

BIRMINGHAM CITY COUNCIL

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| LICENSING SUB-COMMITTEE C 24 MAY 2023 |
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 24 MAY 2023 AT 1200 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Zafar Iqbal and Penny Wagg.

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)

9/240523 **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

10/240523 **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

11/240523 No apologies were submitted.

LICENSING ACT 2003 – TEMPORARY EVENT NOTICE – SECTOR 57 T/A NO 21 DIGBETH, 21-27 MILK STREET, BIRMINGHAM, B5 5TR,

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On Behalf of the Applicant

Christopher Brown - Applicant

On Behalf of Those Making Representations

Huram Taj – WMP (West Midlands Police)

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The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. David Kennedy, Licensing Section, outlined the report.

At this stage the chair invited the applicant to make their presentation and Christopher Brown made the following points: -

- a) That the proposed event is a festival style event. The premises and the adjacent road will be used for licensable activity.
- b) There is also an arena/stage area outside. The music style is house, garage and RnB music.
- c) The event will be held on Sunday 4 June 2023.
- d) They have worked with promoters and the premises hasn't had any issues since it opened.
- e) It's a clean business.
- f) They have done policies and procedures and a noise management plan.
- g) The highways agency has been notified and they are in the process of granting the road closure.
- h) That he is working with WMP to cover all aspects of the event.

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- i) That a lot of time had been spent on this event.
- j) They are late planning this due to the first venue wasn't successful. So, they were approached quite late.
- k) Therefore, the application has been rushed.
- l) Due to annual leave of officers on both the highways agency and licensing there has been another week delay.

The Chair asked a number of questions and Mr Brown gave the following responses: -

- a) That he had considered the overall capacity numbers in relation to the licence which is already in place.
- b) The allowance on the road would be 499 persons, 250 persons upstairs and 300 in the bar area. That had all been figured out.
- c) That he had considered the overlap with the licence already in place and the TEN was submitted in the form he wanted.

At this stage the chair invited those making objections to make their presentation and Hiram Taj, WMP made the following points: -

- a) This is a daytime event inside the premises and outside in the street.
- b) They don't yet have permission for the road closure so WMP have concerns about this.
- c) Although the road closure is likely to be granted having spoken with the highways employee dealing with the application, it isn't as of today and therefore WMP were concerned.

The Chair invited all parties to make a closing submission. Christopher Brown, the applicant, advised that he had anything further to add.

Hiram Taj, WMP made the following closing statements: -

- That the street closure hasn't been granted and we don't know how long that will take.
- Time frames may not be met.
- Any use of that space unless permission is granted would be unlawful and therefore WMP have to maintain their objection.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the full written decision was sent to all parties as follows;

12/240523 **RESOLVED:-**

That, having considered the objection notice from West Midlands Police in respect of the temporary event notice, as submitted by Christopher Brown, the premises user, for an event to be held on 4th June 2023 at Sector 57, 21-27 Milk Street & Rea Terrace, Birmingham B5 5TR, 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 crime and disorder, and prevention of public nuisance, licensing objectives in the Act.

The Sub-Committee noted that the temporary event notice had been submitted via the standard online form. The section of the form dealing with location asked for further details about the location of the event. In response to this, the premises user had stated “event held on Rea Terrace and on the premises”. The temporary event notice therefore was to cover both the building and the street together.

The Sub-Committee heard from Mr Brown the premises user, who explained that the proposed event was to be a festival-style operation which would be running inside the ‘No 21 Digbeth’ venue as well as the adjacent road, namely Rea Terrace. All refreshment and lavatory facilities would be inside the premises. There would be a stage erected at the bottom of Rea Terrace; the Rea Terrace area would be an arena and stage area.

The event was proposed for Sunday 4th June 2023, with the event name to be Sunday Sessions. The music style was to be a mixture of festival style music, namely house, garage and R&B. The premises user had completed a risk assessment based on the type of event that the Sector 57 premises was accustomed to holding; he remarked that to hold a daytime event would lower the risk. He had worked with the event promoters in the past.

The premises had had no incidents since opening in the last two to three years and he considered that the licence holder had “run a very clean business”. Policies and procedures were in place; this included a noise management plan. He had sought help and assistance from the Highways Department of the City Council in order to make arrangements for the street closure (Rea Terrace). He had also been speaking to West Midlands Police Central Licensing Team to make sure that everything was in order.

He remarked to the Sub-Committee that the only issue had been timing. Due to some delays with the promoters, and with the application for the street closure, the submission of the temporary

event notice had been “slightly rushed”.

Members asked about the overall effect on numbers that the temporary event notice would have – in particular, the number of patrons that would be allowed to attend the event. The premises user confirmed that as part of his project plan, he had looked at capacity figures and had planned which areas were going to be used for what specific type of music. There would be one arena outside on Rea Terrace, there was a further arena inside the building, and thirdly there would be a “cool off area” upstairs, which would have refreshment and toilet facilities, and bar facilities.

The Chair of the Sub-Committee asked the premises user if he had considered the legal implications regarding the numbers permitted to be inside the premises (ie the building) – namely the effect of the temporary event notice on the total number of patrons permitted to attend the event. The premises user confirmed that the number on Rea Terrace would be 499; the Sub-Committee noted that this was the maximum permitted under a temporary event notice.

However, the premises user went on to say that inside the building there would be 250 patrons upstairs, then another 350 outside in the courtyard, and also a further 100 in the bar. The Chair therefore asked him to confirm whether, having considered the overlap between the existing premises licence (which covered the patrons inside the building) and the temporary event notice which had been submitted (which permitted a grand total of 499 patrons, whether those patrons were in the premises or on the street), he was content that the application that he had presented was in the form that he wished. The premises user confirmed that it was.

The Sub-Committee then heard from West Midlands Police, who confirmed that under the temporary event notice both the premises and the road were to be used together for a single event. The premises user had supplied an event safety manual including arrangements for site security and deployment, First Aid and St. John's Ambulance provisions, dog handlers, a Challenge 25 policy, a drug policy and noise management plans.

There would be one entrance point, namely 21 - 27 Mill St, to manage the capacity of the event. The maximum capacity under the premises licence was 1,199 patrons. Rea Terrace was not covered by this, but instead was covered by the temporary event notice, the terms of which would not permit more than 499 persons due to the statutory limit. The 499 would be the capacity limit for the whole event (both the building and the street).

Rea Terrace would be closed off to the general public - only patrons attending the event would be allowed to occupy Rea Terrace, and it would also be the exit for patrons to leave. The Police noted that the event safety manual also highlighted the intended use of land owned

by a neighbouring business, and remarked that the use of that land would require further permissions. The intention was that the land would host the St. John's Ambulance, toilets and food stores.

The Police also noted that a previous temporary event notice had been submitted by the premises user, but had been withdrawn after the Police observed that there was no application for the necessary road closure, and that therefore premises user would not legally be permitted to use Rea Terrace for the event, and to do so without permission would undermine the promotion of the crime and disorder licensing objective.

The premises user had then applied for the road closure, but permission had not yet been granted by the Highways department. Additionally, the premises user had not yet been granted permission by the neighbouring business to use their land, although he had arranged a contingency plan which would no longer require the use of that land.

In summing up, the Police advised the Sub-Committee that they did not know the status of the street closure application, or when it would be completed. Whilst the Police felt that the premises user “had been very cooperative” in his attempts to address key concerns, given the short notice, the timeframes might not be met. There was every likelihood that the street closure application would probably be granted, which would permit the use of the space, but it had not yet actually been granted, so currently any use of Rea Terrace for the event would be unlawful. It was for that reason that the Police were maintaining their objection in the interests of the promotion of the licensing objectives.

After hearing from West Midlands Police, the Sub-Committee accepted that allowing the event to proceed at the premises was a risk to the licensing objectives. The necessary permissions for the road closure were not in place.

Although due regard was given to the premises user's representation, the Sub-Committee was not confident that the proposed event could run well due to the restriction of the numbers which was required under any temporary event notice. Whilst the premises user had outlined the proposed numbers of patrons for each area, the temporary event notice he had submitted had stated that the location was to be both the building and Rea Street; the Sub-Committee was aware that to permit the event to take place would restrict the grand total of patrons (in the building and the street together) to 499.

This was not the premises user's stated intention; he had carefully planned an event which was for a far greater number of patrons. The Members therefore felt in all the circumstances the correct course was to issue a counter notice. The Sub-Committee had no desire to spoil the plans for the event by permitting it in the terms requested in the

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notice, which would severely restricted number of patrons. The Members considered that perhaps the premises user would submit a further notice in due course.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the report, the Guidance issued by the Secretary of State under section 182 of the Act, 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.

The meeting ended at 1229 hours.

CHAIR.....