

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 27 SEPTEMBER 2023
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 27 SEPTEMBER 2023 AT 1000 HOURS AT COUNCIL HOUSE, COMMITTEE ROOM 2.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Phil Davis and Sybil Spence.

ALSO PRESENT

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

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

1/270923 **NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/270923 **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/270923 Apologies were submitted on behalf of Councillors Bermingham and Wagg and Councillors Davis and Spence were the nominated substitute Member.

**CONTROL OF SEX ESTABLISHMENTS – SEXUAL ENTERTAINMENT VENUE
– LA BELLE'S, 61 NEWHALL STREET, BIRMINGHAM, B3 3RB**

Please note: - this meeting was delayed by over an hour due to apologies submitted by Members and officers seeking replacements.

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

(See document No. 1)

The following persons attended the meeting:

On Behalf of the Applicant

Michelle Monaghan – Applicant

Lisa Woodward, Licensing Enforcement Officer also attended the meeting in support of the application.

On Behalf of Those Making Representations

Objector 1 – Also representing Objector 2.

Those making representations have the right to remain anonymous, for that reason the objectors were referred to as 'Objector 1' & 'Objector 2'.

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

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

The Chair invited the applicant to make their case and Michelle Monaghan made the following statements: -

- a) Both the objectors were concerned about potential drug use and drug dealing, which was nothing more than an imaginary concern.
- b) There was no known correlation between sexual entertainment venues (SEV's) and drug use.
- c) She also noted that there was no evidence of drug dealing in the area.
- d) The responsible authorities had made no objections.
- e) The initial grant application in 2019 received 23 objections many of whom cited the same unfounded suspicions. The Committee still granted the licence.
- f) That she had been operating another SEV premises 'Cyclone' for 11 years, with no issues or concerns and if there were concerns the responsible authorities would have made objections.
- g) The objectors also raised concerns about noise, however the premises previously operated as a bar.
- h) The hours were reduced at the initial grant hearing to ensure there were not conflicts with other venues within the vicinity, nothing had changed since that application.
- i) The deregulation law relating to live music allow music until 2300 hours.
- j) It was important to have a strong thriving business in the area and there was no evidence of negative impact.
- k) That the supporting documents submitted by the objectors highlighted the proximity of houses to the premises, yet no one residing in the properties had made objections.
- l) No other premises nearby, such as Tesco's, made objections.
- m) All the advertisements of the notices were complied with and inspected by the Licensing Enforcement Officer and were compliant.
- n) That the premises is undergoing development, but progress was slow. The area was fenced off.
- o) The premises was a grade 2 listed building.
- p) The building needed extensive restoration.
- q) The venue was not yet trading.

- r) The area had over 500 businesses with over 35,000 people employed yet there had only been two objections based on fears that were unfounded.
- s) She asked the Committee to grant the renewal.

The Chair invited the Licensing Enforcement Officer (LEO) to make their submission and Lisa Woodward made the following points: -

- a) That when the application was received by the team, she carried out two separate site inspections and had no issues, including the notices, on both occasions.
- b) That there was a range of premises nearby including: - residential, community buildings, religious buildings, facilities and other businesses.
- c) That the premises already held a LA2003 premises licence.
- d) Further, she had not been able to fully inspect the premises itself due to the premises not yet trading.
- e) The applicant operated Cyclone successfully without further attention or issues.

The Chair then invited Objector 1 to make their submission and the Objector made the following points: -

- a) That the objection was at appendix 7 of the report. He also submitted additional email.
- b) The main concern was regarding Devonshire House which was the adjacent property to the premises and the only entrance was a few meters away from the side entrance of La Belle's which caused concern regarding safety.
- c) Taxis dropped passengers off directly outside La Belle's and there was an increased risk of street trading as the side streets were dark and ideal for that kind of activity.
- d) Devonshire House was never mentioned in any of the previously hearing reports, it had been ignored.
- e) That Tesco wasn't there in 2019. There was more residential now than there was before.
- f) That most people failed to see the notices that were displayed.
- g) The operating hours submitted were very late and there would be noise overnight.
- h) The business was situated right next to a residential block. He had heard noise from a neighbouring business Jojo Lounge.

- i) That he disagreed that nothing had changed since the last renewal and previous application. The reports failed to include any information about Devonshire House and the Committee wouldn't have had full understanding of the housing in the area.

The Chair then invited questions from Members and Objector 1 gave the following responses: -

- a) That the only resident he had spoken to that resided in Devonshire House was his daughter who had been living there for 18 months.
- b) He didn't think many of the residents were aware of the application.
- c) His daughter could hear noise through the night from neighbouring businesses.
- d) Devonshire House was very close to La Belle's and would be open when all other premises were closed for the night.
- e) That his daughter was 22yo and although she was a reasonably confident lady there were concerns about her safety in the streets.
- f) Devonshire House was not a grade 2 listed building so had no architectural interest.

The Chair then invited all parties to make a closing submission.

Objector 1 confirmed that they had nothing further to add.

The Licensing Enforcement Officer added a final statement that the reason Devonshire House had not been included in previously was because it looked like office buildings. Residents from the building had never objected to any application.

Michelle Monaghan then made the following closing statements: -

- That whilst there had been much discussion about Devonshire House, there had not been any representations received by them.
- That she didn't believe people didn't know about the application.

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

4/270922

RESOLVED:-

That the application by Michelle Monaghan, for the renewal of the Sexual Entertainment Venue licence under Schedule 3 of the Local Government

(Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009, in respect of La Belle's, 61 Newhall Street, Birmingham B3 3RB, be granted subject to the Birmingham City Council Standard Conditions for Sexual Entertainment Venues.

The Sub-Committee heard that the applicant requested renewal of the licence under the same terms as before. The requested hours and the Plan of the premises remained unchanged, and nothing about the premises' circumstances had changed since 2019. All matters were the same, such as the styles of performance offered. Moreover, there had been no history of complaints against the applicant.

The Sub-Committee was also aware that, subject to any new information produced at the hearing, it did not appear that any of the mandatory grounds of refusal applied to the application: instead, only the discretionary grounds, under paragraph 12(3) in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, could potentially apply. The Sub-Committee noted that these were listed at paragraph 5.3 of the Committee Report.

Written representations had been received from two persons; these were also within the Report. The Sub-Committee considered these carefully in advance of the meeting, together with a supplementary representation which had been submitted by one of them. The Sub-Committee noted the relevance of the Public Sector Equality Duty to the issues raised by those making representations.

The applicant attended the meeting in person, as did an officer from Licensing Enforcement. One of the objectors also attended; he was representing both of the persons who had submitted written representations.

The Sub-Committee heard from the applicant first. She noted that at a previous hearing there had been numerous objections, yet this was not the case in the instant matter. She confirmed that she had carefully read the written representations from other persons, but considered that they raised "imaginary concerns" which were not at all relevant to her application, or indeed to the operation of licensed sexual entertainment venues in general. In particular, she asked the Sub-Committee to note that neither West Midlands Police nor Licensing Enforcement shared any of these concerns.

She remarked that suggestions that drug use could potentially come to be associated with the premises were not likely to happen, nor had this possibility been raised before at previous Sub-Committee meetings.

She noted that the surrounding area was characterised by numerous commercial premises including retail, hospitality and other businesses; she therefore felt that a suggestion that emanation of noise from the premises could create problems was not likely to happen, as the site had previously been a public bar which had been licensed to long hours. She reminded the Sub-Committee that the deregulation provisions meant that she could play music until 23.00 hours in any event.

She considered that she was a key contributor to the local economy, and asked the Sub-Committee to bear in mind that in the post-Covid era, and amidst the current cost of living crisis, local businesses should be supported where there was no evidence of a potential for adverse impact.

She had read the document submitted by Licensing Enforcement, which had set out the street scene in Newhall Street. She had noted that, among the local residential population, only the two residents whose representations were in the Report had raised any concerns at all; among the large number of business premises in the neighbourhood, which included a branch of the Tesco national supermarket chain, no worries of any kind had been expressed. She reminded the Sub-Committee to note that she had advertised the application properly, via the display of a notice, exactly as required by the regulations. The Sub-Committee accepted this.

She concluded by asking the Sub-Committee to put the application in context – namely that from a total of approximately “500 local businesses, employing around 35,000 staff”, there had been two objections, and moreover that those two objections relied upon “unfounded fears”, which were not based on the applicant, her operating style, or other matters of fact.

The Sub-Committee then heard from Licensing Enforcement. The officer had conducted two visits, and had submitted a document giving details of all nearby premises, businesses and residential dwellings. The officer was aware that the applicant held the licence for a separate sexual entertainment venue - the Cyclone Club, on Broad Street; the officer confirmed that no concerns whatsoever surrounded the operation of that venue.

The Sub-Committee then heard from one of the two persons who had made written representations; he was representing both persons. He observed that Devonshire House, a block of residential apartments, was adjacent to the La Belle’s premises. He stressed that whilst he was sympathetic to the financial difficulties for such premises which had been created by the Covid-19 lockdowns, his priority was women’s safety. He had set out his fears in the document which was in the Committee Report, and summarised these as problems created by taxi drops in the vicinity, and the potential risk of on-street nuisance behaviour related to prostitution (especially in the dark side streets).

He had heard the applicant’s observation that Devonshire House had not been mentioned at the Sub-Committee meetings in previous years, but stated that development in the area was ongoing. He considered that the neighbourhood was much more residential, and more pedestrianised, than the Licensing Enforcement Officer had said. His concern was the safety of young women living nearby.

Regarding the proposed operating hours of the venue, the objector said that noise would be created overnight to 05.00 hours, and that he had found that noise did carry to Devonshire House from other entertainment premises in the area. He described this as noise “echoing through” from those other premises, and reiterated that La Belle’s would be open all night. However, one Member

remarked that any noise echoing through could not be from La Belle's, which was not yet trading.

The Objector was afforded the opportunity to sum up, but elected not to add anything further. The Licensing Enforcement Officer when summing up remarked that the reason the building had been omitted from her report was due to it not being immediately obvious that it contained residential apartments having been converted from office use.

The applicant in her summing up reminded the Members that at a previous hearing there had been 40 objectors; in contrast, only two objections had been raised in the instant matter. She urged the Sub-Committee to disregard the representations, on the basis that a perceived risk to women living nearby was simply that – a perceived risk. She considered that if there were any genuine safety concern, West Midlands Police would have made a representation.

When deliberating, the Sub-Committee noted that there had been no material change since the last Sub-Committee meeting, and also that there had been no representation from the police. The suggestion of current noise nuisance could only be attributed to existing premises, and therefore any complaint should have been directed at that premises. The references to the potential risk of drug-related activity were not based on evidence, and could apply to any venue. Finally, it was not likely that a well-managed licensed sexual entertainment venue would be associated with on-street prostitution.

The members considered that trust could be placed in the applicant, as she was a highly experienced person who was fully accustomed to managing other sexual entertainment venues professionally, responsibly and carefully. The Sub-Committee observed that the applicant had been operating in Birmingham without problems, and that nothing had changed since the previous meeting.

The Sub-Committee examined the discretionary grounds for refusal shown in paragraph 5.3 of the Report, together with the evidence submitted by Licensing Enforcement, and found that the locality was not incompatible with the style of operation. The photographs in the Report showed that the premises blended in well with the street scene, and the applicant did not display any exterior signage whatsoever suggesting that the premises was a sexual entertainment venue.

The Members were aware from their local knowledge that a large number of commercial and business premises surrounded La Belle's. Newhall Street was not solely a residential area, and was characterised by the activities that one would expect in a bustling city centre location. The Sub-Committee also accepted that night-time entertainment venues in the area were a key contributor to the local economy.

The Sub-Committee did not find anything in the written representations to suggest that the proposed operation was unsatisfactory. However, in accordance with the Public Sector Equality Duty, the Members looked very carefully at whether there could be an unacceptable risk to the safety of women if the renewal of the licence were to be granted.

However, the Members did not accept that a well-run sexual entertainment venue would inevitably create any such risk; the applicant was trustworthy and there was no reason to suppose that La Belle's would adversely affect the lives of women living in the area. A licensed sexual entertainment venue was a legitimate business, and provided it was run well, was not of itself likely to create a situation which would disadvantage or endanger women living nearby. The applicant's past history strongly suggested that it would indeed be run well. All was therefore found to be in order, and the Sub-Committee therefore granted the renewal with the standard conditions.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Sexual Entertainment Venue Policy, the information contained in the application, the written representations received, and the submissions made at the hearing by the applicant, by Licensing Enforcement and by the other person making representations.

The applicant has a right of appeal against this decision. The time for appeal to the Magistrates' Court is contained in Schedule 3, paragraph 27 of the Local Government (Miscellaneous Provisions) Act 1982, and should be made within 21 days of the decision.

The meeting ended at 1147 hours.

Chairman.....