar of the Premises, are the noise levels recorded on a decibel meter, and a log kept, in case, for future reference?

In answer to the questions from Members, Ms. Taylor asked Mr. Baynham to respond to the first question in relation to the monitoring of smokers and how this will be achieved. Mr. Baynham stated the following:

On weekends there are Door Staff standing at the door who will be able to see people exiting to have a cigarette and re-entering the building. During the week, late in the evenings, the Premises is not very busy, as there is a dozen or so people in the Premises at that time and so it will be known who is in the Premises at those times.

In answer to the questions from Members, Ms. Taylor gave the following response to the Chairman regarding the second question in relation to background music:

Background music is not generally something that is noise monitored with noise recording equipment. If monitoring was to take place, usually a member of staff would keep an eye on things. Ms. Taylor then asked Mr. Baynham whether he had any thoughts on the question raised (although she did not think that recorded music had ever caused an issue, in terms of background levels, as it is conversational levels and it shouldn't be at a level that would cause any issues). She then asked Mr. Baynham, what checks does he make, in terms of louder music being played at the Premises at the weekend where the Premises is not seeking amendments to these Conditions.

Mr. Baynham stated the following:

If the Premises is busy and the music is too loud, then the staff, or a DJ will be asked to turn it down. This has only happened on two occasions.

Ms. Taylor then asked Mr. Baynham to confirm that staff monitor the situation on a regular basis, to which he nodded to confirm. Ms. Taylor then asked if the staff monitor outside as well.

Mr. Baynham stated that the staff do monitor the situation and that he is always on the floor, out and around, and he goes outside to collect glasses and he is able to see what is going on outside and who are in Premises, and where in the Premises, and Mr. Baynham said that it is quiet outside when the music is on.

Ms. Taylor reiterated and said to the Chairman, the fact that, as the EHO have not raised an issue about noise to her as she would have expected if there was a problem with music at the Premises, together with them not instructing her to do something about a problem, suggests that there are no concerns raised, which should give all Members in the Committee some comfort.

The Chairman then asked whether Councillor Locke had asked all the questions that she wanted to ask, to which she said that she had.

The Chair asked Councillor Donaldson whether she had any questions that she wanted to ask, to which Councillor Donaldson asked the following questions:

- 1) In relation to the Door Staff, Councillor Donaldson wanted to know whether they are SIA regulated?
- 2) Also, will the Door Staff be in position, at the doors, when people are leaving the Premises, i.e. when they are getting into Taxis and cars, and will they regulate the noise level of people leaving the Premises?

In answer to questions from Members, Ms. Taylor answered “Yes” to the first question and then asked Mr. Baynham to answer the second question, in relation to Fridays and Saturdays, to which Mr. Baynham said that the Door Staff will be in position at the doors and they are not allowed to leave the Premises until all the customers have left inside and outside.

The Door Staff will also be controlling the level of noise caused by the patrons slamming car doors and shouting etc.

The Door Staff are present at the moment on Fridays and Saturdays and the only change to the Conditions requested is 10 minutes extra time for the opening hours to give a full half hour drinking up time instead of the 20 minutes that is on the Conditions at the moment. However, nothing will change and the Door Staff will still be present to monitor and make sure that people are leaving quietly.

The Chairman then asked Councillor Donaldson whether she had any more questions that she would like to ask, and Councillor Donaldson said that she had no more questions.

In addition, the Chairman stated that both Councillors had covered her questions.

The Chairman invited the applicant and their representative to make a closing submission, at which stage Ms. Sarah Taylor – Poppleston Allen Solicitors, on behalf of the applicant made the following points: -

- To reiterate, the Application is to give some flexibility in terms of being able to operate a little bit later.
- It's not intended that it will be used all the time but if limited to certain days there's no evidence to justify.
- The Representative and the Management will always work with residents. Residents have Ms. Taylor's contact details as well as the Management of the Premises so that they can be contacted should there be any issues and they will take the necessary action required.

- In terms of looking at the evidence today, the Representative would be taking the steer from EHO, regarding any noise issues, but EHO were not present at the Hearing today.
- Some Conditions have been agreed with West Midlands Police.
- The last admission Conditions of 23:30 hours on Sunday to Thursday limits the potential for people to come in later, and then be leaving later and causing a disturbance as well. This also limits the amount people can drink that last half hour.
- The Application for earlier hours for brunch on a Sunday does not seem to be controversial at all, nor does the addition of any late-night refreshment that's in line with the alcohol hours, which was applied for Sunday to Thursday.

At this stage the Meeting was adjourned in order for the Sub Committee to make a decision and all parties left the Teams Meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private while the Sub-Committee made its decision.

4/271021

RESOLVED:-

That the application by Mitchells & Butlers Leisure Retail Ltd to vary the premises licence in respect of Old Hare and Hounds, 426 Lickey Road, Rednal, Birmingham B45 8UU, under section 34 of the Licensing Act 2003, be granted subject to the additional conditions agreed between the applicant company and West Midlands Police in advance of the meeting, namely:

1. There shall be no admission to the premises, save for customers who have left the premises to smoke, after 11.30pm Sunday to Thursday
2. There will be no regulated entertainment outside the premises after 11.00pm on any day that the premises is trading

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.

The Sub-Committee carefully considered the operating schedule put forward by the applicant company, and the likely impact of the application. The Sub-Committee also took into consideration the views of the three persons who had made representations, but did not accept that there was evidence of a significant risk to the licensing objectives arising from the proposed variation of the premises licence.

The Sub-Committee heard from the solicitor for the applicant company, and also the manager of the Old Hare and Hounds. The purpose of the application was to give the premises flexibility for operation between Thursdays and Sundays. The business was trying to recover after the lifting of the restrictions which had been

imposed due to the Covid-19 pandemic. It had a good trading history, with no issues.

The representations which had been received, from the local Ward Councillor and two other persons, were concerned with the potential for public nuisance, especially noise; however, there had been no objection from the Environmental Health department of the City Council. The music played at the premises was not likely to create disturbance. The Sub-Committee noted that elderly people lived nearby, but observed that the premises had not caused problems whilst operating to its current hours.

The solicitor reminded the Sub-Committee of paragraph 9.12 of the Guidance issued under s182 of the Act, namely the need for robust evidence in decision making. The suggestion that there was a risk of public nuisance, in particular, was not supported by the evidence or the past history. Environmental Health had not had any concerns at all and there was no history of complaints relating to the operation.

The applicant company was an experienced operator which was proactive in its style of management, and willing to work with residents. The manager remarked that the local Residents' Association held its meetings at the Old Hare and Hounds.

The Sub-Committee carefully considered the written representations from the three persons who had objected. However, it was noted that both West Midlands Police and the Environmental Health department had found the variation proposal to be satisfactory. The Sub-Committee determined that the concerns of the three persons could be taken into account by imposing the agreed conditions, which would allay their apprehension about the potential for an increase in noise nuisance arising in connection with the proposed operation of the premises.

The conditions which had been suggested by Police would ensure smooth operation, with no risk to the promotion of the licensing objectives. The Sub-Committee determined that the responsible style of management shown, and the agreed conditions, would enable the premises to uphold the licensing objectives. 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 s182 of the Licensing Act 2003 by the Home Office, the application for the variation of the premises licence, the written representations received and the submissions made at the hearing by the applicant company via its solicitor and manager.

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.

Please note, the Meeting ended at 10:38.

Chairman