



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE - C

11 AUGUST 2021

Zara's Bar, 80 Broad Street, Birmingham B15 1AU

That, having considered the objection notice from West Midlands Police in respect of the three temporary event notices as submitted by Victoria Sherwin, the premises user, for three separate events to be held on the nights of the 14th, the 21st and the 28th of August 2021, at Zara's Bar, 80 Broad Street, Birmingham B15 1AU, this Sub-Committee determines that a Counter Notice be issued for the three events, under section 105 of the Licensing Act 2003.

The Sub-Committee's reason for issuing a Counter Notice is to prevent the three temporary events from taking place, in order to promote the prevention of crime and disorder licensing objective in the Act.

The premises had had something of a troubled history in recent years; much of the blame for the problems had been attributable to the premises' unsuitable and unsafe arrangements regarding its door security staff. Following a Summary Review hearing of the premises licence in 2019, in which the Sub-Committee had revoked the licence, the premises had appealed against the decision to the Magistrates' Court. Later in 2019, the Magistrates' Court had heard the Appeal; in order that the revocation could be lifted, the licence holder had consented to adopt a new condition, requiring the use of SIA (ACS) approved door staff.

The Sub-Committee heard that the premises user intended to operate on the three nights without the licence condition requiring the use of SIA (ACS) approved door staff. West Midlands Police attended the meeting to urge the Sub-Committee to issue a Counter Notice against all three events, on the basis that in 2019 the Magistrates' Court had deemed the new condition necessary to ensure the upholding of the licensing objectives, and for the protection of the public. It had been the licence holder himself who had consented to the new condition, and the revocation had been lifted as a result.

West Midlands Police stated that it was imperative that the condition should cover the three events, remarking that to allow any of the three events to proceed at the premises without that condition being in place ran the risk of Zara's Bar becoming a focal point for crime and disorder in connection with each proposed event. Although due regard was given to the premises user's representation, the Sub-Committee was not confident that the three proposed events could run well, or that the premises user could overcome the concerns raised by the Police. The Police concerns were, after all, based on serious incidents of crime and disorder which had happened at Zara's Bar.

The Sub-Committee was satisfied, on the balance of probabilities, that in the absence of the condition regarding SIA (ACS) approved door staff, crime and disorder would be likely to arise in connection with the three proposed events at the premises; this was due to its history of trouble in recent years. Although the premises user's counsel observed that he was not aware of any other venue in Birmingham having had such a condition imposed on a licence, and suggested that the condition was therefore perhaps unfair or disproportionate, the Sub-

Committee considered that the reason it had been necessary was directly due to the nature of the problems created in the past by unsatisfactory door staff at Zara's Bar.

The premises user's counsel also observed that in 2019, for approximately six months, the premises had traded without the condition; he observed that during those six months there had been no untoward incident. Whilst the Sub-Committee noted this, it was the Members' opinion that, in order that all concerned could feel confident that the premises would be able to uphold the prevention of crime and disorder objective, the condition should remain in place. Licensed premises had only recently been permitted to resume trading (following the national lockdown imposed by HM Government due to the Covid-19 pandemic), but the period of trading had not been long enough for the premises to form the view that they were capable of operating safely in the new post-lockdown era, or for the Police to feel reassured that there was evidence that the condition could be lifted. The Sub-Committee considered that it might be the case that after a sustained period of satisfactory operation, all concerned could start to feel more confident.

As it was, however, the Sub-Committee determined that there had not been sufficient trading time, following the lifting of the national lockdown, for the premises to be certain that it could operate safely without the condition. As such, the correct course was to follow the recommendation of West Midlands Police, as the experts in crime and disorder. The licence holder had consented to the condition, and accordingly it had been part of the Order made by the Magistrates' Court in 2019; the Sub-Committee agreed with the Police that it was indeed imperative that the condition should remain in place. The Sub-Committee therefore resolved to reject the three temporary event notices, and to issue a Counter Notice for the three events, to ensure the promotion of the prevention of crime and disorder 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, the section 182 Home Office Guidance, and its own Statement of 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.