

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 20 JULY 2022

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 20 JULY 2022 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Narinder Kooner and Penny Wagg.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

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

1/200722 **NOTICE OF RECORDING/WEBCAST**

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.

2/200722 **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.

There were no interests declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/200722 No apologies were submitted.

MINUTES

- 4/200722 The Minutes of the meeting held on 22 June 2022 were circulated and confirmed and signed by the Chair.
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**LICENSING ACT 2003 PREMISES LICENCE – TEMPORARY EVENT NOTICE –
VIEW VILLA, PARK LANE, ASTON, BIRMINGHAM, B6 5DE.**

On Behalf of the Applicant

No one attended on behalf of the applicant despite the Sub Committee waiting until 1030 hours to give her an opportunity to attend.

On Behalf of Those Making Representations

Martin Key – EH (Environmental Health)

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Please note that the hearing didn't commence until 1030 hours to allow the applicant time to attend.

The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider. No preliminary points were raised.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy, to outline the report.

The Chair invited the representative of EH to make their submission and Martin key made the following statements: -

- a) That some of the issues would be unresolved as they applicant had failed to attend.
- b) The application was filled out with every box ticked indicating that they intending to include sexual content in the TEN – they need clarification on that.
- c) The premises was surrounded by residential properties.
- d) The premises used to be a garden centre and in 2020 there was a planning application to change the use from a garden centre to a restaurant. The application was granted with restrictions and conditions.
- e) There were two further applications to extend the building, however they were both refused due to issues with noise and parking.

- f) The application describes the premises as a dining and banqueting hall, however it was a restaurant with limited operation.
- g) The application is supported by risk assessments, but they were unclear. It mentions marquees but doesn't explain where they would be situated. Also mentions a silent disco but there is not clarification regarding times.
- h) It isn't clear if there is music inside or outside.
- i) Reference is made to an EH colleague giving advice however, there's no record of that.
- j) There is mention of a BBQ therefore he assumed some of the entertainment would be held outside.
- k) The application is out of character for the area.
- l) Noise for residents was a concern.
- m) The venue wasn't suitable, there no noise insulation capacity and the planning permission only allows the rear doors to be used.
- n) Vehicles entering and leaving would also create noise nuisance.
- o) The application mentioned 200 people which is a lot of people in a residential area from 10pm-6am.
- p) There is no approved extraction system so the BBQ would have to be outside.
- q) The event was ticketed and sounded like a party in a club or bar.
- r) It was out of character for the area and did not comply or meet the requirements in terms of public nuisance.
- s) He invited the Committee to issue a counter notice.

The Chair invited questions from Members and Martin Key gave the following responses: -

- a) To the East of the premises is the Aston Expressway and near the boundary of the premises is a school and nursery. Furthermore, the whole estate is extremely close to residential, social housing and flats.
- b) That several hundred people could be impacted if this event were to go ahead.

Martin Key confirmed he had nothing further to add.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the decision of the Sub-Committee was announced and a copy of that decision was sent to all parties as follows;

5/200722

RESOLVED:-

That, having considered the objection notice from the Environmental Health department of the City Council, in respect of the temporary event notice as submitted by Sonett Latoya Henry Thompson the premises user, for an event to be held on 10th and 11th September 2022 at View Villa, Park Lane, Aston, Birmingham B6 5DE, this Sub-Committee determines that a Counter Notice be issued under section 105 of the Licensing Act 2003.

The Sub-Committee's reason for issuing a Counter Notice is to prevent the temporary event from taking place, in order to uphold the prevention of public nuisance licensing objective in the Act.

At the start of the meeting the Chair of the Sub-Committee noted that the premises user had not attended and that nothing had been heard from her. The Chair therefore delayed the start of the meeting by thirty minutes and directed officers to contact the premises user. After thirty minutes the Committee Manager and Principal Licensing Officer confirmed that attempts had been made to contact the premises user via telephone, text message and email, but there had been no response. The meeting therefore proceeded in the absence of the premises user.

The Environmental Health department of the City Council had made representations relating to the risks to the licensing objective of the prevention of public nuisance, and an Environmental Protection officer attended the meeting to address the Sub-Committee.

It appeared from the application that the planned temporary event was a birthday party which was to run until 06.00 hours on a Sunday morning. The Environmental Protection officer noted that the application form appeared to be rather muddled as to the nature of the event, and also as to the proposed licensable activities. The form was not even clear as to whether it would be an indoor or outdoor event. Moreover, the form was short on detail as to how the licensing objectives would be upheld in a residential area all through the evening, night and early morning; the officer confirmed that although a risk assessment had been submitted by the premises user, it did not address the issues satisfactorily.

The officer remarked that whilst the application referred to the venue as a "Dining and Banqueting Hall", in fact it had permission to operate only as a restaurant, and with 23.00 as the terminal hour. The building was a former garden centre which had been repurposed, and as such had no noise insulation. Past planning applications, to extend the building and operational hours beyond those currently permitted (namely 10.00 – 23.00), had been refused on the basis that it would expose the occupiers of the surrounding residential dwellings to unacceptable

noise and disturbance. The closest residential properties were around 30 metres away.

The officer described the surrounding area as “significantly residential”, and observed that the event would be hosting 200 guests until 06.00 hours, which was entirely out of character for such an area. Even at the start of the event, vehicles could be arriving quite late in the evening, given that the start of licensable activities was scheduled for 22.00.

The officer noted that there was mention in the risk assessment of the use of a marquee, and queried whether the event was in fact going to be an external event. The proposed barbecue would obviously be external, as the venue did not have an extraction system, but it was unclear which activities would be internal or external. There was mention of “silent headphones”, which was presumably a silent disco-style entertainment, but as the officer observed, there would still be the noise of people talking at very late hours of the night whilst nearby residents were sleeping.

Therefore the objection, made on the grounds of public nuisance, was that the operation would have an adverse impact on neighbouring residential properties very late at night. The officer estimated that several hundred people could be affected in the nearby housing estate. There was also a likelihood of noise from vehicles. The officer advised that this style of all-night party for 200 people was wholly out of character for a residential area, and recommended that the Sub-Committee issue a Counter Notice to ensure that the licensing objective relating to public nuisance was upheld.

Although due regard was given to the premises user’s representation in the Report, the Sub-Committee was not at all confident that the premises user could overcome the concerns expressed by Environmental Health relating to the potential for public nuisance – specifically, noise late at night. The premises user had not attended the meeting, and therefore there had been no opportunity to hear from her directly to clarify the numerous issues raised by the officer. There would be a direct impact on neighbouring residents; one Member knew the local area and agreed that a large housing estate was situated in close proximity. The Sub-Committee was therefore of the opinion that allowing the event to proceed was very likely to cause unnecessary disturbance to neighbouring residents at a very late hour of the night.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the Report, the Guidance issued by the Home Office under section 182 of the Licensing Act 2003, and its own Statement of Licensing Policy. The Sub-Committee is satisfied that on the balance of probabilities public nuisance is likely to arise in connection with the proposed event at the premises, due to its location close to residential properties, for the reasons given by Environmental Health. The Sub-Committee therefore resolves to reject the temporary event notice, in order to ensure the promotion of the prevention of public nuisance licensing objective in the Act.

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

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Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision. No appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

The meeting ended at 1055

Chairman.....