

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

MONDAY, 03 SEPTEMBER 2018 AT 09:30 HOURS
IN ELLEN PINSENT ROOM, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

A G E N D A

1 NOTICE OF RECORDING

Chairman to advise meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant 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.

3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

4 MINUTES

To note the public part of the Minutes of meeting held on 9 July 2018.

To note the public part of the Minutes of the meeting held on 16 July 2018.

To confirm and sign the Minutes of the meeting held on 23 July 2018.

To confirm and sign the Minutes of the meeting held on 6 August 2018.

5 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

3 - 56

6 **EXCLUSION OF THE PUBLIC**

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

Exempt Paragraph 3

PRIVATE AGENDA

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 9 July 2018 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 16 July 2018 and to confirm and sign the Minutes as a whole.

2 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENSES**

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE A 9 JULY 2018
--

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE A
HELD ON MONDAY 9 JULY 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair

Councillors Bob Beauchamp and Martin Straker Welds

ALSO PRESENT

Bhapinder Nandhra, Licensing Section
Joanne Swampillai, Committee Lawyer
Katy Poole, Committee Manager

NOTICE OF RECORDING

1/090718 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

2/090718 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/090718 There were no Nominee members.

MINUTES – PUBLIC

4/090718 That the public section of the Minutes of meeting held on 1 June 2018 were noted.
That the public part of the minutes of meeting held on the 18 June 2018 were

noted.

LICENSING ACT 2003 PREMISES LICENCE – AVERY FIELDS SPORTS AND EVENTS, 85 SANDON ROAD, EDGBASTON, BIRMINGHAM, B17 8DT

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the applicant

Darren Clegg – Applicant - Trust Secretary
Mick Palmer – Applicant - Chairman
Alistair Blacklaws – Applicant
Rob Edge – Agent

Those making representations

PC Abdool Rohomon – West Midlands Police
Paul Samms – Environmental Health
Michael Green – Resident
June Kennerly – Resident
Margaret Strong – Resident
Richard Evans – Resident

* * *

Following introductions by the Chairman, Bhapinder Nandhra, Licensing Section, made introductory comments relating to the report.

In response to questions from Members of the Sub-Committee, Mr Darren Clegg, made the following points:-

- a) That they were a trust, the charity was to promote community participation and as a community support network.
- b) That they were asked by the rugby and football communion to facilitate the charity. There was no public funding available to them.
- c) That they were in the process of becoming a charity.
- d) That the commercial side of the business was Avery LTD.

Licensing Sub Committee A – 9 July 2018

- e) That they had planning permission and 1.5 million pounds had been raised through donations.
- f) That there was still £400,000 of fundraising required.
- g) That they had spent 1.3 million on the new grass pitch as well as a substantial amount on the car park and landscaping.
- h) That prior to their involvement in the premises, it had not been used for a number of years. The premises were being used for illegal activity, such as drug taking, prostitution and other criminal activity. They had made changes to stop the criminal activity.
- i) That they needed to make an income from the bar and provide a heavily discounted rate for hire.
- j) That they wanted generous licensing hours to enable them to host birthday parties, and other events. The events would mostly be community based, such as sports lunches, craft fayres, weddings.
- k) That they wanted to engage local schools and encourage children to be more active. That they wanted to share the facilities with other local clubs.
- l) That they had a partnership agreement with Venue Catering Partners, who were an experienced catering company with over 50 years' experience including providing the catering for Wolverhampton Wanderers.
- m) That they had employed a facility manager with extensive experience in management and with a comprehensive understanding of the licensing objectives.
- n) That they would employ a full range of staff to run and support the volunteers.
- o) That it was a charity, and every penny that was earned would be paid back into the property. However, they needed to generate that money from the bar, pitches and the hire of the facilities/premises.
- p) That they wanted to keep the premises protected as they had spent a lot of money to bring it back into use.

In response to questions from Members of the Sub-Committee, Mr Rob Edge, on behalf of the applicant made the following points:-

- a) That the management would strongly promote the licensing objectives. The applicants were extremely responsible, with one being ex-police. Licensing solicitors would also over see it.
- b) That licensing, planning, and the fire service had not objected and they felt it was a good application and there were no concerns.

- c) That it was a professional organisation setting up in a responsible manner.
- d) That it was a well-run licensed premises with a state of the art training facility for sporting events.
- e) They had happily provided site visits for the police, community and environmental health.
- f) That they had agreed 5 out of the 8 police conditions and 9 out of 14 environmental health conditions.
- g) That one of the proposed conditions requested that events went through the Safety Advisory Group (SAG), they believed that only events that were over 500 people should have to go through the SAG process.
- h) That they would send police and environmental health an email to give them information and times with expected number of patrons. The same sort of information that people provide for TENs.
- i) That they were keen to work with the police, environmental health and the residents.
- j) That they would have a site manager and DPS.

Mr Edge listed all the documents they had provided for the benefit of Members, and in order for them to check they had all the appropriate documentation.

Mr Edge continued:-

- a) That they had presented all the required documents along with employing a health and safety professional to evidence that they are complying with everything they should be.
- b) That the premises will have folders with documents to include: Licensing Act, refusals log, incident log, all the catering information.
- c) That they had addressed all the table of objections.

Mr Edge referred Members to Document 1 and went through the document to assist Members.

Mr Edge continued with his representations:-

- a) That the residents felt that the licensable activity outside should cease at 2130 hours as the flood lights could constitute a public nuisance.
- b) That they would have a contract with local taxis ensuring that they do not beep horns. They would ensure signage was in place and that it was enforced.
- c) That the removal of licensable activity in the toilet area was agreed, that

was an oversight.

- d) That the DPS would be responsible for people using the external smoking area, including noise control. There would also be signage there.

Councillor Dring asked questions relating to the floodlights, asking particular questions about the flood lights being a seasonal issue and how this would affect the time?

Mr Edge responded and continued to outline his case:-

- a) That planning had looked at the issue and took a pragmatic approach to ensure that the flood lights would be switched off at 2130 hours regardless of the season and therefore, it would be easier to enforce even through the different seasons.
- b) That they had spoken to residents regarding farmers markets.
- c) That they felt 6 events was extremely restrictive.

Members raised questions particularly in relation to security and public safety to which Mr Edge responded:-

- a) That they would provide individual risk assessments for each individual event and security would be in place.
- b) That one of the problems they were facing was that the site would not be finished for 2 months.
- c) That the catering company were currently approaching forums to get events and secure people who wished to hire the premises. Once they had a list they would be able to put forward the plans and all the finer details such as security.
- d) That the car park could cater for 82 cars and 2 coaches.
- e) That each event would have its own paperwork, including risk assessments.
- f) That they had not yet secured security as the site was not open yet.
- g) That it was a great facility for children.
- h) That public safety would be paramount.
- i) That they would have earth mounds to help stop noise travelling.
- j) That they would adopt a challenge 25 policy.
- k) That 60% of members were DBS checked on an annual basis.

- l) That any new members would be DBS checked.
- m) That notices would be placed at the entrances and exits to remind people to limit noise and respect the local residents.
- n) That they had already given a site visit to the police and environmental health.
- o) That they didn't agree with all the conditions from the police and environmental health, but they wouldn't agree with everything all the time.
- p) That they had to move the meeting forward due to Mr Edge being away on the 16th July, and that another week would have given them chance to perhaps resolve the issues with police, environmental health and residents.
- q) That they would occasionally have music outside. That they would not have live rock bands, or anything of that nature.
- r) That commentary speakers would be kept at a reasonable level, they had no issue with a noise limiter.
- s) That it was highly likely that the club would not even open 3/4 nights a week.
- t) The club would probably be closed from 2200 hours Monday – Thursday.
- u) That events on Friday and Saturdays would depend on the plan and depending on what they are able to offer. However, none of the plans would compromise the licensing objectives.
- v) That the club was 109 years old and therefore, they had a big reputation to uphold.
- w) That Mr Palmer was an ex-police inspector, with vast experience in the local area.
- x) That the outside drinking area was a large area, however any entertainment would be close to the club and therefore, a considerable distance from the local houses. They would be open to a sensible cut off time for outside activities.
- y) That the marquees would be situated in the field to the right of the club house and therefore, it would be close to residents.
- z) That in relation to weddings, they had not yet made any plans to hold weddings, it was just something "thrown into conversation". They have not looked into it and were not even sure if it was a viable option.
- aa) That it was more likely to be used for farmers markets, summer fetes, and community events. They wanted to bring in families and children.

- bb) That they understood why the police and environmental health wanted 28 days' notice of events and agreed, but they wanted dispensation for events such a funerals where they don't always get 2 weeks' notice, and therefore would be unable to give the police and environmental health 28 days' notice.
- cc) That there was no evidence of crime and disorder as the premises was closed.
- dd) That they had installed security fencing all the way round the perimeter.
- ee) That they would be willing to operate 0800 – 2300 hours Sunday – Thursday, then 0800 – 0100 hours Friday and Saturdays.

In response to Members questions, PC Abdool Rohomon, on behalf of West Midlands Police made the following points:

- a) That he wanted clarity regarding the relationship between the premises and the catering company.

The applicant responded explaining that they had a written agreement with the catering company. The company would provide the staff, but they don't have a lease they have a management agreement. They would provide staff and food.

PC Abdool Rohomon confirmed he would like to see the written agreement. He was concerned that a third party would be doing the organising of events and that the premises would blame the third party if they came back for a review. It's the applicants licence and they needed to take responsibility for it.

At 1110 hours the meeting was adjourned to allow Mr Clegg to secure the management agreement and email it to the Committee Manager in order for her to print the document and disclose to all parties. All parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1129 hours the meeting was convened and all parties were invited to re-join the meeting.

PC Abdool Rohomon continued:-

- a) That when they first looked at the application there was a difference between what the premises say they want to do and what the license would allow them to do. That we should take away the rugby as that was not a licensable activity.
- b) That the hours for licensable activity were both early and late. The regulated entertainment they have requested was also significant. They say they only want to do summer fetes, farmers markets but that's not reflected in the application.

- c) That he was surprised the premises had reduced the hours today.
- d) That he was confused what hours have been agreed.

Mr Edge confirmed that they had not heard from residents yet, so it was unclear, but so far they were proposing Sunday to Thursday 0800 – 2300 and Friday and Saturday 0800 – 0100 hours and 2230 for the outside area.

PC Rohomon continued:-

- a) That he had concerns regarding the licensable activity area indicated on the site location maps (pages 48-50 of the evidence bundle). The red line indicated the area of licensable activity, however, they have advised they only wish to have licensable activity in one field. Therefore, PC Rohomon struggled to understand why they had applied for such a huge area.
- b) He explained that when he visited the site, the houses were extremely close; so close that he could see people's kitchens, bedrooms etc.
- c) That the licensable area would be very attractive for outside events, due to the size. That gave him great cause for concern.
- d) That they were requesting SAGs as it would be difficult to control and they would otherwise have to put on a number of conditions.
- e) That he was referring to boxing matches, films, music. Rugby and sport tournaments were not licensable activity. That's why it needed to go to SAGs.
- f) That it was not possible to just condition a licence for weddings and funerals, the licence would dictate what they could do.
- g) That the boxing matches concerned PC Rohomon. The outside events need to go through a SAG process.
- h) The SAG process would help set conditions for each event.
- i) That when they visited the site they asked about fire risk assessments, yet today they have made no representations regarding the fire risks. There was a fire assessment produced but it was only for the club house. There was no assessment of the outside area, yet there were comments about rugby matches having up to 1000 people on site, yet no evacuation plan.
- j) That the site was extremely appealing; big site, flat area.
- k) That even if the bottom two fields were not licensed, that would not stop people congregating on them and drinking there.
- l) That they had proposed a list of conditions, but they were yet to come to an agreement.

- m) That having a licence with such a broad licensable area requires them to have control measures in place. Should they want a license they would have to comply with the things requested of them.
- n) That the personal licence holder would need to put in work and promote the licensing objectives.
- o) That they did not know what events they would put on, they say farmers markets, weddings, yet the licence allows them do put on live music, films, plays, and boxing matches.
- p) They were unable to make an assessment on crime and disorder, but they were concerned due to the size of the area. Many events organisers would jump at the chance of using the field for a concert.
- q) That the catering company VCP were going away and looking at events for them, however, the licence holder was not VCP and therefore, the premises needed to make sure they were promoting the licensing objectives.
- r) That they wanted to see the contractual agreement between the premises and VCP.
- s) That it was a big application in a highly residential area.
- t) That there was only one entrance for a massive site.
- u) That security was difficult to comment on as each event will have different requirements. That was why SAGs were important due to the wide range of licensable activity they were requesting.

Mr Edge interjected explaining he had spoken to “Garry” from SAGs Birmingham and in his opinion events of 500 people and under, should not be put through the SAGs process. Further, that only events in excess of 500 should be ruled and controlled by SAGs.

PC Rohomon replied concluding that he had already outlined the reasons for SAGs for all events.

PC Rohomon continued:-

- a) That no other application with SAGs as a condition had a limiting number attached. If they wanted an event they would have to go through the SAG process.
- b) That the application was too “open-ended”.

Mr Palmer, on behalf of the premises made the following points:-

- a) That the premises had never even contemplated having concerts, it was a

community club and they wanted to use the club to promote the community. That as long as he chaired the club, they would not be holding concerts.

- b) They would never hold an event of that nature.

PC Rohomon queried why they applied for those type of events then, and why they had such a big application if they didn't intend to use it.

Mr Pauls Samms, on behalf of environmental health made the following points:-

- a) That he had concerns for the possibility of noise; from taxis, music, people, and smoking areas.
- b) That the noise inside the premises should not be a concern as long as they followed conditions, such as a noise limiter.
- c) The balcony area was a concern.
- d) That he had requested that the operating hours be reduced to 2230 hours 7 days a week.
- e) That the conditions had not been agreed.
- f) That should they want outdoor events, the distance between residents and a marquee, could generate a considerable amount of noise.
- g) That should events only happen 6 times a year, that would be unlikely to constitute public nuisance. However, should events happen every week that would be a problem.
- h) That there had been discussions about rugby festivals which they were not in agreement with. Festivals involved live music as well as recorded and a large number of people. Therefore, it would be intrusive.
- i) That the applicant may be able to use the TENs process to prove themselves.
- j) That there had been a lot of talk about what they wanted to do and what they can do.
- k) That noise plans involved monitoring and limiting devices. That risk assessments for each noise sources for each event would be needed, then they would be able to establish if noise monitoring was required. However, the premises would not agree to the above-mentioned condition. That it concerned Mr Samms that they would not agree to it.
- l) That they would have to agree to the conditions should they want to operate such an open licence.
- m) That he was in agreement with the police that the SAG should not have a limit on it.

- n) That the SAG should be for every event. However, they would adopt a pragmatic approach and should there be reoccurring events that were working, with no issues they would not need to provide the same amount of information.
- o) That the noise report had been produced by the premises, but they were not convinced that it was accurate. It was produced for the planning application, and it did not include regulated entertainment. That his colleague dealing with it, would be requesting another noise report.
- p) That in order for the application to work, environmental health conditions would need to be attached to the licence.

At this juncture residents made their representations, firstly Mr Michael Green made the following points:-

- a) That he was a resident of Walt House Road and his house backed onto the sports club.
- b) That he had been in contact with a number of the local residents and submitted representations originally. There were 6 reasons.
- c) He referred to Document 3, the historic deed. This document outlined the usage for the site with stated it should only be used for sports for the future, and therefore, could not be used for housing.
- d) That the second point was that there were families locally with young children, in close proximity to the premises. Therefore, it would be wholly inappropriate for late night drinking at the premises.
- e) That he had submitted a petition on page 1, which had 89 signatures in only a few hours.
- f) That the premises claimed to be reducing prostitution and drugs, yet they wanted to open until 0200 hours which could contribute to this rather than discourage it.
- g) That there were lots of residents with the same concerns.
- h) That the noise impact was a concern and had already been an objection during the planning application. They did another petition for the noise and that had 40 signatures.
- i) That there had been changes in operating times between planning and licensing hearings.
- j) That he had spoken to a number of people who felt cheated and let down because of the changes since the planning application. He read out a quote from another resident "The changes are enormous, put through in a very underhand way".

- k) That it was a professional organization, but the building work had gone ahead without the appropriate drainage resulting in mass flooding affecting the local residents. Residents felt angry that the premises had not acted responsibly. They had not built according to the plans, especially concerning the drainage.
- l) They had a meeting with residents and agreements and proposals were put forward informally. However, nothing was set in stone during that meeting.
- m) That the bar had now moved to the second floor, creating more noise.
- n) They were concerned regarding the wide range on the application.
- o) That as a community facility, they felt that there was no need for a bar there at all. That if they didn't want events or a bar, it all should be conducted inside the premises and not outside.
- p) That they needed to raise funds in a controlled way and not causing disturbance outside the premises.
- q) That it was primarily a sporting facility and therefore, there were no need for all the big events.
- r) That he was talking on behalf of 100 residents.

Mrs June Kennerly another local resident, made the following points:-

- a) That the floods directly affected her house and the construction work had exacerbated it.
- b) She had been spending her time finding places to live and had therefore not seen the application for some time. When she did finally see it she was shocked and she personally felt let down.
- c) That she had met with the premises, but only Mr Edge attended, no one from the premises attended.
- d) That they could not believe the scope of the application and felt that mediation was futile.
- e) She referred to the application being like "a blank cheque".
- f) That she endorsed the police and environmental health's comments.
- g) That she was concerned about the flood lights and outdoor activity, including the audio PA systems. She felt it would affect children that lived close.
- h) She advised that it should be limited to 2130 hours.

- i) That when the premises ceases licensable activity at 2230 hours, when would people actually be leaving. She had concerns regarding lock up times.
- j) That she also had concerns for the early opening times. The local area was extremely busy from 0800-0900 hours and there was a major school a few hundred yards away. There would be concerns regarding additional traffic from the premises adding to the already busy area at rush hour. The applicant had not addressed it at all.
- k) That the planning application changed from single storey to double with no consultation to residents.
- l) They also extended the pitch, again with no consultation to residents.
- m) That the drainage plans had not been given agreement yet and construction had already gone ahead.
- n) That they were unable to find out who was responsible for the site.
- o) That the planning application was made by the trust which was established in 2016.
- p) That the licensing application was made by the limited company and that was only set up in March 2018.
- q) That she had concerns that the venue was going to end up becoming like a nightclub.
- r) That with the number of staff they are proposing to employ it seemed as though they were anticipating events every week.
- s) That they wanted the premises not to open before 12noon.
- t) That the flood lights and external audio equipment should not exceed 2130.
- u) That restrictions needed to be put in place when people leave the premises.
- v) That the licence should not be granted until the drainage issues have been addressed.
- w) That the premises was located on a major ambulance route and near a major school.

At 1250, the meeting was adjourned to allow the premises to obtain the written management agreement they had with VCP. All parties with the exception of Members, the Committee Lawyer and Committee Manager left the meeting.

At 1316 the meeting was reconvened and all parties were invited back into the meeting room.

PC Rohomon explained that he was unable to see within the document any references to the licence. There were references made to the club paying VCP a yearly fee and VCP buying the alcohol and supplies. That the document was a contract and not a management plan. That was his concern, that the premises licence holder needed to be held accountable and act responsibly, but with a third party doing everything, there was no responsibility from the premises.

Mr Clegg referred PC Rohomon to page 10, clause 5.3 which referred to meeting having taken place between the premises and VCP. He also referred him page 11, 5.6 which indicated that whilst VCP may not agree, the ultimate decision making will rest with the club. Furthermore, that the end of document (page 23) set out what VCP would be responsible for.

Mr Green stated that they had a contract with VCP and were paying them a daily rate of £500+ VAT.

In summing up, PC Rohomon made the following points:-

- a) That he was mindful about what the licence would allow the premises to do and that they actually intended to do. That there was little control in the operating schedule.
- b) That if the Members were minded to grant, the hours should be restricted and the police conditions should be included.
- c) That should the Members decide to grant with conditions, could an adjournment be granted to allow precise working of those conditions to be finalised.
- d) That amending the licensable area plans was a consideration, but that the Members would need to seek legal advice on that.

In summing up, Mr Samms, on behalf of Environmental Health made the following points:-

- a) That he was concerned that the whole project seemed poorly planned.
- b) That if they were unsuccessful in securing a licence, then the whole project would not be viable. He was concerned that they hadn't thought of the impact of this on the project.
- c) That there should have been a business plan addressing it.
- d) That all of the conditions were reasonable and they should not have any issues with them.
- e) That he was concerned that the premises may actually have trouble

containing the noise and that's why they were trying to get out of it.

- f) That the conditions proposed by EH should be attached to the licence, should it be granted.

In summing up Mr Green, on behalf of the residents, made the following points:-

- a) That there were lots of "uncertainties" in terms of the application, organisation and that was no reassurance to residents.
- b) That there were also uncertainties regarding governance and partnership.
- c) That there were considerable uncertainties about what the licence covers and what they had applied for.
- d) That the application for houses got rejected due to the deeds and now its supposedly a sports venue and therefore, they needed to adhere to that.
- e) That the application should be refused and they should submit a new one at a later stage.

Mrs Kennerly added:-

- a) That the staffing was huge and indicated that they were planning to have weekly events.
- b) That they would operate as a full blown commercial entertainment facility.
- c) That the application should be refused and they should reapply showing their actual intentions and the actual events they plan to run.

In summing up, Mr Edge, on behalf of the premises, made the following points:-

- a) That they would amend their hours and licensable activity would not start before 1100 hours.
- b) They wanted clarity regarding the police conditions on what an "event" was - would a birthday party for 30 people be considered an event.
- c) That they had met with police and provided them with copies of the fire risk assessment. That they had received no representations from the fire service. Therefore, they should be able to sort these out themselves.
- d) That they would remove 2 licensable activities from the application to satisfy the police, namely, boxing and live music.
- e) The business plan was not originally disclosed as it was considered by the trustees as commercially confidential.

- f) That the fencing of the external areas was on going.
- g) That traffic would not be a concern as there was no entrance on to City Road.
- h) That they would remove the last 2 fields from the licensable area.
- i) That they believed they had made a considerable amount of progress today.

At 1344, the meeting was adjourned to allow the Members to seek legal advice. All parties with the exception of Members, the Committee Lawyer and Committee Manager left the meeting.

At 1349 the meeting was reconvened and all parties were invited back into the meeting room.

The Chairman advised that during the summing up Mr Edge on behalf of the premises put forward new conditions and changes to their representations, therefore, putting forward new evidence. The Committee therefore advised that views would need to be sought from the other parties.

PC Rohomon, on behalf of west midlands police, made the following points:-

- a) That he had spoken with the applicant and inside alcohol would be served between the hours of 1100 – 2300 hours Sunday – Thursday with a 45 minute drinking up time. West Midlands Police were in agreement with this. Then Friday – Saturday 1100 – 0015 hours with a 45 minutes drinking up time, however, West Midlands Police were not in agreement with those timings.
- b) That West Midlands Police agreed with the proposed licensable area, now they had removed the 2 bottom fields.
- c) That they were happy that live music and boxing had been removed.
- d) That there were still some of the previous conditions they had not reached an agreement on. However, SAGs had now been agreed for outside events.

Mr Samms, on behalf of Environmental Health, made the following points:-

- a) That they agreed with everything the police had said.
- b) That they had still not made an agreement on the 6 events per year condition.

Mr Green made further proposals:-

- a) That they wanted 1100-2200 hours Sunday-Thursday and 1100-2300 Friday-Saturdays. Outside 1100-2045 with a 45 minute drinking up time.

- b) That they would not agree the new boundary for licensable activity due to the fact that licensable activity was still close to their properties and therefore, was still a concern.
- c) That they were in agreement with EH on the 6 events per year condition.

Mr Edge concluded that between all of the parties in attendance at the hearing they had found some middle ground.

At 1448 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1514 the meeting was reconvened and all parties were invited to rejoin the meeting. The decision of the licensing sub-committee was announced as follows:-

5/090718 **RESOLVED:-**

That the application by Avery Fields Sports & Events Ltd for a premises licence in respect of Avery Fields Sports & Events, 85 Sandon Road, Edgbaston, Birmingham B17 8DT, **BE REFUSED.**

The Sub-Committee's reasons for refusing this application for a premises licence were due to concerns regarding the impact of the proposed operation in a residential area, not least due to the uncertainty over the nature of what was actually being planned by the applicant. In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder, public safety and the prevention of public nuisance. Both West Midlands Police and Environmental Health attended the meeting to object, along with local residents living in the roads surrounding the site.

Upon hearing from those from Avery Fields Sports & Events, three of whom attended (they were also represented at the meeting by a licensing agent), the Sub-Committee was concerned that there was rather a lack of transparency, and also a degree of confusion, over the manner in which the application had been drafted – specifically, the difference between what the premises told the Sub-Committee about how they proposed to operate, and what they had in fact requested on their written application. Consequently the Sub-Committee did not have confidence that the applicant was capable of upholding the licensing objectives.

The applicant explained that they were based at a 13½ acre site, and the land was used for rugby matches and training, attracting many local children. They were a cooperative society in the process of becoming a charity. They were a 'not for profit' organisation, and accordingly they intended to plough all funds back into the sports

club; however, they also made submissions regarding their financial position and the urgent need to raise funds due to very high operating costs. They had 37 contracted rugby players and a number of full-and part-time staff; in addition, maintenance of the artificial grass pitch alone cost some £250,000 per decade. They therefore had recently entered into a partnership with a venue catering company. The plan was to raise the funds via the holding of commercial events, offered with the assistance of the venue catering company. The long hours of operation were required in order that they should be able to compete with other alcohol-licensed establishments, such as hotels.

Upon hearing the applicant's submissions and examining the operating schedule in detail, the Sub-Committee considered that the applicant was asking them to take something of a leap of faith, particularly in relation to the hours, which were akin to those of a late-night bar or nightclub. The applicant stated that they 'probably' would close at 22.00 hours from Monday to Thursday, but the application had requested operation throughout each day - starting at 08.00 and not finishing until 02.00 hours of the following day. The applicant stated that they 'may not open' for 3 or 4 nights in the week, but the application had been submitted asking for daily operation. The applicant stated that the playing of live music was 'unlikely' to include a live rock band, but the application if granted would permit this. Indeed the full panoply of licensable activities had been requested – even plays, films, dance performances, boxing matches – and all of them to 02.00 hours daily.

It was not an application which inspired confidence; the Sub-Committee did not consider that the applicant had shown a proper understanding of the promotion of the licensing objectives when drafting, and later amending, the operating schedule. It was unsatisfactory for the applicant to state that they 'may not open' on some weekdays, or 'probably' would close early most days, or that it was 'unlikely' that they would put on a rock concert, when the application had been drafted to include these things. The Sub-Committee was mindful of the fact that to grant the application would leave such matters entirely to the discretion of an applicant who had already stated that there was an urgent need to raise revenue.

The applicant was not fully sure about what type of events they would hold, but had made the application requesting blanket permission for literally any and every type of activity. There had also been talk of using the site as a wedding venue if the catering partner considered this viable. Yet during the meeting the applicant was keen to describe the likely style of event to be 'farmers markets and summer fetes'. The Sub-Committee was confused by this. The application as submitted, and in particular the 02.00 end time, certainly did not correspond to the style of operator that would mainly offer events at the 'summer fete' end of the scale.

As a result, the Sub-Committee agreed fully with the submissions of West Midlands Police. The Police drew a distinction between, on the one hand, what the premises said they intended to do, and on the other hand, what the licence would in fact permit them to do. The Police felt that to focus on the applicant as a rugby club was to ignore the real issue in the application, namely the fact that the proposed licensable activities were akin to those of an entirely commercial late-night entertainment venue, operating to 02.00 hours daily, on a huge site, and close to residential properties.

Earlier in the meeting the licensing agent had told the Sub-Committee that the site was 'not near the houses' of local residents; the Police disagreed strongly with this. The Police confirmed that on attending at the ground for a site visit they had seen for themselves how close by these houses were - close enough for observers to be able to see into the kitchens and bedrooms of the neighbouring properties.

Moreover, having seen the size of the site, the Police also considered that to licence such a very large area would mean that very large events would perhaps follow. The Police observed that until they attended for the site visit, they had had no idea how very large the sports ground was. The Police observed that any event promoter would consider that the nature of the site, namely rugby pitches, ie flat land, across a 13½ acre site, made it ideal for the holding of large events.

At recent meetings of the Special Advisory Group, events for '500 persons or more' had been mentioned by the applicant. Attendance of large numbers of people, and to the very late hour of 02.00, would be difficult to manage, would create considerable noise, and therefore would put the licensing objectives at risk. If the licence were to be granted, the live music permission meant that a rock concert or music festival could be put on, with all the associated risks relating to crime, disorder and nuisance; the boxing event permission would also be a significant risk to public safety. It was the recommendation of the Police that if the licence were to be granted, very significant controls would have to be put in place – far in excess of those shown on the operating schedule.

The Sub-Committee agreed with all of the Police observations. Indeed the Sub-Committee again found themselves confused as to why the application had apparently been drafted with no understanding of these types of potential problems, which seemed to be the common sense 'risk factors' that most responsible applicants would avoid. It appeared to the Sub-Committee that the financial considerations of the club had perhaps outweighed the licensing objectives when submitting the application. The Sub-Committee was not reassured by a declaration from those representing Avery Fields that they had 'never contemplated' rock

concerts and/ or boxing matches; why, then, had the application been drafted to include them? To grant the licence would of course permit those activities, and entirely at the applicant's own discretion.

The Environmental Health Department of the City Council also made submissions, and observed that a great deal of information had emerged within the meeting itself. Whilst Environmental Health had proposed some draft conditions in advance of the meeting, due to what then emerged during the course of the meeting, the Environmental Health Officer recommended that the Sub-Committee consider carefully the potential problems relating to public nuisance if the licence were to be granted for a large high-capacity site, operating to 02.00 hours, close to residential properties.

The Sub-Committee therefore considered in detail the potential for nuisance. They were of the view that the noise concerns were a particular worry; the Environmental Health Officer had observed that a gathering of 50-60 people during the evening could create noise nuisance in a residential area, yet in the instant application there had been mention of numbers up to and exceeding 500 people, and until 02.00 hours. The Sub-Committee therefore agreed that the likelihood of public nuisance was high.

The Sub-Committee then heard directly from two local residents. In addition a number of other local residents also attended the meeting, and watched from the public gallery. The local residents were overwhelmingly against the proposals.

The first person to speak said he was worried about what he felt were 'creeping changes' that would completely change the nature of what residents had always thought of as the local sports ground. He observed that if the licence were to be granted there was nothing to stop the applicant holding an event like a rock concert if they so wished, when the land in question was understood by those living nearby to simply be a rugby field and clubhouse. He was perturbed that the applicant's focus seemed to be on raising revenue, rather than on controlled operation. In summary, he was completely against the application as he felt that the disruption caused to local families would be too great, and that it was unreasonable for local children to be kept awake into the early hours. They would have to endure disturbance to their sleep and consequently to their education.

The Sub-Committee then heard from a lady resident who stated that she had been shocked by the scope of the application, and that she considered that Avery Fields were almost 'asking for a blank cheque' in terms of how they wanted to operate.

She felt that although much of the representations made had related to night-time use, and in particular the 02.00 hours end time, of

equal concern was the start time of 08.00 hours, given that there were local schools nearby. She had also found that the premises had not answered any of the contact she had made about an (unrelated) issue concerning the land, and she had been unable to identify who was responsible for the site; whilst that was nothing to do with the instant application, it had not given her much confidence that the premises would answer residents' concerns, or take proper responsibility and accountability, if the licence were granted.

She reiterated the concerns of the first objector – namely that local residents had felt that the land was the local rugby pitch, but the proposal now was that they should become a commercial entertainment venture. When she had heard, earlier in the meeting, about the staffing costs, the costs of the venue catering arrangements, and in particular the cost of maintaining the artificial pitch, she considered that the level of funding required would necessitate the holding of various events every week. She had also noted discussion about appointing a full-time staff member to organise events; this strongly suggested to her that events would be held numerous times a month. All in all, she felt that the applicants should not be given the benefit of the doubt; it was her opinion that a new application should be drafted, reflecting a more realistic proposal for operating.

Once all parties had made their representations, the usual opportunity was given for each party to sum up their submissions. The Sub-Committee was unimpressed that the agent for the applicant used the summing-up part of the meeting to begin to redraft the application in its entirety, including the operating schedule and conditions, which was not at all the approach expected of applicants at any committee meeting. The putative redrafting proposed by the agent included adjustments to the hours, the licensable activities and even the licensable area shown on the plan.

The Sub-Committee asked the agent to comment on the fact that many of those making representations had said there was uncertainty about the proposals, and also to comment on the fact that it had been suggested that the applicant perhaps ought to come back with a new application. Somewhat surprisingly, the agent stated that he considered that so much progress had been made in the hearing that to do so was unnecessary.

Leaving that aside, the agent's decision to begin to redraft the application during his summing up meant that there had been no opportunity for those making representations to comment. The Sub-Committee therefore ordered an adjournment for the new proposals to be considered by all.

When all parties returned after some 50 minutes, there were still some issues of dispute, and in all the circumstances the Sub-

Committee felt that there was still much uncertainty over the operation, and much doubt about the ability of the applicant to uphold the licensing objectives, such that the correct course was to refuse the application. The application had not been carefully drafted, and was then amended 'on the hoof' in the closing stages of the meeting itself, in a manner that did not inspire confidence about the applicant's willingness to operate responsibly.

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 contained in the application, the written representations received, and the submissions made at the hearing by the applicant, their agent, West Midlands Police, the Environmental Health Department of the City Council, and those making representations.

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.

LICENSING ACT 2003 PREMISES LICENCE – VARIATION – NEW INN, 74 VIVIAN ROAD, HARBOURNE, BIRMINGHAM, B17 0DJ

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the applicant

Michelle Hazlewood – Solicitor
Adrian Grant – Area Manager
Phil Hurst – DPS

Those making representations

Paul Samms – Environmental Health
Adam Radford – Resident
Filiz Radford – Resident
Caroline Rick – Resident

* * *

Following introductions by the Chairman, Bhapinder Nandhra, Licensing Section, made introductory comments relating to the report.

In response to questions from Members of the Sub-Committee, Mrs Michelle Hazlewood, on behalf of the premises, made the following points:-

- a) That there was a minor change to the interior of the premises, but she would not be looking at that in any detail as that was non-controversial.
- b) The second part of the application was controversial.
- c) That the premises were located on the junction of two roads.
- d) The rear of the premises had a store room, they were looking to ,licence a small area in the store room, located on page 32 of the evidence bundle.
- e) That the application was not to licence the beer garden, just the servery.
- f) That the beer garden had been established for a long time.
- g) That they wanted a bar server hatch for ease of use.
- h) The inside of the premises was becoming congested with people coming in and out to order drinks. So the second bar would be beneficial. It would also ensure eyes and ears into that area.
- i) That the beer garden was large and the occupancy of the garden was large, but they have had to remove tables and chairs to make room for the servery.
- j) The area will always be manned.
- k) That the outside bar would ensure supervision of where drinks are going and coming.
- l) That the premises were in leasehold division with Marston. It was light on conditions in operation to external areas.
- m) That there was an informal agreement about beer garden usage times, but not formal arrangements.
- n) That there were mixed messages around the beer garden. Phil became the DOS in February 2018 and unfortunately due to the mixed messages about the time the beer garden should be vacated he breached those arrangements. However, since those issues have been resolved he has ensured that the beer garden has been vacated at 2200 hours.
- o) That they proposed the outside beer garden would close at 2130 and

have a 30 minute drink up time.

- p) That they had looked at the operation of the premises and noise levels that would cause a concern to residents, so that have put in a condition addressing that, to include external waste bins.
- q) They would ensure there were additional notices.
- r) That the beer garden would be a smoking area, but no drinks would be permitted in that area after 2200 hours.
- s) That they had a relationship with TOA Taxis, and they had made them aware of the rules regarding no horns, no shouting or slamming of car doors. They have also made a promise to serve our customers asap.
- t) That the beer garden was a real asset to the community, showing world cup games. But it needed management.
- u) That they had piloted films as afternoon screenings. However, residents raised concerns so the screen shall be coming down after the world cup.
- v) That the police had made no representations, nor were there any incidents involving the police.
- w) That not all noise was that of public nuisance.
- x) The premises had been running for a long long time and had always had a beer garden.
- y) That they could not see how the presence of an outside servery would increase noise.
- z) That the outside bar would actually ensure that noise was monitored better.
- aa) That the DPS did not use the external perimeter flood lighting as it is too bright, so he uses the uplighting against the body of the premises.
- bb) In relation to glassware the DPS parks over the road and on his way in he always scans the area for glass. He has only ever found 6-12 bottles/glasses. He always clears it up if he finds glassware outside the premises. However, there are other premises locally, so therefore, it cannot just be associated with this premises.
- cc) That during the world cup plastic glasses were used in the garden.
- dd) That they were always looking to improve and would be open to additional conditions. One to cover a mandatory litter sweep at the end of each night and an additional sweep in the morning if required.
- ee) That they were not having any issues with glassware disappearing.

- ff) That they were unsure how they could relate the urination and faeces over the road to this premises. They found it hard to believe that customers would leave the premises with nice toilet facilities to go in the street.
- gg) That the local area did have homeless persons and that it would be unfair to assume it was customers from New Inn. That the premises was careful at monitoring patrons and should they see anything of that nature they would report it to the police, immediately.
- hh) That the manager had acted responsibly and was a good manager.
- ii) That the 10th June was a farmers market which finished at 2000 hours.
- jj) That they were in discussions with Environmental Health and were in agreement with the conditions.

At 1626 hours the meeting was adjourned. The Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1636 the meeting was reconvened and all parties were invited to re-join the hearing.

In response to Members questions, Mr Paul Samms, on behalf of Environmental Health, made the following points:-

- a) That they had been in communication since the initial agreed conditions and had amended and changed the agreed conditions.
- b) 3 conditions had been deleted and new ones had been added.
- c) That a number of residential properties nearby could see the beer garden directly, and he had concerns regarding noise travel in particular.
- d) That noise levels could increase with regard to this application and that it could constitute public nuisance.
- e) That two conditions had been deleted in relation to waitress/servers.
- f) That no screens were to be used after the world cup, unless they get prior approval/permission.
- g) That he would accept the dispersal conditions and the litter sweep.
- h) That SIA registered door staff should be used as and when required.
- i) That he had concerns regarding the DPS failing to get people out of the garden area by 2200 hours during the beginning due to confusion.

- j) That the screen was supposed to be silent, yet he walked past and the screen was playing and the volume was on.
- k) That they were unable to stop him doing live streaming of football as it was not a licensable activity.

In response to Members questions Mr Adam Radford made the following points:-

- a) That the application was made prior to the world cup, and so were the objections.
- b) That the beer garden was an asset to the pub programme of events.
- c) That they refused the application in part; the outdoor bar was the issue.
- d) That noise was becoming a nuisance.
- e) That there were no visible signs asking patrons to respect neighbours and keep noise levels down.
- f) That drinks were being taken away out of the garden.
- g) That the garden access was not locked so people could get in and out with drinks. There was no control over the gates whatsoever.
- h) That drinks and glasses had ended up on his driveway.
- i) That it was a common occurrence to see people leaving the beer garden drinking in the street.
- j) That he did not feel the conditions proposed addressed the major issue of noise.
- k) That people would urinate in the street when 300 people were occupying the beer garden and then at half time everyone needs to use the bathroom facilities.
- l) That there was housing on all sides of the premises.
- m) That the pub had two bars inside.
- n) That the garden was previously a bowling green, not a beer garden. They did not get planning permission to change it to be anything other than a bowling green.
- o) That appendix 3 indicated the dates when the noise level went beyond a reasonable level.
- p) Although it would remove congestion at the bar inside the premises, it will create an issue outside instead.

- q) That a bar being open outside would create noise.
- r) That closing the bar at 2130 hours would not help the noise issue. He has a 5yo son who goes to bed at 1900 hours and he has to move him around the house to get away from the noise of the premises.
- s) That it would have been helpful to have had communication with the premises prior to the application.
- t) That the taxi firm was a premium taxi operation and younger people tended not to use them.
- u) That the police were called during the world cup, the police van was there one evening.
- v) That the resident homeless man in Harbourne was called John and he was active in cleaning up the streets.

In response to Members questions Mrs Filiz Radford made the following points:-

- a) That if the bar was on the inside there would be no concerns for people screaming for drinks. That moving the bar outside would increase the noise.
- b) That the patrons were not after cocktails, they were after beer.
- c) That she could not see the servery solving noise issues.
- d) That the bar was already in operation outside in the garden.
- e) That she had not seen people outside the premises cleaning up.
- f) That the gates to the beer garden were open and people could consume their drinks in the street if they wished.
- g) That the noise had been much worse this year.
- h) Broken glass had been a massive issue this year.
- i) The level and frequency of the issues had increased.
- j) That there was litter all over the road, noise nuisance, chanting, and drunk patrons outside.
- k) That it was a different type of clientele attending the premises; it was no longer a family environment.
- l) That cigarette ends were littered all over the street.
- m) That the current situation needed fixing.

- n) The gates needed locking, so they can monitor who was entering and leaving the premises.
- o) That the litter sweep was obviously needed, otherwise they wouldn't be offering it.
- p) That they need more communication from the premises.
- q) That she didn't want to see the premises close, but she also did not want it to be a cheap, boozy place. It was about creating a decent clean pub, in a nice residential area.
- r) That the bar outside had already been built, but had they sought planning permission.

In answer to Members questions, Mrs Caroline Rick made the following points:-

- a) That the beer garden was a bowling green before.
- b) That she had been in contact with Environmental Health and made complaints.
- c) She had concerns that the issues kept arising.
- d) That noise late into the evening was becoming a real issue.
- e) She would like her windows open, but was not able to.
- f) That the noise had increased.
- g) The premises did not communicate with residents.
- h) That the garden bar was purely to make money.
- i) That fights had broken out on the frontage of her property, her lodger was worried about coming home due to the fights.
- j) That people had parked on her neighbour's private parking space and when asked to move became abusive.
- k) That it was different clientele.
- l) That the noise would get so loud she could not hear the television.
- m) When people smoke outside they are too noisy.
- n) That litter and broken glass had increased.
- o) That the current noise issues don't give them any confidence that the premises will control the noise levels.

- p) That she did not think giving the premises opportunity to change things further was a good thing, when they were unable to get it right currently.
- q) Noise after 2200 hours was an issue.

Mrs Hazlewood, on behalf of the premises, made the following points:-

- a) That the premises had always been a Marston House for 20-30 years.
- b) That the bar was already constructed.
- c) TENs were secured to screen the world cup matches.
- d) That the clientele had changed whilst the world cup was on but they were working on repositioning and ensuring that the customer base was families.
- e) That there was intention to cultivate a different customer base.
- f) That they offer food.
- g) That listening to residents they need to go back and have some team talks so everyone can understand the concerns, fresh training was needed and a more empathic approach in the management of the premises. They are not bad managers, but maybe more empathy could go a long way.

The residents confirmed they were happy to work with the premises and communicate.

In summing up, Mr Paul Samms, on behalf of Environmental Health made the following points:-

- a) That the attitude of “ we will run venue and then the manager should know what to do” was not giving them any reassurance.

In summing up, Mrs Rick made the following points:-

- a) That they were the ones who would suffer. Whoever managed the premises, they would suffer.

In summing up, Mrs Radford made the following points:-

- a) That the current situation needed fixing.

In summing up, Mr Radford made the following points:-

- a) That the conditions needed to be enforced.
- b) That he did not feel the conditions satisfied the noise concerns.

- c) That the conditions needed strict controls.

In summing up, Mrs Hazlewood, on behalf of the premises, made the following points:-

- a) That they were stuck between a rock and a hard place.
- b) The licence was weak; it had no conditions currently attached.
- c) That residents were not welcoming to the bar aspect of the application but if that part of the licence was not granted then controls could not be applied to the licence.
- d) That to move the premises forward, conditions needed to be applied.
- e) Let's regulate the premises.
- f) That they would get a bolt on the outside gate.
- g) That the beer garden needed regulation.
- h) That there was limited evidence that the premises had created public nuisance.
- i) That conditions were needed to regulate the premises.

At 1740 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1816 the meeting was reconvened and all parties were invited to rejoin the meeting. The decision of the licensing sub-committee was announced as follows:-

6/090718

RESOLVED:-

That the application by Marstons Plc to vary the premises licence in respect of New Inn, 74 Vivian Road, Harborne, Birmingham B17 0DJ, under section 34 of the Licensing Act 2003 **BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

- All sales of alcohol from the servery shall cease at 21.00 hours
- The beer garden shall be cleared of all patrons by 21.30 hours and staff shall ensure that patrons are escorted inside the building **(save for use by smokers as per the below)**
- The beer garden servery will be operated exclusively by staff (patrons shall not serve themselves)
- There will be no regulated entertainment in the beer garden at any time

- A written Dispersal Policy shall be implemented to the satisfaction of Environmental Health
- The use of SIA registered door staff shall be determined via Risk Assessment approved by both West Midlands Police and Environmental Health
- Signage shall be erected asking patrons to respect local residents
- A litter sweep in the vicinity will be conducted by staff morning and night
- The Licensee shall write to reputable taxi companies in the area to ensure that they instruct their taxi drivers when picking up and dropping off customers from the licensed premises that noise from these vehicles does not cause a nuisance to local residents
- Customers who require a taxi from the site shall be encouraged by staff to use taxi companies in receipt of correspondence from the licensee
- Notices shall be displayed within the licensed premises for customers to view giving details of taxi companies to be used
- Bottles shall only be emptied into external waste bins between 08.00 and 22.00 Monday to Friday, and 10.00 and 22.00 on Saturday and Sunday
- Screens will only be used in the external areas with the prior written permission of Environmental Health
- Notices shall be displayed near the garden servery advising customers of the servery closing times
- The beer garden may be used by patrons after **21.30** to smoke, but they will not be allowed to take drinks into the beer garden. The DPS shall be responsible for ensuring that patrons wishing to utilise the outside areas do so quietly and that noise from patrons moving to and from the external areas is kept to a minimum. The DPS shall be responsible for ensuring that the area does not create a nuisance to neighbours and if necessary restrict the number of people utilising the areas at any one time. In addition, if necessary the DPS will increase the number of staff to control customers

It was noted that the applicant had engaged in talks with the Responsible Authority (the Environmental Health department of the City Council) prior to the hearing. In addition, local residents attended the meeting to describe the operation and the impact on them.

The Sub-Committee's reasons for imposing the conditions are due to the submissions made by the applicant, who explained in detail how they wanted to operate. 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 that a significant public nuisance would arise from the proposed variation. It was the Sub-Committee's view that carefully-drafted conditions would enable the New Inn management to operate responsibly.

The hours for sales from the servery were adjusted by the Sub-Committee, and the use of the beer garden at night was curtailed, in order to ensure that nuisance was not likely to arise. There was also a need to modify one of the premises' proposed conditions, relating to the use of television screens, such that use of these screens was allowed only with the prior written permission of Environmental Health. However, other than those matters, the Sub-Committee considered that

the imposed conditions were sufficient to satisfactorily address the issues raised by Environmental Health and the local residents regarding the location, management, and impact of the proposed operation. The conditions would allay the objectors' apprehension about the occurrence of disturbance, and/or an increase in noise nuisance, from arising in connection with the proposed operation of the premises.

The Sub-Committee was particularly persuaded by the applicant's submission that to allow the variation would improve direct supervision of the beer garden area by the staff. The imposition of the conditions would also regularise the operation, such that the New Inn management could ensure that the licensing objectives would be upheld.

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address 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 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 and oral representations made at the hearing by the applicant, their legal adviser, the Responsible Authority, and 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.

OTHER URGENT BUSINESS

7/090718 There was no urgent business.

EXCLUSION OF THE PUBLIC

8/090718 **RESOLVED:**

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-
(Paragraphs 3 & 4)

The meeting ended at 1820 hours.

Chairman.....

BIRMINGHAM CITY COUNCIL

LICENSING SUB - COMMITTEE A - 16 JULY 2018

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE A HELD
ON MONDAY 16 JULY 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp and Martin Straker Welds

ALSO PRESENT:

Chris Arundel – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services.

NOTICE OF RECORDING

- 1/160718 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

- 2/160718 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/160718 There were no Nominee members.

MINUTES – PUBLIC

- 4/160718 That the public section of the Minutes of meeting held on 25 September 2017 were noted.

5/160718

ANY OTHER URGENT BUSINESS

There were no matters of urgent business.

EXCLUSION OF THE PUBLIC

6/160718

RESOLVED:

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-
(Paragraphs 3 & 4)

BIRMINGHAM CITY COUNCIL

LICENSING SUB- COMMITTEE MONDAY, 23 JULY, 2018

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE A HELD ON 23 JULY, 2018 AT
0930 HOURS, IN ELLEN PINSENT ROOM, COUNCIL
HOUSE, BIRMINGHAM, B1 1BB**

PRESENT: - Councillor Barbara Dring in the Chair.

Councillors Bob Beauchamp and Martin Straker Welds

ALSO PRESENT

Leo Charalambides – Committee Lawyer
David Kennedy, Licensing Section
Louisa Nisbett, Committee Services

NOTICE OF RECORDING

1/230718 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

2/230718 The Chairman reminded Members that they must declare all relevant 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.

No declarations of interest were declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/230718 No apologies were received.

LICENSING ACT 2003 PREMISES LICENCE (GRANT) – SIMMER DOWN FESTIVAL, HANDSWORTH PARK, HOLLY ROAD, HANDSWORTH, BIRMINGHAM B20 2BY

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

(See document no. 1)

On behalf of the Applicant

Jesse Gerald – Chairman, Simmer Down CIC
Jan Kimber – Vice-Chairman, Simmer Down CIC
Sharon Palmer – Board Member, Simmer Down CIC

On behalf of those Making Representations

There was no one in attendance to make the representation.

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

Following a query from Councillor Bob Beauchamp it was confirmed that the address for the licence was Holly Road.

In presenting the report on behalf of applicant the following points were made with regards to the application and in response to questions from Members:-

1. The application was for an annual licence. If this was to be granted the annual festival would still need to satisfy the Safety Advisory Group (SAG) each year before it could go ahead.
2. It was felt that the organisation was now in a stable position to apply for a permanent licence and this would save time and money. Even though a permanent licence had been suggested this would not negate the input from licensing, the events team, environmental and the police etc.
3. They had held discussions with the police following the event previously to resolve any issues. They had always had a good relationship with the Neighbourhood Team and used a collaborative approach.
4. With regard to public nuisance, street parties etc being held after the event, they had worked closely with BCC and had paid for additional staff as follows:- 2 ¼ hours for additional police officers, 3 enforcement officers to work from 1215 to 2015 hours, 2 civil enforcement officers to control Hamstead Road and 2 civil enforcement officers for Grove Lane.
5. The southern end of the park was a restricted area but the park was covered well.

6. Feedback from the enforcement officers the previous year had been positive. Compared to other events they were managed well.
7. There will be 2 car parks on site. They had paid for a car park supervisor.
8. They had emailed the Head of Events regarding the complaint and he agreed that it was not practical to hold the organiser responsible for events at private dwellings following events. The police will patrol the area and take appropriate action.
9. They had met with the new Police Inspector for Handsworth and Perry Barr for a briefing which had been useful. He had visited the resident who had complained about the festival and explained the intentions of police in the case of illegal activities taking place.
10. The police had taken the concerns of the resident seriously and had visited particular premises to inform them that action would be taken should they sell alcohol etc. without a licence.
11. In relation to safeguarding children, the festival was a family event. The design and music programme, including artists for the event determined who attended and would attract a particular crowd. The event was a peaceful laid back event.
12. The issue of drugs was covered in the objectives. There was a search policy that had been previously been used by the security and to date there had not been any problems.
13. People would be turned away if they were from the wrong clientele. There were policies for searching for knives and there will be interaction between the police and security.
14. They had spoken to the Head of Events about public safety and it had been suggested as an extra fire precaution that they had a lot of sandbuckets for cigarette ends. There was no special smoking area as it was a public park. The litter pickers on duty on the day would speak to people throughout the day about their cigarette ends to minimise the risk.
15. They had considered everything that had been communicated from other festival organisers about their experiences,
16. It was confirmed that the parking areas on Hamstead and Hinstock Roads could hold approximately 700 cars and an in/out access system would be operated. This had been sufficient the previous year and there were no queues.
17. The Licence was for 19,999 people which they felt was sufficient. There were no plans to increase the numbers and in any case they would need to make an application to Licensing. They were asking for a rolling licence to keep the festival in perpetuity. Handsworth Park could hold 90,000 people, however they would not be interested in a festival for that amount of people.

18. Advertising for the event had been by word of mouth, social media, Newstyle and local radio stations, there were banners outside the park and in Perry Barr and Lozells and by the distribution of flyers.
19. First Aid plans were extensive. They had paid for a St John's Ambulance Station. There were 2 paramedics, 1 nurse, 1 doctor and 2 ambulance crews as recommended by the experts.
20. To date there had not been a problem with the public address system and noise. The stage will face the railway station line and allotments and the sound system will face away from Hinstock and Holly Roads.
21. The size of the festival was managed by the budget. There was a policy in place to control any potential overcrowding. They would monitor and feed back the numbers from the clicker system on each entrance. There were breach points for particular times of the day to assess the amount of people expected. If there was any potential overcrowding they would operate an one in/one out system similar to that used at pubs and clubs. The event areas were well away from the entrance.
22. They could not stop people holding private parties after the event, however they did take an interest in the local community. At the end of the event police would be on patrol to deal with parties etc.
23. Police numbers were influenced by other issues in Britain at the time. The police had assessed the risks using intelligence. They had good relationships with the local police and they would respond to any police advice.
24. Following previous experiences and to avoid a mass exodus at the end of the event, the main stage show would end at 1945 hours and the food stalls would close at 2030. People would then leave over a longer period of time.
25. Noise readings would be monitored throughout the day.

During the summing up the Sub-Committee were welcomed to attend the family event. It was hoped that the licence would be granted to secure the future of Simmer Down Festival. Assurance was given that proper searches would be undertaken by the Security staff and hand held wands would be used.

At 1025 hours the Chairman requested all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

After an adjournment and at 1055 hours, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follow:-

4/230718

RESOLVED:-

That the application by Simmer Down CIC for a premises licence in respect of **Simmer Down Festival, Handsworth Park, Holly Road, Handsworth, Birmingham B20 2BY.**

BE GRANTED

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued together with the following:

The applicant is to supply an up-to date map showing the location of the designated licensed marquee each year to the licensing authority at least six weeks before the annual festival on the one Sunday in July or August in each year.

Members carefully considered the written representation made by the other person and were satisfied with the considered and detailed responses made by the applicant in respect of the questions raised by the licensing sub-committee.

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, and concluded that by granting this application, the four 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 Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the application for a premises licence, the written representation received and the submissions made at the hearing by the applicant..

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.

OTHER URGENT BUSINESS

5/230718

There was no other urgent business.

The meeting ended at 1057 hours.

CHAIRMAN

BIRMINGHAM CITY COUNCIL

**LICENSING SUB -
COMMITTEE A -
6 AUGUST 2018**

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE A HELD
ON MONDAY 6 AUGUST 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp and Martin Straker-Welds.

ALSO PRESENT:

Bhupinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Sarah Stride – Committee Manager
A representative from the media/press was also in attendance.

NOTICE OF RECORDING

01/060818 The Chairman advised the meeting that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

02/060818 No declarations of interest were raised.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

03/060818 No apologies were submitted.

**LICENSING ACT 2003 PREMISES LICENCE – (GRANT) – SANTRA, 2ND
FLOOR, KOTWALL HOUSE, WROTTESLEY STREET, BIRMINGHAM, B5 4RT**

The following persons attended the meeting:

On behalf of the Applicant

Duncan Craig – Citadel Chambers
Desmond Murphy – Applicant.

Those Making Representations

PC Abdool Rohomon – West Midlands Police.

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

(See Document No. 1)

Following introductions by the Chair, the main points of the report were outlined by Bhapinder Nandhra, Licensing Section. He requested that the Sub-Committee note that there is a special policy in force for the Hurst Street/Arcadian area. The effect of a special policy is to create a rebuttable presumption that applications for new licences or material variations to existing licences will normally be refused unless it can be shown that the premises concerned will not add to the cumulative impact on the licensing objectives being experienced. The Council will expect the applicant to demonstrate the steps it will take to promote the licensing objectives. Where relevant representations are made, the Council will consider the application on its individual merits and decide whether to apply the special policy.

On behalf of the Applicant

Duncan Craig – Citadel Chambers

The following additional information showing the layout and floor plan and a sample food menu was submitted:-

(See Document No. 2)

Mr Craig made reference to page 25 of the applicants premises licence submission and stated that under the prevention of crime and disorder heading the words stated bullet point 6 'If the premise uses any new promoter or any event' be deleted and replaced with 'the premises shall not use any outside promoter for any event.' He also requested that bullet point 9 with reference to West Midlands Police having the power to veto to be deleted entirely.

In addition he stated that the premises holder will offer 'to undertake a fire risk assessment in conjunction with West Midlands Fire Service before any licensing activities are undertaken.'

With reference to the additional document submitted at the meeting he confirmed that after recent negotiations with PC Rohomon the following revisions to the operating schedule be implemented:

- The premises shall provide a minimum proportion of 50% seating in relation to the number of persons in the premises at any time.
- The maximum number of persons in the premises to be limited to 250.
- Waiting service shall be provided to customers whenever the sale of alcohol by retail is carried on from the premises.
- Substantial food shall be provided until 2200 hours whenever the sale of alcohol by retail is carried on from the premises.
- Licensable activities to cease at 0130 hours.

- Food will be served until 2200 hours.
- The premises will close at 0100 hours.
- Last admittance of entry at 1230 hours.

Mr Craig stated that the premise was previously licensed when the cumulative impact one was already in place and that the business model submitted by his client reflected the local area and, following extensive negotiations, the concerns expressed by West Midlands Police.

In response to questions raised by Members Mr Craig and Mr Murphy made the following comments:

- Vertical drinking was offered but the food will form the substantial part of the business. There was a desire to retain customers in the venue after they had finished in the restaurant. The premises would not just provide food and dancing but would also offer customers standing room at the bar and the surrounding areas to consume alcohol.
- Customer numbers will be monitored on the doors.
- The menu proposed was not a set menu and was work in progress.
- The dance floor was open on two sides with seating provided around the perimeter.
- Waitress service will be provided to attract upmarket customers who do not have to eat in the restaurant but can consume alcohol only.
- The entertainment will consist of an in-house DJ operating from a booth that was not fixed in one location. No live music entertainment will be provided.
- The venue was not a restaurant but a 'hybrid operation'. The dance floor and the restaurant was a significant part of the operation and it was stated that this type of venue was commonplace in the London area.

Those Making Representations:

West Midlands Police

PC Abdool Rohomon expressed concerns with regard to the scope and variety of food on the menu and stated that the food offered was not of restaurant quality and quantity. He stressed that the venue should not be considered a vertical drinking establishment and he was concerned that it could potentially be seen as operating as a night club.

PC Rohomon stated that the history of the area should be taken into account as it was in a cumulative impact area and it was important that activities in the venue did not add to the crime and disorder that currently existed in the area. He expressed concern that the current application had not changed the layout of the venue from the previous applicant which was licensed as a night club but did not trade.

He made reference to the revised operating schedule submitted at the meeting and stated that West Midlands Police had asked for a no entry policy to commence from 2300 hours and for the venue to close at 0130 hours. This was not reflected in the revised operating schedule which was in his opinion an alcohol related business and not a food related business. He was under the assumption that the DJ booth would be fixed and that more seating would be available.

PC Rohomon made reference to the Fire Authority and stated that they had not seen the revised schedule which in his opinion was significantly differed to the original plan previously submitted. He doubted as to whether the venue could comfortably fit 240 customers inside. He stated that he had not seen the fire risk assessment and expressed concern that tables and chairs had been positioned directly outside the kitchen doors and that seating booths were placed in front of and would obstruct the fire exit doors.

Mr Duncan replied that the venue would use an external agency to complete the fire risk assessment and would seek approval from West Midlands Fire Service on the outcome. The customer capacity for the venue would be determined by WMFS.

In response PC Rohomon stated that the fire risk assessment should include the tables and chairs as shown on the revised plan. If WMFS instructed that the tables and chairs be removed then there would not be the capacity for 150 seating and the venue would therefore be a vertical drinking premises. He stated that the revised plan should be submitted to WMFS as technically it would be seen as a breach of premises licence if they were not aware.

Mr Duncan replied that if WMFS requested that the tables and chairs be removed then they are not fixed and can be accommodated in other areas of the venue.

PC Rohomon pointed out that if the venue was a vertical drinking establishment it would add to the crime and disorder in the area. If the venue was identified as a restaurant and a food led business it would reduce the risk level of crime in order to satisfy the requirements of West Midlands Police.

Summary of Statements

In summing up PC Rohomon made the following points:

- The cumulative impact area is a C1 Policy issued by Birmingham City Council.
- If the venue was a food led business it would reduce the risk of crime and disorder. However, the menu and food offered was inadequate in quantity and variety. It was his view that the venue would become a vertical drinking establishment which would ultimately add to the crime and disorder that was already in existence in the area.

In summing up Mr Duncan made the following points:

- The revised operating plan has been submitted. Food will be provided until 2200 hours. The menu is subject to change and can be altered.
- The layout of the venue has been met by the fire risk assessment and to be approved by WMFS.
- He asked Members to concentrate on the amended conditions and not the menu as provided.
- Entry and re-entry to the venue can be determined by Members of the Sub-Committee. If Members determined to alter the proposed timings then the amended timings will be adhered to.

After an adjournment and at 1215 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

04/060818

RESOLVED:-

That the application by Desmond Murphy for a premises licence, in respect of Santra, 2nd floor Kotwall House, Wrotesley Street, Birmingham B5 4RT,

BE REFUSED

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act, particularly the prevention of crime and disorder, and the prevention of public nuisance.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police regarding the impact of the proposed operation on the particular locality of the premises. The Sub-Committee noted that the Hurst Street/Arcadian district is a Special Policy Area, the effect of which is to create a rebuttable presumption that applications will normally be refused unless it can be shown that the premises concerned will not add to the cumulative impact on the licensing objectives being experienced. The Santra premises are located within the area covered by the policy.

The Sub-Committee carefully considered the operating schedule put forward by the applicant, including the amendments made by the applicant shortly before the hearing, and the likely impact of the amended application. However the Sub-Committee was not persuaded that that the proposed operation of the premises was suitable. It was the recommendation of West Midlands Police that the business needed to be 'food-led' if it were not to add to the cumulative impact on the licensing objectives in the Hurst Street/Arcadian area.

The revised application did show an effort to implement this advice, but West Midlands Police were not convinced that the operation was truly food-led, feeling that it was more accurately described as an alcohol and entertainment premises which also served some food. The food was described on the sample menu submitted by the applicant as 'small plates', 'small plates to share', 'sides' and 'sauces'. Upon examining the sample menu, the Sub-Committee agreed with the Police that the proposed sample menu was of the 'bar snacks' variety, meaning snacks offered as a supplement to drinks, rather than the substantial food one would expect from a genuinely food-led establishment.

Although the applicant considered the business to be a 'hybrid operation', namely a licensed premises with food as a substantial part of the business, the Police's concern was that the premises was more accurately described as a nightclub, given that the central area was a dance floor. The Police observed that the Santra premises had been designed and used as a nightclub. Whilst the premises had been licensed previously, they had not traded, so there was no indication of whether the previous operation had added to the cumulative effect on the licensing objectives. The applicant

said the intention was to attract the upmarket customer, with waitress service at tables - but as the Police observed, fifty per cent of the premises was designated as vertical drinking, which would correspond to the arrangements seen at most nightclub-style premises.

Regarding the amendments suggested by the applicant shortly before the hearing, the Police observed that although the hours had been shortened it was still certainly a late night entertainment venue, not a restaurant, and the risks regarding crime and disorder had to be assessed on the basis that it was offering late night entertainment. The other observations made by the Police were that the premises was not truly food-led, and examination of the menu showed that it was clearly a case of the alcohol/ entertainment aspect of the business leading the food aspect, rather than the other way round; the designation of fifty per cent of the premises to be vertical drinking proved conclusively that food was not really the focus of the offer; there were only 119 seats, and in any event the layout shown on the Plan was certainly not that seen in any typical restaurant premises.

The Sub-Committee was of the view that the amended application made it likely that the premises would add to the cumulative impact in the Hurst St/ Arcadian area. The food offer was not anything beyond bar snacks, and the Sub-Committee agreed with the Police that the style of operation would attract drinkers rather than people going out for dinner. The size of the kitchen shown on the revised Plan was not that of any food-led premises. The Plan also showed the limited number of seats and consequently the proportion allocated to vertical drinking. Any late-night entertainment venue which proposed fifty per cent vertical drinking would inevitably add to the cumulative impact on the licensing objectives because of the increased risk of crime, disorder and public nuisance.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the licensing objectives were adequately promoted and that therefore the licence might be granted; however the Sub-Committee considered that any attempt to do this could not mitigate the concerns raised by those making representations – namely that the premises was not ‘food-led’ but was predominantly an alcohol and entertainment venue which offered some food. Accordingly, the application was refused.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, including the Cumulative Impact Policy in force for the Hurst Street/Arcadian area, the Guidance issued under Section 182 of the Licensing Act 2003 by the Home Office, the information contained in the application, the written representations received, and the submissions made at the hearing by the applicant, his legal adviser and by those making representations (ie West Midlands Police).

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.

**LICENSING ACT 2003 PREMISES LICENCE – (GRANT) – THE MINIMARKET,
235 – 237 LOZELLS ROAD, BIRMINGHAM, B19 1RJ**

Prior to the applicants attending the meeting the Chair advised that she knew PCSO Rob Capella extremely well. She was advised that as PCSO Capella was not in attendance at the meeting she did not need to declare an interest.

Members had no objections to the above.

The following persons attended the meeting:

On behalf of the Applicant

Rob Edge – Licence Leader Ltd
Mr Saman Jowhar Kahraman – Applicant.

Those Making Representations

PC Abdool Rohomon – West Midlands Police
Mr Heath Thomas – Licensing and Regularity Solicitor on behalf of the neighbouring/shopkeeper who was also in attendance.

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

(See Document No. 3)

Following introductions by the Chair, the main points of the report were outlined by Bhapinder Nandhra, Licensing Section.

On behalf of the Applicant

Rob Edge – Licence Leader Ltd

The following information showing additional conditions to be added to the operating schedule of the premises licence and cash and carry receipts for purchase of stock for the premises was submitted:-

(See Document No. 4)

Mr Edge explained that Mr Kahraman had, for four years, owned a retail premises in Telford and he wished to expand to include a second minimarket business on Lozells Road. Mr Kahraman had successfully promoted the licensing objectives in his Telford shop and, if granted the licence, would continue to do the same for the premises on Lozells Road. He currently had a manager running the Telford business and Mr Kahraman would be available to run the minimarket. Mr Kahraman was aware of the problems of crime and disorder in the Lozells area and has therefore, requested a licence to sell alcohol until midnight.

He made reference to the amended conditions submitted and stated that his client would operate with a full manual and a 24 hour CCTV system. He will provide signage to include the Challenge 25 Policy ruling and will request identification

from customers prior to their purchase and will also provide additional signage requesting all customers to show respect to neighbouring shops and residential dwellings.

Mr Kahraman will refurbish the premises and had signed a five year lease agreement and will provide local employment in the area. He will train staff to be vigilant to proxy purchases and customers under the influence of alcohol will not be served. He would operate a two shift system and employ four members of staff during opening hours. Alcohol signage will not promote cheap sale of alcohol and will not be displayed in the shop windows. The alcohol for sale will not be visible from the shop frontage in order to safe guard children with regard to the mosque situated opposite the premises. Staff will operate litter picking outside the premises to keep the area tidy.

Mr Kahraman was aware of the drug and alcohol problem in the area and was willing to work with the local Policing team to combat the problems and safeguard children, vulnerable people and street drinkers.

Mr Kahraman will not reside on the premises but will operate the hours of opening as stated on the licence application. He will however, if deemed necessary, be willing to close the minimarket at 2300 hours. He made reference to the neighbouring shop and stated that it operates a sale of alcohol licence with limited conditions until 0300 hours. Mr Kahraman will offer a varied range of food and drink in the minimarket for customers.

In response to questions raised by Mr Thomas, Mr Edge provided the following information:

- The minimarket at 235 – 237 Lozells Road was currently not opened to the public and Mr Kahraman was not trading from the premises.
- Mr Kahraman will not reside on the premises but will, for the first months of opening, spend his time in the premises in Lozells Road. He will employ a manager to run the shop once he was satisfied that the business was trading well and without problem.
- Mr Kahraman will employ four local employees to manage a two shift system – two members of staff in the morning and two in the evening.
- Mr Kahraman considered that the problems encountered in Lozells Road were not all that different to the problems he currently encountered in Telford.
- When signing the lease on Lozells Road he did not seek legal advice but spoke instead to the current landlord of the property.
- The invoices attached dated 11 July 2018 were stock purchases for the Telford shop and will be transferred to the shop located in Lozells once it had opened and was trading.

Those Making Representations:

West Midlands Police

The following additional information showing a witness statement received from PCSO Rob Capella was submitted:-

(See Document No. 5)

PC Rohomon stated that West Midlands Police had objected to the application because it was located in a high area of demand and required a high demand on Police resources. He felt that, in his opinion, the applicant was not aware of the history of the area before he signed the lease agreement. He felt that the opening hours were inappropriate as alcoholics would be able to access alcohol from the early hours until late at night.

He made reference to the statement provided by PCSO Capella which also included visual pictures of litter and street drinkers. The local area Police Team had worked well and had managed to stop the majority of anti-social behaviour in the area. He felt that adding another late night licenced premises would exacerbate current problems and add to crime and disorder in the area.

He stated that the premises was double fronted and expressed concern that customers would be able to see the sale of alcohol, cigarettes and wine from the front door of the premises. The beer fridge was located next to the front door and customers would be able to see the sale of beer from the street. There were a number of high risk buildings in the area providing a service to vulnerable people (soup kitchen, street drinkers etc).

Mr Edge replied that the shop front windows will be screened from the outside and beer and spirit racks will be obscured from street level.

Mr Heath Thomas – Licensing and Regularity Solicitor

Mr Thomas explained that his client was the premises holder of the neighbouring shop premises and that all previous applications for an alcohol licence at 235 – 237 Lozells Road had failed because of the high incidence of crime and disorder in the area. His client was worried that competing operating licences will fail to adhere to their conditions and existing problems in the area will escalate because of this. There were currently three shops within close proximity with similar licensing conditions. The area had alcohol related problems. His client had been trading in the area for over ten years and knew the area well. His client was robbed once and cash and spirits were taken. His staff had been fully trained on how to deal with this situation and to not put themselves at risk of harm. His client had three members of staff per shift. CCTV systems were not a deterrent as his client was robbed once again three days later.

Mr Thomas stated that his client lived in the area and knew of the problems that exist. He knows and recognises the street drinkers and refuses to sell alcohol to those individuals.

All of his client's staff had attended various training courses in how to deal with difficult and abusive customers. There was a gang problem in the area and many individuals run into the local shops for protection. His staff fully know how to deal with this situation if and when it arises. His client had good relationships with the local Police.

Cash machines and security firms filling up the cash machines have encountered problems with the level of gang culture in the area. He felt that Mr Kahaman was not aware of the full extent of the problems that exist in the area.

He stated that he fully complied with the comments and concerns previously expressed by PC Rohomon and the local Police team.

Summary of Statements

In summing up Mr Heath Thomas made the following points:

- He requested that Members disregard the statement about previous owners of the premises.
- It was stressed that Mr Kahraman did not fully understand the problems in the area and was ill equipped to deal with them adequately if they arose.

His client was asked whether he had anything further to add but he declined as he felt that all vital particulars had previously been relayed.

In summing up PC Rohomon made the following points:

- The area had a lot of anti-social behaviour difficulties due to alcohol abuse.
- The provision of an additional retail shop with an alcohol licence will add further problems to the existing difficulties. The applicant had not developed any objectives to deter this from happening.
- Training staff for a two month period was considered wholly insufficient.

In summing up Mr Edge made the following points:

- New staff will be trained within a two month period. The first staff to operate on site will be sufficiently trained at a higher level of training.
- Mr Kahraman will work with the local Police team and discuss local issues with existing shop keepers.
- He stated that it was purely Mr Kahraman's personal choice as to whether he sought legal advice or not before signing his lease agreement.

After an adjournment and at 1430 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

05/060818

RESOLVED:-

That the application by Saman Jowhar Kahrahman for a premises licence in respect of The Minimarket, 235 – 237 Lozells Road, Birmingham B19 1RJ,

BE REFUSED

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police regarding the management of the proposed operation in what had for many years been a very difficult and challenging area for the neighbourhood Police team. In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder and the protection of children from harm objectives.

The Sub-Committee paid particular attention to a statement submitted by the local PCSO which outlined the extensive problems of crime and anti-social behaviour in this part of Lozells and East Handsworth – caused in large part by street drinking and gang culture.

The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but were not persuaded that that the applicant and the proposed operation of the premises could promote the licensing objectives. Although it was accepted that the applicant had experience of running a similar type of shop in Telford, the Sub-Committee were not convinced that he fully understood the specific problems facing an alcohol retailer in the Lozells Road area.

West Midlands Police attended the meeting to confirm what the local PCSO had stated – that the area generated a huge amount of work for the neighbourhood Police team due to the numerous issues of crime, disorder and nuisance in and around Lozells Road. These issues were overwhelmingly created through irresponsible drinking; over the years it had been observed that the cause was the prevalence of street drinkers. The Police dealt constantly with drunkenness and extremely high levels of litter & refuse all over the area. Photographs were submitted - one showed two men sitting on the ground surrounded by alcohol; other photographs showed the extent of the severe litter problem in the area. The level of antisocial behaviour was high; the long-term demand on Police resources had been, and continued to be, significant.

The Police recommended that successful operation in Telford should not necessarily be seen as a reliable indicator of how the applicant would operate in the Lozells Road area, due to the specific problems seen in Lozells Road, as illustrated by the PCSO's statement and photographs. Any proposal that would increase the availability of alcohol in an area already plagued by street drinkers required the applicant to have had experience of selling alcohol in this type of 'difficult' neighbourhood – otherwise, an increase in crime and disorder would be the likely result.

The Police stated that they were not confident that the applicant would be capable of promoting the licensing objectives. The Police considered that neither the applicant nor the operating schedule showed sufficient understanding of the Lozells Road environment. The Sub-Committee accepted this; given that alcohol-fuelled crime and disorder around Lozells Road was already a major problem for the neighbourhood Police, any additional licensed premises could place the licensing objectives at risk, unless the applicant was experienced in selling alcohol in this type of environment.

Another person also attended the meeting, represented by a solicitor, to address the Sub-Committee. This person was a local shopkeeper; he ran the premises adjacent to The Minimarket. His premises was a convenience shop licensed to sell alcohol by retail. The neighbouring shopkeeper had operated for a number of years, and therefore had a good understanding of the Lozells Road area.

The neighbouring shopkeeper confirmed that Lozells Road was exactly as described by the PCSO, with drunkenness, disorder, litter and nuisance all seen regularly. He stated that gangs and drugs had also become a feature of the area. He stated to the Sub-Committee that as a result of what he had directly observed whilst trading in his own shop, he shared the view of the Police – namely that Lozells Road was plagued by alcohol-fuelled crime and antisocial behaviour at such a level that it was difficult for licence holders to operate safely unless they were familiar with the area, or a similarly troubled area.

He explained that at the start of 2018 his shop had been subjected to a robbery in which a knife had been brandished; both cash and alcohol had been stolen from his shop. In another episode, there had been an attempt to rob the in-store cashpoint machine whilst it was being filled. The Sub-Committee noted that this shop was directly next door to The Minimarket, and therefore anybody proposing to operate in the premises would need to be prepared for these types of problems.

The neighbouring shopkeeper went on to explain that, as a result of these incidents, he had had to retrain his staff for their own safety, such that they understood what to do in 'conflict situations'. He had also had to adjust his staffing arrangements for safety reasons, ensuring that three members of staff would always be on duty.

All in all the neighbouring shopkeeper felt that the area was 'difficult', and therefore what was required was a person familiar with operation either in Lozells Road or in a comparable type of 'difficult' area. It was the opinion of the neighbouring shopkeeper that the applicant could not understand problems such as knife crime, gangs or drugs, as the applicant was not familiar with Lozells Road, and therefore would only understand trading in terms of the Telford area. (The Sub-Committee noted that the applicant had confirmed that he lived in Telford).

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the licensing objectives were adequately promoted and that therefore the licence might be granted; however Members considered that neither modifying the conditions of the licence nor excluding any of the licensable activities from the scope of the licence would mitigate the concerns raised by those making representations. The evidence of the Police and the neighbouring shopkeeper had shown that the area was indeed 'difficult', and therefore that any increased availability of alcohol would have to be very carefully managed by an experienced person. The instant applicant had experience of trading in Telford, but that was not a suitable comparator when considering Lozells and East Handsworth. The Sub-Committee had doubts that either the applicant, or the operating schedule, would be capable of upholding the licensing objectives in an area which already had significant problems of crime, disorder and nuisance. Accordingly the Sub-Committee resolved to refuse the application.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of

Licensing Sub-Committee A – 6 August 2018
the Licensing Act 2003 by the Secretary of State, the information contained
in the application, the written representations received and the submissions
made at the hearing by the applicant, their adviser, and those making
representations.

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.

OTHER URGENT BUSINESS

6/240418 There was no other urgent business.

The meeting ended at 1450 hours.

.....
CHAIRMAN

