

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE C,
WEDNESDAY, 22 MARCH
2017**

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE C, HELD ON WEDNESDAY, 22
MARCH, 2017 AT 0930 HOURS, IN COMMITTEE
ROOM 1, COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Alex Buchanan in the Chair

Councillors Mike Leddy and Neil Eustace

ALSO PRESENT

David Kennedy, Licensing Section
Sanjeev Bhopal, Committee Lawyer
Tayyibah Daud, Committee Manager

NOTICE OF RECORDING

01/220317 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.

APOLOGIES

02/220317 There were no apologies submitted.

MINUTES

03/220317 The public part of the Minutes of the meetings held on 8 February 2017 and 22 February 2017 were noted.

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICE - TOWER
BALLROOM, 101 RESERVOIR ROAD, EDGBASTON, BIRMINGHAM,
B16 9EE- (SATURDAY 25TH MARCH 2017)**

The following persons attended the meeting:-

On behalf of the applicant

Vicky Sherwin – General Manager
Jason Balazejwski – Security Manager
Sital Lally - DPS

On behalf of Environmental Health

Paul Samms – Environmental Health Officer

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

(See Documents No. 1)

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

Ms Sherwin, the applicant for the Temporary Event Notice, made the following points in respect of his representation and in response to Members' questions:-

1. The Premises Licence allows licensable activity to be undertaken until 2300hours; the premises are just requesting an extra hour.
2. This particular event has been running for many years.
3. A Temporary Event Notice was applied for in January; the event finished at 1300 hours and no complaints had been received by the premises.
4. Ms Sherwin stated she spoke to Mr Samms and sent him a copy of the risk assessment; he required a revised plan with more security. Ms Sherwin stated she had been unable to submit the revised risk assessment prior to the meeting.
5. Mr Balazejwski stated that the revised risk assessment had 'up scaled' security. Security will assist in the dispersal of patrons; security staff has now been asked to start half a prior to the event and remain half an hour after the event. Similarly, traffic marshals will now staff an hour before the event and an hour after the event.

6. Two members of staff have been allocated in the morning after the event to clean up any litter as a result of the event.
7. Events that continued into the early hours of the morning are not undertaken at the premises any longer.
8. Ms Sherwin stated that she is aware of the clientele that will be attending this event and knows how to manage the event.
9. Ms Sherwin stated she wished to prove that 'we are good' operators and will not disrupt neighbours.
10. Ms Sherwin stated the premises have had no consultation with local residents at all.
11. She stated that she had attempted to know of any neighbourhood watch meetings and asked council rangers; however was unsuccessful and did not know how to approach residents.
12. Ms Sherwin stated she was willing to drop letters into the letter box of residential properties around the premises. Ms Sherwin stated she had no issue with creating a monthly newsletter allowing residents to be aware of which events are taking place at the premises.
13. There are excessive of 400 parking spaces including the parking spaces at the premises and spaces at Birmingham Sea Cadets which is leased by the premises.
14. The security at the premises is employed by the premises.
15. The event is described as 'Boxing/MMA Show & Thai – Kick Boxing'. However, it is a family event; a lot of children and adults attend the event.
16. Since the revised licence has been granted in February 2016 there have been no complaints from local residents.
17. There is a map included in the new traffic management to illustrate how traffic will be managed.

Mr Kennedy stated that the document that the applicant is referring to has not been submitted as supporting evidence prior to the meeting thus cannot be shown to Members. However, outside the meeting, Mr Samms has stated he has no issue with the applicant to make reference to that document and expand on any changes they intend to implement.

18. Mr Balazewski stated that the entrance of the premises has been changed to Osler Street which has allowed a better flow of traffic and does not disrupt residents.

19. There will be one traffic marshal on the day of the event.
20. Mr Balazejwski stated that the reason why no complaints have been received from residents was not because that late night events had ceased and are happy with the current timing of the licence. In fact, it is because they can see a difference.
21. Issues such as; traffic, noise from patrons leaving the late-night events have been addressed.

Mr Kennedy stated in regards to the appeal decision in February 2016; when local residents were consulted in regards to the opening times of the premises, they viewed the closing time to be appropriate between 2215 hours and 2245 hours. This was taken into account when the decision was made by District Judge Robinson. (See Documents No.3)

Mr Samms, on behalf of Environmental Health made the following points in respect of his representation and in response to Members' questions:-

1. Mr Samms referred to his representation. (See Documents No.2)
2. In view of the previous history of the premises; it would be expected for them liaise with Environmental Health well before the event.
3. In regards to an event that took place in February until 0100 hours was a mistake of Environmental Health as they did not 'spot' the event.
4. Mr Samms stressed that the event that took place in February was a Hindu fashion show which is a completely different event to the one proposed to be undertaken on 25th March 2017.
5. The premises have not organised the event adequately and not implemented policies to the satisfaction of Environmental Health.
6. There is no written information confirming whether the parking at the Sea Cadets is allowed to be used by the premises.
7. The applicant has requested for the event to operate from 1800 hours to midnight on their application form. However, they have stated that they intend to have everyone off the premises at 2330 hours. It is unclear what operational hours the premises are seeking.
8. As the event is intended to finish at midnight, it is expected for everyone to leave the premises at 0030 hours, causing disruption to residents.
9. The risk assessment submitted by the premises did not state when the doormen will leave the premises.
10. Mr Samms stated that marshals outside the premises may not be able to control patrons when exiting they are exiting premises; thus requiring the

assistance of security staff ; which could reduce the ability to control the event inside.

11. Osler Street is a semi-residential area.

12. Mr Samms stated he was unsure how many people attended the event in February 2016.

In summing up, Mr Samms stated that he wished to see an orderly organised approach from the premises to demonstrate that they are able to implement policies. However, as they have not done this he believes the event should not go ahead.

Ms Sherwin in summing up stated that as the premises have a lease with Sea Cadets; it is their car park. The event in February 2016 was a fashion show and has 450 attendees. There was no alcohol at the event and it finished at 0100 hours. As the event was for students there were a lot of private hire vehicles. Ms Sherwin apologised for requesting the event to finish at midnight on the application form; she intended to request 2330 hours.

Mr Balazejwski reiterated in the more detailed risk assessment there will be security staff starting half an hour prior and after the event. Likely, the traffic marshals will remain outside the premises an hour before and after the event to ensure everyone leaves the premises in an orderly manner. The premises will aim to inform residents of events in the future.

At 1122 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1207 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

04/220317 **RESOLVED:-**

That, having considered the objection notice from Environmental Health in respect of the temporary event notice, as submitted by Vicky Sherwin, the premises user, for an event to be held on 25th March 2017 at Tower Ballroom, 101 Reservoir Road, Edgbaston, Birmingham, B16 9EE this Sub-Committee determines that a **Counter Notice be issued** under Section 105 of the Licensing Act 2003.

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

The Sub-Committee were of the opinion that allowing the event to proceed the premises would cause unnecessary disturbance to neighbouring residents as a result of noise breakout from the premises and the noise of patrons leaving the

premises, particularly due to the close proximity of residential properties in the early hours of the morning.

Although the Sub-Committee were informed by the applicant that there had been no recent complaints by residents since the re-instatement of the premises licence for the venue following its appeal of the decision of the Licensing Sub Committee on the 16th February 2016, and that it had run similar events as proposed under the TEN under the revised premises licence, the Sub Committee felt that the rationale for this, was because the premises were required to cease all licensable activities at 2215 hours, so that the premises were closed by 2245 hours.

The proposed TEN had sought to permit the sale of alcohol for consumption on the premises only and the provision of regulated entertainment and late night refreshment to operate from 1800 hours to 0000 hours. Although constructive discussions had now taken place with Environmental Health over how the event should be managed to prevent public nuisance from occurring, the Sub-Committee were concerned that no meaningful discussions had taken place with both any responsible authority or indeed the local residents to ensure that any concerns expressed by either group were adequately addressed as part of the planning for the temporary event well in advance of the submission of the application itself. These matters were of particular concern to the Sub Committee in the context of the location of the premises, its proximity to residents homes, and the concerns over nuisance that had arisen from the operation of the premises in the recent past.

Although due regard was given to the premises user's representation, the Sub-Committee were however, not confident that the proposed event could run well the premises user could overcome the concerns raised in light of evidence presented by the Responsible Authority. The Sub Committee had considered whether it was appropriate to restrict the hours for the proposed event and/or impose conditions which would allay the concerns of the Responsible Authority. However, notwithstanding these options, the Responsible Authority was not confident that the event would proceed without causing public nuisance at this stage.

Had more detailed discussions taken place with the Responsible Authority demonstrating all the steps the applicant would take to promote the licensing objectives in particular the prevent of public nuisance detailed adequate risk assessments and traffic management plans and consultation with residents, the Sub Committee may have been minded to allow the event to proceed. The Sub Committee concerns were specific to the type of event being proposed, the clientele it would attract, and the nature of the licensable activities sought. A boxing/MMA & Thai-Kick Boxing event was very different to the type of event the premises had undertaken under a previous TEN in February 2017, although the Sub Committee were pleased to note that that event in February 2017 had proceeded without incident.

The Sub-Committee therefore determined that it would be appropriate to reject the temporary event notice for the promotion of the prevention of public nuisance licensing objective in the Act.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the report, Section 182 – Home Office Guidance and its own licensing policy.

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. No appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICE - TOWER
BALLROOM, 101 RESERVOIR ROAD, EDGBASTON, BIRMINGHAM,
B16 9EE- (SATURDAY 1ST APRIL 2017)**

The following persons attended the meeting:-

On behalf of the applicant

Vicky Sherwin – General Manager
Jason Balazejwski – Security Manager
Sital Lally - DPS

On behalf of Environmental Health

Paul Samms – Environmental Health Officer

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

(See Documents No. 2)

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

Ms Sherwin, the applicant for the Temporary Event Notice, made the following points in respect of his representation and in response to Members' questions:-

1. The event is a completely different event to the event on 25th March 2017; it is a ballroom dancing event.
2. The individuals attending the event are all over 60 years old.

3. It is not a risky event where customers may shout and disturb neighbours.
4. Ms Sherwin stated she had initially asked for the event to finish at 2330 hours but is willing to modify this to 2300 hours.
5. There are 300 people attending the event and tickets have been sold out.
6. After consultation with Mr Samms outside the meeting, an extra door staff (SIA Registered) has been agreed.
7. Ms Sherwin stated she would notify neighbours this evening in regards to this event; if they raise any concerns she will contact Mr Samms immediately to deal with them.
8. Ms Sherwin stated she is passionate about this event as she has been running this event since 2008.
9. The opening times and licensable activities times are the same from 1900 hours to 2330 hours.

Mr Samms, on behalf of Environmental Health made the following points in respect of his representation and in response to Members' questions:-

1. Mr Samms referred to his representation.
2. Mr Samms stated that in regards to the traffic management plan; he is now aware the premises are able to use the car parking at Birmingham Sea Cadets.
3. Mr Samms stated he that an extra door staff would address the issue of controlling the noise outside the premises and not affecting the security arrangements inside the premises; which has been agreed by the applicant.
4. In regards to the traffic management plan, it is not clear when the door staff start and end and that it would be preferred that they remain to provide support to the traffic marshals.

In summing up, Mr Samms stated that he did not think the event should go ahead. Issues such as parking and security should have been addressed well before the event to allow Environmental Health to have the confidence that policies have been implemented.

In summing up, Ms Sherwin stated that she would liaise with Mr Samms in regards to future events. She stated she would like an opportunity to prove that the traffic management does work and that the premises are 'good' operators. It was also stated to address the concern of Environmental Health that the security staff will be present at the premises half an hour before and after the event. Likely,

traffic marshals would be present an hour prior to the event and hour after the event.

Mr Samms stated this verbally confirmed the concern that Environmental Health had.

At 1158 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1236 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

05/220317 **RESOLVED:-**

That, having considered the objection notice from Environmental Health in respect of the temporary event notice, as submitted by Vicky Sherwin, the premises user, for an event to be held on 1st April 2017 at Tower Ballroom, 101 Reservoir Road, Edgbaston, Birmingham, B16 9EE this Sub-Committee determines that a **Counter Notice is not issued** under Section 105 of the Licensing Act 2003.

The Sub-Committee is of the opinion the event should be allowed to proceed at the premises as it was not persuaded on the balance of probabilities that the type of event being proposed and fundamentally the clientele it would attract would result in public nuisance as suggested by the Responsible Authority.

The applicant confirmed to the Sub Committee, that the hours of licensable activities which sought to permit the sale of alcohol for consumption on the premises only and the provision of regulated entertainment and late night refreshment to would be limited to 1900 hours to 2330 hours (and would not include relevant entertainment). The premises would also close at 2330 hours.

The Sub-Committee was satisfied that the additional measures being proposed by the applicant, which were largely agreed with Environmental Health would negate public nuisance. These included Risk Assessments, Traffic Management Plans and increased security on site both before and after the event (30 minutes either side). The applicant would continue to engage with Environmental Health prior to the event on the 1 April 2017, and take all reasonable steps to address any continuing concerns raised by the Responsible Authority.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the report, Section 182 – Home Office Guidance and its own licensing policy.

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. No appeal may be

brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

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