

# BIRMINGHAM CITY COUNCIL

LICENSING SUB- COMMITTEE A, 19 OCTOBER 2020
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**MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE A HELD ON  
MONDAY, 19 OCTOBER AT 1000 HOURS, AS  
AN ON-LINE MEETING.**

**PRESENT:** - Councillor Davis in the Chair;  
Councillors Beauchamp and Locke

**ALSO PRESENT**

Joanne Swampillai – Committee Lawyer  
Bhupinder Nandra – Licensing Section  
Louisa Nisbett – Committee Manager

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**NOTICE OF RECORDING**

- 1/191020 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](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items

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**DECLARATIONS OF INTEREST**

- 2/191020 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting. No interests were declared.
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## **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/191020 No apologies were submitted.

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### **LICENSING ACT 2003 PREMISES LICENCE – VARIATION** **THE PAVILLIONS CLUB LIMITED, LOUNGE @ BOLDMERE, 112-116** **BOLDMERE ROAD, BOLDMERE, SUTTON COLDFIELD,** **BIRMINGHAM, B72 5UB**

The following persons attended the meeting: -

#### **Those making representations:**

Karen and Alan Young  
Cathy Jury

#### **On behalf of the Premises Licence Holder**

Dean Wilson– Premises Licence Holder  
Karen Hadley – (accompanying PLH)  
Leo Charalambides (Barrister – Kings Chambers)  
Carl Moore – Licensing Consultant CNA Risk Management Ltd

## **MINUTES**

The minutes of meetings held on 14 September, 2020 and 1 October, 2020, having been previously circulated, were confirmed and signed by the Chairman.

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The Chairman welcomed everyone and sought clarification regarding those present. Following introductions by the Chairman, the Chairman enquired if there were any preliminary points for the Sub-Committee to consider.

There being no preliminary points the Chairman then explained the hearing procedure following which the main points of the report were outlined by Bhapinder Nandra, Licensing Officer.

Leo Charalambides made the following points in support of the premises and in response to questions from Members:-

1. The application was a relatively straight-forward application to vary the physical characteristics of the premises.
2. The alterations will be to the toilets and bar area with additional tables and a reduction in licensable activities.

3. The changes between the old and new plan were detailed on page 57 paragraph 88 of the documents.
4. The premises were designed as a stand-up vertical bar. The area for licensable activities in the top right-hand corner will disappear. The kitchen etc will change. The changes were detailed on page 47 of the documents. The toilet area will be improved and a disability toilet added.
5. The fully functional kitchen will be operated by a local restaurant with a full menu being offered.
6. The servery hatch will allow waiters to cover the outside area with 6 spaces. The acoustic lobby will be retained. The live performance area will be blocked off.
7. In terms of the variation, S182 guidance states that small variations to the layout of a premises have no adverse impact to the licence. The capacity for drinking on the premises had been reduced with table service introduced to a restricted area.
8. The entrance and exit will be controlled by the DPS. These had been checked by the fire service. Barriers will be put up in the outer tabled area and the Acoustic lobby will be retained.
9. The Environmental Officer had visited the premises and suggested some conditions to reduce the noise impact. More stringent measures will be in place. The front will be triple glazed and have acoustic curtains.
10. A noise limiter had been agreed with Environmental Services. Letters had been sent to all residents in September from Carl Moore and a meeting had been attended by the local Councillor.
11. When the premises are complete they will promote the licensing objectives better than they did before.
12. On that basis the Licensing Sub-Committee is asked to grant the variation of the licence as requested.

13. In response to questions there were two fire exits at the back of the building. The area at the front of the premises will be controlled by staff and closed at 2200 hours.
14. The provisions for the sound limiter were on page 48. It will be tested by a representative from BCC and set at the appropriate level. The noise automatically turned off if the noise exceeded that level. The fire doors will protect the sound from escaping.
15. The operation will be Covid compliant and a risk assessment will be carried out.

In making representations against the application Mr and Mrs Young made the following points with regards to the application and in response to questions from Members:-

1. They had been residents of Heathlands Road close to Boldmere Road for 31 years and raised their family there. There were excellent amenities on their doorstep such as a school, Sutton Park and transport links.
2. Over the years there had been changes to the premises however this was the first time they had received information. They had completed the survey owing to their concerns on how the changes to the premises would impact their lives.
3. They were shocked about the current trading hours as they had not received notification from BCC. It was not mandatory for the premises to contact them so it had been left to chance.
4. They had been involved in a meeting on 10 October and expressed their concerns mostly about the live acts and the numbers of patrons.
5. They had been assured that there were no plans to develop the rear outdoor space. The plans made disturbing reading and they implored Members to put themselves in their place.
6. A decent class of people lived in Boldmere and was a desirable place to live. The application was for continued entertainment and the Lounge @ Boldmere was in fact a nightclub.

7. Although the schedule had been ticked to indicate there was no change to live music, there was a change. On the website there were 22 events listed to 22 December including parties this was an absolute change.
8. Who will check the noise escaping from the acoustic lobby and how will it be monitored by Environmental Health and enforced. A noise monitor should be installed.
9. Patrons smoke and take drinks out on to the terrace.
10. There was a lot of elderly people living opposite the premises.
11. The objectors were reminded by the Chairman that the hearing was to consider a variation of an existing licence and was not a review. The objectors will be given a chance to sum up their objection.

In making representations against the application Cathy Jury made the following points with regards to the application and in response to questions from Members:-

1. The Sub-Committee is asked to consider the objections from Mr and Mrs Young as they were relevant.
2. The Licensee and DPS remained the same. The premises would have live entertainment. Advertisements only a week and a half ago said live music on a Thursday, Friday, Saturday and Sunday. On Wednesdays there was a comedy act and private event starting at 1930 hours. There was clearly a change of use.
3. The premises were described as a bar and restaurant however a nightclub was a more accurate description. It was advertised as a live music venue.
4. At present consultation with residents was at the discretion of the licence holder.
5. The capacity was for up to 200 people who would make noise whilst leaving the premises.
6. The premises were at the back of her house. She had installed secondary glazing.

7. Prior to the lock down the number of live acts had increased. She had emailed the DPS twice, however no measures had been taken and he said there were no other complaints. The premises were reluctant to address the issues.
8. She had circulated a questionnaire to residents who replied that they found the volume too loud, the live sessions were intrusive, they had problems sleeping which was annoying. The questionnaire had been shared with the DPS however no response had been received.
9. She was disappointed with the changes to the building. This would affect the sound produced from the building. The solid wall would be removed allowing the sound to travel through the whole building.
10. The sound proofing was already there but there was a lot of noise. The building frontage glass is only standard glazing.
11. The area is a residential area with 17 flats for elderly people, sheltered housing, 13 flats, maisonettes and family sized homes. It was close to desirable schools. Some of the residents may not have the confidence to raise a complaint.
12. There had been 32 responses to the questionnaire from residents, 29 of whom were concerned. This showed the strength of feeling of local people. The premises prevented residents from enjoying their houses.
13. Cathy Jury had spent a year emailing Environmental Heath about the noise from the premises.
14. She had experienced the volume of music playing loud at 2313 hours with the vibrations disturbing her sleep. Residents could not leave their windows open. There was frequent problems with the customers from live entertainment events leaving and being on the street. A lot of residents had been affected.
15. In reply to a question she would suggest a change to the removal of the solid wall and the glass frontage. The removal of the wall would allow unhindered sound across the building.

In summing up Mr and Mrs Young made the following points:-

- The application said they were not seeking to vary licensable activities or times and that statement was not correct.

- Noise would increase with the removal of the wall and changes to the building.

In summing up Cathy Jury made the following points:-

- To say the variation was for physical aspects of the premises would not protect the residents.
- The Sub-Committee were asked to give residents some protection.

In summing up on behalf of the applicant Leo Charalambides made the following points:-

- He thanked everyone for attending the meeting.
- The premises licence holder was dedicated to working with the residents. A meeting had been held to address their concerns and they would work with the Environmental Health Officer.
- Assurances can be given that the premises would not operate until checks had been carried out by Environmental Health experts.
- The wall to be removed was never a solid wall it was a partition with a bifold door.
- There would be considerable improvements to the acoustics. The premises were no more than 50 yards from Wetherspoons and Harvester. The measures taken do improve matters. The Committee was asked to agree to the vary of the licence as requested.
- Cathy Jury was advised that the opportunity remained for her to communicate with her local Councillor although he was not a Member of the Sub-Committee.

At this stage and at 1113 hours the meeting was adjourned in order for the Sub Committee to make a decision. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private. Notification of the determination of the application was sent out to all parties within 5 working days of the date of the meeting as follows: -

**RESOLVED:-**

That the application by The Pavilions Club Limited to vary the premises licence in respect of Lounge @ Boldmere, 112-116 Boldmere Road, Boldmere, Sutton Coldfield B72 5UB, under Section 34 of the Licensing Act 2003 **BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS** agreed with Environmental Health in advance of the meeting, namely:

1. Prior to any entertainment involving amplified music, speech or sound taking place, a Noise Limiting Device (NLD) of a type approved by the Environmental Protection Unit of Birmingham City Council shall be fitted to serve any area of the premises used for amplified music, speech or sound. The NLD shall be set at a level agreed with the Environmental Protection Section to ensure that the volume is controlled to avoid noise nuisance to the occupiers of nearby buildings. The installation of the NLD shall be notified to the Environmental Protection Section prior to use and shall meet the following criteria:

a) The device shall be fitted in an approved position by a competent person and once fitted shall not be moved from the approved position or tampered with in any manner unless prior approval is given,

b) The device shall be capable of either:-

i) cutting off the mains power to the amplification equipment if the volume exceeds the pre-set level determined by the Environmental Protection Unit and shall not restore power to the amplification equipment until the NLD is reset by the DPS or their nominated person, or

ii) otherwise maintaining the volume of the music at the pre-set level determined by the Environmental Protection Unit,

c) where the NLD operates by cutting off the mains power to the amplification equipment, amplification equipment shall be operated through the sockets/power points linked to and controlled by the NLD at all times,

d) The NLD shall be maintained in full working order and at the approved pre-set volume whilst the amplification equipment is operational,

e) Any damage or malfunction to the NLD shall be reported to the Environmental Protection Unit as soon as possible and within 24 working hours of the damage occurring or malfunction being noted. The NLD shall not be used in this damaged or malfunctioning state until approval has been given by the Environmental Protection Unit.



2. Before regulated entertainment takes place at the premises a lobbied area will be installed at the front entrance to ensure whilst entertainment is taking place that one set of doors remains closed.

3. There shall be no drinking on the outside front terrace area after 10pm.

The Sub-Committee's reasons for imposing the agreed conditions are due to the submissions made by the applicant company's legal representative. He explained that a great deal of investment had been put into structural alterations in order to improve the premises; he described these by comparing the old Plan and new Plan in the Report.

The Lounge @ Boldmere had been a vertical drinking establishment offering live entertainment. The plan was to retain the live entertainment, but with the addition of seating and a kitchen/ food element. Acoustic measures had been carefully considered; those, combined with the suite of conditions agreed with Environmental Health, meant that the potential for noise nuisance, which was the primary objection raised by those making representations, would be satisfactorily addressed. Operation would not begin until the Environmental Health officer was satisfied.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application, but did not accept that there was evidence of a significant risk to the licensing objectives arising from the proposed variation of the premises licence. This was due to the cooperative attitude displayed by the applicant company, which had been keen to work with neighbours. It was noted that the applicant had engaged with the objectors prior to the hearing, by writing to them and even inviting them to a meeting. The local Ward Councillor attended the meeting. It appeared that in light of amendment via the proposed measures, no objection had been made by the Ward Councillor. There had also been no representations from West Midlands Police.

The Sub-Committee then heard from local residents who had submitted written representations; three of them also attended the meeting to address the Members directly. Whilst these objectors were keen to have additional conditions added to the Operating Schedule, the Sub-Committee determined this was not necessary as the relevant issue had been covered by the Environmental Health conditions. The Chairman reminded them that the meeting was to consider an application to vary the licence, not a review of the licence. The Sub-Committee considered the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 of the Licensing Act 2003 by the Home Office, the application for a premises licence, the written representations received and the submissions made at the hearing by the applicant via its legal representations 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.

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#### **OTHER URGENT BUSINESS**

5/191020      There was no other urgent business.

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The meeting ended at 1124 hours.

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CHAIRMAN