

BIRMINGHAM CITY COUNCIL

LICENSING SUB- COMMITTEE MONDAY, 14 MAY, 2018
--

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE A HELD ON 14 MAY, 2018 AT
1300 HOURS, IN ELLEN PINSENT ROOM, COUNCIL
HOUSE, BIRMINGHAM, B1 1BB**

PRESENT: - Councillor Barbara Dring in the Chair.

Councillors Bob Beauchamp and Nagina Kauser

ALSO PRESENT

David Kennedy, Licensing Section
Joanne Swampillai, Legal Services
Louisa Nisbett, Committee Services

NOTICE OF RECORDING

- 1/140518 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

- 2/140518 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

- 3/140518 No apologies were received.
-

MINUTES - PUBLIC

- 4/140518 The public part of the Minutes of the meeting held on 18 December, 2017 and 29 March, 2018 were confirmed and signed by the Chairman.

**LICENSING ACT 2003 PREMISES LICENCE (GRANT) – DOMUS, 28-30
BRISTOL STREET, BIRMINGHAM B5 7AA**

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

(See document no. 1)

On behalf of the Applicant

Paul Burrows - DPS
Josef Cannon - Barrister
Petros Liatis – Applicant
Clint Dunkley (AKA Beaver) from More Secure
Andrew Potts – Wright Hassall

On behalf of those Making Representations

P C Abdul Rohoman, West Midlands Police

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy, Licensing Section. It was noted that an extra document had been circulated in advance of the meeting:-

(See document no. 2)

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

1. It was confirmed that all the documents had been received. Copies of proposed policies and procedures were available to the Committee should they wish to look at them. The Committee was provided with a larger copy of the plans.
2. The applicant had amended the closing hours to 0400 hours, 7 days a week.
3. Josef Cannon referred to the incident that had occurred at the premises formerly known as Prisma that had led to the revocation of the licence and undertook to alleviate the concerns of WMP. He would try to persuade the Committee that the premises could be brought back into beneficial use in a manner that did not prejudice the licensing objectives.
4. The previous licence had been revoked on 23 February, 2018 as a result of an incident that had occurred at the end of an event held on 28 January, 2018, involving the use of a firearm. The revocation of the licence had not been appealed by the previous licence holder.

5. Petros Liatis had invested in the lease and taken tenancy of the building from the freeholder. He intended to include multi-activities for the community during the daytime and evening in addition to use as a nightclub. He was an experienced businessman with a background in catering but had put together a team of experienced personnel. Clint Dunkley's Security Company would provide Security, Paul Burrows appointed as the DPS. also Carl Moore, Licensing Consultant had prepared the policies and procedures. This was a totally new operation
6. The main consideration was the proposed personnel who would run the business. Josef Cannon referred to the previous management and the documents that had been submitted by them. He referred to the witness statement from P C Ben Reader regarding the serious disorder on 28 January, 2018. He pointed out that the previous owner had not reported the incident to the police, also the venue did not have adequate security arrangements.
7. Josef Cannon went on to explain that one of two events planned for 28 January, 2018 had been cancelled resulting in those people attending the second event. The organiser of the second event had also been allowed to sell alcohol. To add to this the licence holder had not reported the incident to the police some 48 hours later even though it was evident from the CCTV footage that he had been present.
8. With reference to the decision of the Licensing Sub-Committee on 23 February, 2018, all the points made by PC Ben Reader were accepted, however a completely new team would be involved.
9. The freeholder of the building remained the same. A get out clause was included in the tenancy agreement should the licensing objectives be compromised. A different operating model was proposed for a multi-event space appealing to the Greek Cypriot community for events during the daytime and evenings as well as use as a nightclub.
10. Paul Burrows, the new DPS was highly experienced and had been recommended for this position. His CV was attached.
11. With regard to concerns about security arrangements the Sub-Committee was informed by Clint Dunkley that the Security Company had the benefit of being familiar with the premises. Staff would be SIA registered and meet all the licensing requirements. They would also carry out body searches. A new set of policies and procedures had been drawn up by Licensing Consultant, Carl Moore.
12. This was a different application to that made by Prisma. The opening hours had been reduced to 90 minutes earlier. The previous incident had occurred after 0600 hours. There were 3 large venues in the locality in particular Glamorous and the 02 that had late night licences. .
13. A list of conditions had been agreed with Environmental Health. The offered conditions covered the promotion of events, notifying the police of events one

month in advance and providing them with a list plus 4 additional proposed conditions -

- a. There shall be a last admission time of 0300 hours
- b. A Security and Operational Action Plan drawn up for approval by WMP
- c. Petros Liatis and Paul Burrows to become members of Southside BID and Southside Pubwatch,
- d. The usual Flyposting condition

14. No further conditions had been suggested by the police, however the conditions already proposed would ensure a responsible operation.
15. With reference to a comment by WMP that the operation mirrored the application previously submitted by Prisma and carried on where they had left off, this was not the same operation. This was a new team with different ideas and different hours. They had already addressed the previous concerns and proposed an experienced Security Company, DPS and Licensing Consultant. The operation would be transparent.
16. It had been noted that quite a lot of trouble-free promoted events had taken place leading up to the 28 January, 2018, The suitability of the location of the premises for the operation was dependent on how and by whom the premises were managed.
17. In response to concerns by WMP that Petros Liatis was inexperienced in the late-night economy area. Petros Liatis was an experienced businessman and had appointed experts to ensure the premises were correctly managed.
18. It was correct that the DPS and Security Company could leave the operation at any time, however if this was to happen WMP would have the right of approval of any new DPS. If the Security Company decided to move on the policies and procedures would remain.
19. WMP had not suggested any additional conditions, therefore it was felt that they did not want any nightclub in that venue.
20. On revocation of the previous licence, the new applicant had been advised to appoint respectable personnel for the premises. The decision related to the prior licence holder and not the proposed personnel. The decision was not relevant to this team and the previous issues of lack of security, policies and procedures, non-notification of events and disorder. All these issues had been addressed.
21. In reply to a question from Councillor Dring about the history and address of the locality, it was stated that there was a late night culture in that part of the City Centre. The earlier closing time would ensure that people were not leaving at the same time as other venues. The building had been a nightclub for 4 years. When nightclubs were in the same area as others there was a risk of attracting undesirable people.

22. The robust operation would deal with this potential. It could be shown that the club could be run whilst promoting the licensing objectives and bringing the venue back into beneficial use, contributing to the City's Council Tax and adding to a vibrant City. The incidents of 28 January, 2018 had occurred owing to the club being badly managed. The Sub-Committee could be confident that the premises would be managed in a professional and responsible way. They were willing to answer any questions.
23. In reply to a comment by Councillor Dring it was agreed that the security arrangements for Prisma in particular page 11 related to weapons was not satisfactory.
24. Petros Liatis had recently undertaken the relevant course for a Premises Licence Holder, allowing him to apply to become a Personal Licence Holder. He understood how to protect the licensing objectives.
25. In reply to Councillor Beauchamp's question regarding the location of the premises, the amount of people attending events and the associated problems, also what action would be taken if management was not up to standard, Clint Dunkley explained that when the premises first opened he had been appointed as the Security Company there however had withdrawn as security owing to the management being unwilling to listen to his advice.
26. He was very experienced and had worked in the area for over 10 years on a larger scale than 600 people attending a function, mentioning in particular that they had worked at Pride and St Patrick's Day. Although being unable to speak for Petros Liatis, Clint Dunkley had worked with Paul Burrows, DPS based in Erdington at several previous venues.
27. Paul Burrows added that he knew the area well and had run venues as a DPS with up to 3,000 students in attendance over the last 20 years. He lived in Birmingham and was familiar with the late night entertainment industry. He was putting his livelihood on the line.
28. Clint Dunkley said that he would not put his livelihood at stake if he did not trust that he was working with the right people.
29. Petros Liatis said that there was a market for the Greek Cypriot community to bring their families for a drink and listen to a band. It was confirmed that they did not wish to have an off-licence.
30. There was a proper security plan. Staff would be uniformed, and carry out full searches. They would ensure patrons left the premises in an orderly manner. Both Clint Dunkley and Peter Burrows would be in attendance.
31. The length of the lease for the building was for 1 year. The applicant had met with the police and submitted a risk assessment.
32. They would cooperate with WMP and everything would be transparent. They would not hold any event deemed unsuitable by WMP. Paul Burrows had experience of working at 02 and venues in the area. Clint Dunkley was aware

of the venue since it opened and aware it was an event venue owing to its location and not having the benefit of relying on passing trade.

33. The importance of the risk assessment was stressed as it determined the clientele. These would be submitted 1 month in advance. The venue consisted of 2 floors with a capacity of 270 ground floor and 330 on the second floor. There were 2 different entrances. Groups could not mingle across the 2 floors. Both rooms could be opened up to hold a large event.
34. The risk assessment would identify the number of door staff required. A rush on the door would be impossible as the security used robust barriers outside. Full body searches would be carried out to every single person regardless of who they were. 11 staff would work at the full venue including women. A roaming team will check the welfare of customers. There were enough staff to cover any absences

PC Abdul Rohoman made the following points with regards to the application and in response to questions from Members:-

1. The information had already been presented. P C Rohoman made reference to the history and location of the premises. The 3 premises close by including 02 and Glamorous were a fair way away. The premises was not in the main late-night economy area and relied on customers attending promoted events and could not rely on passing trade.
2. The applicant had met with WMP and it was clear that he intended working with previous promoters. The application mirrored the previous application apart from an earlier closing time.
3. There were plans to use the space for holding multi events however it would still focus on operation as a nightclub. The nightclub was not new to the Committee and had been reviewed on more than one occasion. WMP did not support the nightclub because of the history it came with. The type of people attracted to the promoted events was a risk in itself and this had led to previous problems of crime and disorder.
4. A very experienced team was required to run premises of this nature. Although the applicant had a wealth of experience in the restaurant business he did not have the experience to manage and promote premises with a troubled background outside the late-night economy area.
5. Paul Burrows the DPS had already been approached by the previous licence holder. His CV showed that his last job as a Manager of a Licenced premises was 9 years ago in 2009 for a 5 month period. Following which he was a Supervisor at Showsec International Ltd. WMP did not consider this to be the experience required to run a high risk premises.
6. The Security, DPS and Carl Moore, Licensing Consultant could leave the organisation at any time. Police powers to oppose a DPS was very limited and could be overruled.

7. In summary the application was proposing an inexperienced Licence Holder, and a DPS with some experience but not of that required to run these premises.
8. The premises could not rely on footfall and were therefore required to promote events. WMP had received risk assessments previously for events held at the premises. The position from WMP point of view had not changed. The closing time of 0400 hours was still late. They did not feel that additional conditions would promote the licensing objectives.
9. WMP had made it clear from the outset that they would not support any application for a nightclub at the premises and asked that the application be refused on the grounds of the lack of experience by the management in dealing with a venue with a troubled history in a difficult location.
10. The location of the premises was outside of the late-night economy area and police foot patrol area. The nightclub could not be compared with 02 and Glamorous. It was noted that they planned to hold events targeted at the Greek Cypriot Community however if this did not attract customers this could be changed and would open up the risk levels.
11. Gang nominals had turned up at the previous Prisma Club and caused a havoc. WMP had no knowledge of the ability of the applicant to run a late night venue of this nature as no evidence had been provided.

During his summing up P C Rohomon WMP objected to the application owing to the substantial history of the premises. The Licence Holder lacked experience in running a late night venue. The management could walk away from the premises at any time and WMP would be left to pick up the pieces.

During his summing up Josef Cannon acknowledged that although WMP were not confident in Petros Liatis as a Premises Licence Holder, it was pointed out that he had surrounded himself with experienced people. They were surprised with the points made about Paul Burrow's CV as he had managed staff at a variety of places including public houses and a big national event in Hyde Park. Clint Dunkley had confidence in Paul Burrows as DPS. It was clear that WMP did not want a nightclub at that premises. They suggested that if the premises was a nightclub, this was the team that could run it in a satisfactory way. WMP had 48 hours to object to any future DPS change. The team walking away from the operation was just speculation.

There was nothing wrong with an event based operation. WMP will receive notification a month in advance. Promotion only events can be fine. In summary there was nothing wrong with the building, security team, DPS (despite the comments from WMP), the applicant and Premises Licence Holder and the proposed operation. They had addressed and remedied the previous issues and understood there were concerns. The Committee could have confidence that the premises would be run in the correct manner by responsible people. .

At 1500 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 1545 hours, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follow:-

5/140518 **RESOLVED:-**

That the application by Petros Liatis for a premises licence in respect of Domus, 28-30 Bristol Street, Birmingham B5 7AA.

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 public safety.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police regarding the suitability of the proposed operation given the location of the premises, and its recent history of crime and disorder.

The Sub Committee carefully considered the operating schedule put forward by the applicant and the likely impact, but were not persuaded that the applicant and his proposed team would be capable of promoting the licensing objectives in premises with a history of troubled operation.

The Sub-Committee heard submissions from the applicant and his proposed team. The application had been amended to reduce the operating times, bringing forward the closing time by 60 minutes daily with licensable activities ceasing 30 minutes prior to closing. The plan was to operate the premises not only as a nightclub, but also to use it in the daytime/ early evenings for community events, perhaps marketed towards the large Greek Cypriot community in Birmingham. As for the nightclub, risk assessments were to become key in ensuring safe events.

The applicant was an experienced businessman with a background in running restaurant and catering premises. He had recently undertaken the necessary course which would enable him to apply for a Personal Licence. Upon taking the lease of the instant premises, he had assembled a fresh team of suitable people - in particular a new Designated Premises Supervisor, a new Security Manager, and also a Consultant to draft new policies and procedures. The applicant felt that this team could ensure that the operation would be managed responsibly. The Designated Premises Supervisor had experience in public houses as well as in event management - such as Pride, the Download Festival and an event in Hyde Park.

The applicant had taken on board the detailed criticisms voiced by West Midlands Police at the review hearing in February 2018, when the premises had been under entirely separate management. The previous operator had failed to adopt

adequate security arrangements, and had also failed to ensure that incidents were reported to the Police properly. Those criticisms had been examined by the applicant's new team, who had used them to plan the new operation in a manner intended to avoid the loss of control, and resulting crime & disorder, which had led to the revocation of the licence held by the previous operator.

The applicant had noted in particular the Police's observation that suitable people would have to take charge in any new operation. Accordingly, the applicant's intention was to have an entirely fresh start under experienced management. The premises also intended to cooperate fully with West Midlands Police, notifying them of all events, such that the Police would be able to advise and (if necessary) prevent any event they deemed unsuitable from going ahead. In addition, the premises planned to join the Pubwatch scheme and to become part of the BID.

West Midlands Police made submissions, in particular regarding the location of the premises. It was outside the main late-night economy area and as such it could not rely on passing trade from other night-time venues such as public houses/ bars – the other licensed premises in the vicinity were restaurants. Instead, it would be reliant on promoted events, and accordingly the Premises Licence Holder would have to be an experienced person with an understanding of the complex management needs of a venue which had shown itself unable to operate safely under previous management. There had been talk of holding daytime events, but it was the Police's view that in order to ensure profitability the premises would focus on night-time operation as a nightclub, and the shortened closing time of 04:30 hours was still extremely late.

The Police did not have confidence that any person from a restaurant/ catering background could understand the specific problems posed by a venue located outside the late-night economy area. The Police described the location as 'off the circuit', meaning outside the usual nightclub zone; it was not situated in a place where it could pick up passing trade from closing time at bars/ pubs, and therefore the location made the premises a 'destination venue', reliant on promoted events to attract custom.

The promoted events would of course have to be of a type that would be an attraction to patrons, but under previous management, promoted events had to a large extent been the root cause of the problems; the crime & disorder incidents which had led to the revocation of the Licence had occurred during what the previous management had called a 'private birthday party'. It later emerged that the event had not in fact been any kind of 'private party' - advance tickets had been sold to the general public, and on the night further arrivals (members of the general public) had been admitted after paying at the door. Some of the patrons had been gang nominals and the previous management had found themselves unable to cope. The event had then descended into chaos, with outbreaks of violence requiring the attendance of ambulances.

The Sub-Committee fully accepted the Police observation that the risks and threats for a nightclub situated outside the late-night zone were nothing like those seen by anyone with a background in the restaurant trade. Promoted events were required to entice patrons away from the recognised nightclub zone and to encourage them to make a specific trip out to a destination in Bristol Street.

These events would therefore require the most careful management, especially as the location was not on the Police foot patrol route.

However the Police stated to the Sub-Committee that they were not reassured by the team proposed by the applicant. The proposed Designated Premises Supervisor had experience of various venues and events, but the last time he had been responsible for managing licensed premises had been in 2009, and that had been for a period of five months. The Police did not consider such a person to have the necessary comprehensive experience to take on and manage nightclub premises in a difficult location with a troubled history. As such, public safety would be at risk.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the four licensing objectives were adequately promoted and that therefore the licence be granted - however West Midlands Police had recommended that the application be refused on the grounds of the lack of experience of the team in dealing with a venue with a troubled history.

After hearing all the evidence, the Sub-Committee agreed with West Midlands Police that the correct course to ensure the upholding of the licensing objectives was to refuse the application. The amendment to shorten the operating hours was not sufficient to mitigate the Sub-Committee's concerns about the proposed management team. The location and the history were full of risk, and the Sub-Committee did not consider that the backgrounds of the proposed team were such that the licensing objectives would be promoted and the premises could operate in safety.

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 & his team, their legal adviser, and by 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.

OTHER URGENT BUSINESS

6/140518 There was no other urgent business.

EXCLUSION OF THE PUBLIC

7/140518 That in view of the nature of the business to be transacted which includes exempt information of the category indicated that the public be now excluded from the meeting:-

Minutes – Exempt Paragraphs 3 and 4.