



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE - C

9 November 2016

Amusement 13, 16 Kent Street, Digbeth, Birmingham, B5 6RD

That, having reviewed the premises licence held under the Licensing Act 2003 by Empire Star Limited, in respect of Amusement 13, 16 Kent Street, Digbeth, Birmingham, B5 6RD upon the application of Councillor Gareth Moore, this Sub-Committee hereby determines to modify the Conditions attached to the Premises Licence, through the inclusion of the following additional conditions:-

Additional Permanent Conditions

1. The premises licence holder shall, as far as is reasonably practicable, ensure that their premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.
2. The premises licence holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.
3. The premises licence holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:
 - a) no display of advertisements should take place on street furniture;
 - b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to a responsible authority on request.
4. The premises licence holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by a responsible authority of an illegal advertisement being displayed. Such removal shall take place within 48 hrs of receiving the said notice either to the venue address and the registered office by way of registered post, or by direct contact between the responsible authority and the Designated Premises Supervisor in person or by telephone.

The Sub-Committee's reasons for imposing these additional conditions on a **permanent basis** on to the Premises Licence, are due to concerns raised by Councillor Gareth Moore within his Review Application dated 15th September 2016, as supported by Environmental Health, Birmingham City Council, as a Responsible Authority, in relation to the promotion of the prevention of Public Nuisance Licensing Objective, through unlawful fly posting around the City of Birmingham.

Furthermore, the Sub-Committee noted that the premises were either engaged in, or had failed to take reasonable measures to prohibit the use of fly posting around the City of Birmingham as evidenced within the Review Application, contrary to the Licensing Authority's own Statement of Licensing Policy, specifically:-

“20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or result in criminal offences give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material: and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.”

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

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will continue to 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 application for review, the written representations received and the submissions made at the hearing by the other persons.

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 determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.