

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C, WEDNESDAY, 10 MAY 2017
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**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE C, HELD ON WEDNESDAY, 10
MAY, 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
Joanne Swampillai, Committee Lawyer
Tayyibah Daud, Committee Manager

NOTICE OF RECORDING

01/100517 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

02/100517 There were no apologies submitted.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT QUANTUM
EXHIBITION CENTRE, GROUND FLOOR, REFRESHMENT LOUNGE,
UNIT 2, 30 – 34 RIVER STREET, DIGBETH, BIRMINGHAM, B5 5SA**

The following persons attended the meeting:-

On behalf of the applicant

Tom Jenkins – General Manager
Olivia Rhoden – Operations Director
Cleon Smith – Events Coordinator

Those Making Representations

David Roberts – Solicitor

Tim Davies – Bond Company

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

(See Documents No. 1)

Following introductions by the Chairman, Mr Kennedy informed Members that additional supporting documents had been submitted by both parties on Tuesday 9th May 2017 at 1730 hours approx. However, the applicants have challenged the additional supporting documents submitted by the objector. (See Documents No.2 and 3).

Mr Roberts stated that the applicants are objecting to a letter from Digbeth Residents Association which was received yesterday from his client.

Mr Jenkins stated that it is a letter which has been used as supporting document in previous hearings and does not have a date stated.

Mr Kennedy, informed the Members for fairness and transparency that all supporting letters submitted by the applicants did not have a date on them either.

The Chair informed both parties that a decision would be based on the evidence presented before the Sub-Committee today and not from previous hearings.

Mr Jenkins stated he is happy for Mr Roberts to use the letter as supporting evidence.

In order to seek legal advice at 0951 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 0959 hours, after an adjournment, all parties were recalled to the meeting and continued.

Cleon Smith attended the meeting.

The Chair advised all parties that Members had read all the additional supporting documents and were happy to continue the meeting.

The main points of the report were outlined by David Kennedy, Licensing Section.

Mr Jenkins stated that he believed the representation received from Mr Roberts on behalf of the Bond Company did not cover or address any Licensing Objectives which may be undermined and thus he did not deem this to be a valid representation.

Mr Kennedy informed the Sub-Committee that any representation received from any persons / Responsible Authority are vetted to assess whether or not it is a valid representation according to the Licensing Act 2003; Mr Kennedy stated the representation received was deemed valid by the Licensing Authority.

Mr Jenkins made the following points in support of the application and in response to questions from Members:-

1. Mr Jenkins stated that Quantum Gateway is a community based centre which allows youths to use the venue to be used for various purposes such as music, art, drama, shoot music videos and DJ training.
2. A premises licence is being sought for a refreshment lounge.
3. Unit 2 can accommodate 399 people standing and 175 seated.
4. The premises have been used for a variety of events including live events, functions, documentaries and fairs.
5. Mr Jenkins referred to the Management and Training Team section and stated that all staff are very experienced. (See Documents No.4)
6. Mr Jenkins stated that Quantum Gateway had 8 trustees including himself Ms Rhoden and Mr Smith.
7. Mr Jenkins stated that the premises have run events over 360 hours via Temporary Event Notices; there have been no complaints received or any issues in regards to public nuisance and crime and disorder.
8. The premises have co-operated extensively with West Midlands Police and have added additional conditions including: if the premises operate in conjunction with another premises a minimum of 28 days' notice must be provided to the Police, if deemed necessary a SAG process must be adhered to and that any event which operates past 0100 hours must be informed to the Police 28 days prior to the event and that the police have a power of veto.
9. There will be two Designated Premises Supervisors present at the premises at all times.
10. There will be noise limiting devices and sound insulation to manage any noise that may cause disruption.
11. A Challenge 25 policy will be implemented.
12. Mr Smith stated that the premises have tried working closely with residents and other Responsible Authorities to ensure that the application is not objected to.

13. Ms Rhoden stated that the premises aim is to engage with the community.
14. Mr Jenkins stated that the reason why the premises were applying for a licence was to make them commercially sustainable and that other entities did not take them seriously.
15. Different areas within the premises required a Temporary Event Notice.

Mr Kennedy stated that the premises had applied for 13 Temporary Event Notices – which 2 were late Temporary Event Notices that were counter noticed.

16. Security measures will be in place to prevent people from taking alcohol from one area to another area within the building.
17. Mr Smith stated that the premises do not generate enough income by just operating on Temporary Event Notices.
18. Ms Rhoden stated that youths will be charged reasonable prices; and that there is a safeguarding procedure in place.
19. Mr Jenkins stated that measures in place were adequate such as one hour shutdown period, searches, challenge 25 policy and that no allowing member of the public are allowed in the premises ,

Mr Kennedy informed Members that measures that had been stated by the applicant had not been included in the operating schedule and thus policies and procedures which had been stated were not currently enforceable conditions that had been volunteered by the applicant.

Mr Roberts, Solicitor representing Bond Company made the following points with regards to the objections to the application and in response to questions from Members:-

1. Mr Roberts stressed that his clients have nothing against community work but their main concern was the ambiguity of what the premises are purposing and intending to do.
2. Mr Roberts stated that the premises are former factory building and are not designed to accommodate a venue for licensable activities.
3. This is the fourth grant application submitted by the applicant; it still remains unclear how the premises propose to operate.
4. Mr Roberts stated that it is accepted that the applicants have liaised with the Police and Environmental Health but there are still a number of concerns that have not been addressed.

5. An event at the premises in October 2015 caused disruption and nuisance to the residents and the tenants of The Bond Company.
6. In order to carry out community work a premises licence is not required.
7. Referring to the plan, Mr Roberts stated it is unclear how the premises intended to operate as there are additional rooms which would allow customers to consume alcohol in other areas.
8. The capacity of people stated by the applicants is much larger than what has been indicated; there are great concerns on how this would be controlled.
9. Referring to images; Mr Roberts stated that the fire exits were not adequate; one of the fire exits led out to the industrial area where the gates are locked. (See Documents No.5).
10. There is also a smoking area; which could potentially be a fire obstruction.
11. Mr Roberts referred to a promotions poster and stated that the premises are hosting an event via a TEN on 14th May 2017; the event has been advertised to start from 10pm till late and that an after party would take place from 0500 hours till 1000 hours in the early hours of the morning. (See Documents No.6).
12. Mr Roberts referred to another promotion post which stated that '1 Night Stand returns to River Street after an 18 month break'; this correlates with the TEN in October 2015 which The Bond Company had great concerns about.
13. Referring to another advertisement of the same event it was stated that the last entry would be 0230 hours and that the event would end at 0500 hours. The event was advertised as 'this is not a night club this is a rave'.
14. Mr Roberts stated that it was of concern that under a TEN the premises were operating as a night club.
15. Mr Roberts stressed that it was events like this that are of great concern for his client; there would be noise emanating from the premises as the large unit 1 area is not sound insulated.
16. There would be public nuisance as people attending these late night events would queue outside the premises to enter and when leaving the premises causing noise and disturbance to local residents.
17. The smoking area at the rear of the premises can accommodate 100 people; this would also cause a lot of public nuisance.
18. Mr Roberts stressed that the premises application was a 'foundation' to allow the premises to extend into a greater night club.

19. Referring to another advertisement it had been stated that 765 members were proposed to attend the event on Sunday 14th May 2017; Mr Roberts stressed this would be beyond the number of attendees permitted under a TEN.
20. Mr Roberts stressed that the representation by his clients was not vexatious but was it was genuine concern to the health and safety of the customers and public nuisance issues that would disrupt tenants.
21. Mr Roberts stressed that as the premises is in a Cumulative Impact Zone Area; allowing events to carry on until 0500 hours would add to the cumulative impact.
22. Mr Roberts referred to conditions that had been submitted in the operating schedule that had been agreed with the applicant and the Police under the prevention of crime and disorder and stated that:
 - The proposed fifth condition regarding the Safety Advisory Group (SAG) Procedure; Mr Roberts stated that it was ambiguous and did not indicate whether the SAG meeting would be called upon if the applicant wished to.
 - It was also stated that SAG does not have any statutory meaning and it is not known who is involved in a SAG meeting.
 - In regards to the fourth proposed condition; the power of veto is only applicable to the Police and thus The Bond Company have strong concerns that events could potentially be going on until 0300 hours if the Police do not object.
23. Mr Roberts stressed that there was a clear issue with enforceability of the proposed conditions.
24. It is unclear what the other rooms in the premises would be used for.

Mr Kennedy informed Members that a Temporary Event Notice had been submitted by the applicants for Saturday 13th May 2017 – Sunday 14th May 2017 until 0500 hours, in the exhibition area for a '90's revival event'.

Mr Smith stated that there had been two separate events and that the event inviting 765 attendees was called 'rat pack' and had been subsequently cancelled.

Mr Jenkins stated that there are other licences premises in close proximity to The Bond Company and that The Bond Company themselves have a Premise licence which enables licensable activities until 0100hours.

The Chair advised that it is not of concern what licenced premises are within in the area but that the application made by the applicants today was of concern to them. The Chair stated that a decision will be made based on the evidence presented before them today and that it is up to the Members to decide what to take into account when making a decision.

In summing up, Mr Roberts stated that the application made by the same applicant has changed on numerous occasions; it unclear how the exhibition room will be used. It of concern that late night events would cause severe disruptions to local residents and that the fire provisions at the premises are not adequate. Mr Roberts urged the Members to take into account letters that had been submitted and stated that The Bond Company are not objecting to the charity work that has been undertaken by the premises but it is of their view that a premises licence is not required until the early hours of the morning to carry out charitable activities.

In summing up, Ms Rhoden stated that The Bond Company are objecting as they see the premises as a competing business and do not wish for them to generate income. Mr Smith stated that the fire exits were adequate and that the premises regularly meet with the Fire Service. Mr Smith stated that there had been no complaints received from residents to state that the premises had been causing nuisance and noise issues.

At 1057 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1158 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

03/100517 **RESOLVED:-**

That the application by Quantum Gateway Ltd, for a premises licence in respect of Quantum Exhibition Centre, Ground Floor, Refreshment Lounge, Unit 2, 30 – 34 River Street, Digbeth, Birmingham, B5 5SA

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, public safety, the prevention of public nuisance and the protection of children from harm.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns of other persons regarding the impact of the proposed operation, especially as the premises are within a Cumulative Impact Zone.

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 either the applicant or the proposed operation of the premises were capable of promoting the Licensing Objectives within a Cumulative Impact Zone.

Members considered that although the premises were offering a worthwhile contribution to the local area as a 'community venue', the proposed opening hours were akin to those of a nightclub. Letters of support from organisations that

had used the premises for community events were not relevant to the promotion of the licensing objectives.

Having considered the operating schedule and the premises' own Policy & Procedure documents (which covered much of the proposals for operating), the Sub-Committee considered that there was something of a flavour that the premises' engagement with the Responsible Authorities would be at their own discretion. This was not the same thing as submitting conditions agreed in advance with the Responsible Authorities. Those making representations also observed that there had not been any endorsement of the proposed operating schedule by any Responsible Authority. All in all, the considerations relating to the Cumulative Impact aspect meant that the correct course was refusal.

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 Members considered that neither modifying conditions of the licence, refusing the proposed Designated Premises Supervisor nor excluding any of the licensable activities from the scope of the licence would mitigate the concerns raised by those making representations.

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 and by 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.

The meeting ended at 1202 hours.

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CHAIRPERSON