

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE B 17 OCTOBER 2023</b>
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**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 17 OCTOBER 2023 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Diane Donaldson in the Chair;

Councillors Saddak Miah and Penny Wagg

**ALSO PRESENT**

David Kennedy – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Poole – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/171023 **NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

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2/171023 **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

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interests flowchart which provides a simple guide to declaring interests at meetings.

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**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/171023 Apologies were submitted on behalf of Councillor Adam Higgs and Penny Wagg was the nominated substitute Members.

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**MINUTES**

4/171023 The minutes of the meeting held on 30 August 2023 at 1000 hours were circulated and confirmed and signed by the Chair.

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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – LIME AND CHILLI, 72 SOHO ROAD, HANDSWORTH, BIRMINGHAM, B21 9BH.**

**On Behalf of the Applicant**

Ian Fellows – Representative  
Parmhit Nahal – New Owner  
Gurwinder Singh – New Owner  
Gurdeep Singh – DPS (Designated Premises Supervisor).

**On Behalf of Those Making Representations**

Durud Miah – Objector

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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/their representative to make their presentation and Ian Fellows made the following points: -

- a) That Lime and Chilli had been in business for many years, and had a long, good record as a provider of alcoholic drinks in the area. However, it was not a place whereby large quantities of alcohol were consumed by patrons.
- b) The business was family run.
- c) When the business changed hands, the licence couldn't be transferred so they had to resubmit the application. The licence couldn't be transferred as the previous licence holder company went into liquidation and as a result the licence was terminated.

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- d) When they first applied, they requested longer hours, but following discussions with the previous owners they were applying for 1100 – 2300 hours everyday of the week.
- e) That they had contacted the Licensing Department in relation to the hours.
- f) The applicant accepted the hours requested by the objectors but did not accept the other matters they had raised.
- g) The review of the premises licence previously had not result in the premises being closed down and it was said that management took all the proper steps to ensure all the licensing objectives were followed and the incident could not have been controlled by the operators.
- h) That the decision to operate until 2300 hours was taken to ensure the business could operate successfully. The nature of Soho Road changed after 2300 hours, such as youths drinking and causing disruption which would make it harder for them to run a family orientated business beyond 2300 hours.
- i) The current economic situation meant that opening a business in the hospitality sector would be difficult, alcohol would be essential for the business.
- j) Customers wanted to be able to buy alcohol with a meal.
- k) That the objectors all used the same email, just added a few points.
- l) The residents would benefit from the premises operating successfully as there would be more street lighting, a place for family groups and birthday groups to go.
- m) The customers were law abiding citizens and would likely reduce some of the 'social evils' that the residents were concerned with.
- n) That they were happy to accept the reduced hours 1100 – 2300 hours.

Gurdeep Singh added that he agreed with all the points and accepted all his commitments.

Parmhit Nahal also commented that they wanted to work with the community and were happy to reduce the hours.

Members asked questions and Ian Fellows made the following responses: -

- a) That the new owners were not at all related to the previous owners.
- b) The applicant's had recently moved to Birmingham and were in the process of completing their personal licence course. Once they have completed the course, the DPS will withdraw and they would take over that role.

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- c) Due to the previous company going into liquidation the licence was automatically cancelled, therefore the licence couldn't be transferred, and they had to make a new application.
- d) If the licence had been transferred, then the hours would have been until 0200 hours. They wouldn't be inclined to use the premises for parties.

The Chair invited the objector to make his case and Durud Miah made the following points: -

- a) Lime and Chili backed onto residential properties and the function room in particular backed onto peoples gardens.
- b) That he wasn't aware that the previously licence allowed them to operate until 0200 hours.
- c) That he was pleased to hear they were agreeing to the licence until 2300 hours, but he wanted clarification on whether the premises could continue to open until 0200 hours as long as they weren't selling alcohol?
- d) There needed to be clarity on the opening and operating hours.
- e) That they didn't want Lime and Chilli to set a dangerous precedent.
- f) Prostitution was improving due to the public order that was in place (Public Space Protection Order).
- g) That volunteers were monitoring the area sometimes until 0200 hours every day.
- h) Soho Road had a good reputation in the daytime but had real issues in the night-time. There were real issues with anti-social behaviour.
- i) That if Lime and Chilli were to open until 0200 hours it may become a hotspot for prostitution.
- j) That he was disappointed that other residents hadn't attended the hearing, they had made representations and whilst some of it was copy and pasted there was additional points and they had added to it.
- k) The area needed help.

No Members had any questions.

The Chair invited closing submissions and Durad Miah made the following statements: -

- That he wanted everyone to be fair to the residents, whose houses backed onto the Lime and Chilli function room.

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- That he wanted clarity of what was being agreed in terms of the licence hours.
- There were families and elderly people all living close by.

Then Ian Fellows was invited to make a closing submission on behalf of the PLH, he made the following closing statements: -

- That the hours of licence were 1100 – 2300 hours daily. They had changed the hours since applying for the licence.
- The opening hours would be 12noon until midnight and alcohol would not be served after 2300 hours. All customers would be off the premises by midnight.

The Committee Lawyer asked Mr Fellows to clarify if the alcohol licence would be from 1100 hours when the opening hours were 12noon. Mr Fellows advised that the premises would not be opening until 12noon and therefore the alcohol licence would be 12noon also.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision of the Sub-Committee was announced in public, then a full written decision was sent to all parties as follows;

5/171023

### **RESOLVED:-**

That the application by Gurwinder Singh and Paramjit Nahal for a premises licence in respect of Lime and Chilli, 72 Soho Road, Handsworth, Birmingham B21 9BH, be granted subject to the following:

The hours shall be as modified by the applicants during the meeting, namely:

- The hours for all licensable activities (with the exception of late night refreshment) are 12:00 noon to 23:00 hours Monday to Sunday
- The hours for late night refreshment are 23:00 to 00:00 midnight Monday to Sunday
- The opening hours are 12:00 noon to 00:00 midnight Monday to Sunday

The Sub-Committee added the following condition:

- the premises shall close such that the premises is cleared of patrons by 00:00 midnight daily

The Sub-Committee added the following conditions, which were agreed between the applicants and West Midlands Police in advance of the meeting:

1. Staff involved in the sale of alcohol are to be trained under the Licensing Act 2003 prior to being allowed to sell/supply alcohol. All training is to be documented and signed by the Premises Licence Holder and the trainee. All training records are to be made available to any of the responsible authorities on request. Staff involved in the sale/supply of alcohol are to receive documented refresher training every six months.

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The premises will have at least one SIA registered door staff on duty in the function room when there is an event/party in that room

2. The premises will hold the name, address and contact number of any persons booking the function room. This will be confirmed by photographic ID, such as a driving licence or passport. These details will be made available to West Midlands Police on request for the purpose of investigating a crime
3. The premises shall use a booking form/declaration approved by West Midlands Police
4. The Plan of the premises shall show that the first floor of the premises shall not be part of the licensed area

The Sub-Committee also added further conditions, which were agreed between the applicants and West Midlands Police in advance of the meeting:

- A refusals log will be maintained at the premises. Each entry will be signed off by the DPS. The log will be made immediately available to members of the responsible authorities on request
- An incident log will be maintained at the premises. Each entry will be signed off by the DPS. The log will be made immediately available to members of the responsible authorities on request
- The company will operate the Challenge 25 Policy. The only acceptable forms of identification will be a passport, photo driving license, military id card or PASS id card with the hologram logo
- CCTV that is approved by West Midlands police will be fitted in the premises. Images will be retained for a period of at least 31 days and will be made available to any of the responsible authorities to view or copies produced on request. If for any reason the CCTV hard drive needs to be replaced the previous/old hard drive will be kept on site for a minimum of 31 days and made immediately available to any of the responsible authorities on request. The CCTV will be checked to ensure that it is working each day prior to licensable activity taking place. The time of the check, the identity of the person carrying this out and the result of it will be recorded in the incident log
- The premises will operate a dispersal policy
- The premises will operate a vulnerability policy
- If the premises is hired out or any promoted event with/by a third party the premises will notify West Midlands Police Central Licensing Team (by email) a minimum of 28 days prior to the event taking place unless West Midlands Police agree to a reduced notice period. This notification will be accompanied by a risk assessment tailored for that event. As well as the security plan the risk assessment will include the names, addresses and dates of birth of the person(s) hiring the room or promoter. It will also include the real names and stage names of any artist, DJ, band or performer. If West Midlands Police make any recommendations in relation to an event these will become conditions of the license for that event and West Midlands Police will have a veto of any event which is likely to impact on the licensing objectives
- The premises must supply an event planner of a full month's list of events in writing or email to the Birmingham Central Police Licensing Department at least 28 days in advance, for any event were licensable will take place. This event planner shall include, as a minimum Type of event, dates and times of all events. Name, address, date of birth of persons hiring the premises and/or promoter. Details of all DJs, live acts or other performers including stage names, full names, and date of birth. Details of where/if the events are being advertised and

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expected audience numbers. For short-notice events where it is impossible for the premises/organiser to have prior notification/knowledge of the event, the premises must inform West Midlands Police Licensing Department immediately as the venue is booked with the required details as above, no later than 4 days prior to the event. The venue will not take late bookings for birthday parties, weddings, christenings etc. If West Midlands Police make any recommendations in relation to an event these will become conditions of the license for that event and West Midlands Police will have a veto of any event which is likely to impact on the licensing objectives

- The premises will risk assess the need for door staff when trading. Door staff will sign on and off duty. The premises will keep a profile of all door staff which will include a copy of their SIA licence and photographic ID. (If photographic ID is not available then a utility bill no older than 3 months will be acceptable.) The signing in & out sheets and profiles will be kept on the premises for a minimum of 3 months and made immediately available to any of the responsible authorities on request. Door staff will wear a fluorescent coat, jacket or waistcoat while on duty at the premises. Door staff will remain on duty until all the customers have dispersed and this will form part of the premises dispersal plan
- This risk assessment will be made available to any of the responsible authorities immediately on request
- The capacity of the venue will be determined by the fire risk assessment. The fire risk assessment will be made available to any of the responsible authorities on request

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued.

The applicants attended the meeting, together with the proposed designated premises supervisor Mr Kuldeep Singh; all were represented by a consultant, who addressed the Sub-Committee.

The Lime and Chilli premises had been in business as a licensed restaurant for many years, and was a family-run business. The proposed designated premises supervisor was the previous proprietor of the business. However, the instant applicants were not related at all to the previous owners. The consultant confirmed that they were “new businesspeople who were coming into Birmingham and into the sector of the market”.

Both were completing their applications for personal licences. Once the personal licences were granted, the plan was that Mr Kuldeep Singh would gradually withdraw, and the applicants would take full responsibility for compliance with the licensing objectives.

The previous licence holder company had gone into liquidation, and so the premises licence had been cancelled automatically, and it had therefore not been possible to transfer the premises licence to the new owners. The previous premises licence had permitted a terminal hour of 02:00; the consultant observed that the instant application therefore cut three hours a day from the hours for licensable activities.

The restaurant was proud of being a family restaurant, and was “not a place where alcohol is consumed in large quantities”; service of alcohol accompanied

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meals. When the application was first submitted it had requested long hours so that the new proprietors would have flexibility to develop the business and respond to customer needs.

However, based on discussions with the previous owners, the applicants had since realised that the hours actually required would be to 23:00, with the closing time to be 00:00, daily. The applicants had taken into consideration the hours preferred by the objectors, led by the local Ward Councillor. Whilst they did not accept everything said by those making representations (in particular the public nuisance aspects), the applicants confirmed that they would “go along gladly with the restrictions [*relating to the hours*] that they have asked for”.

The consultant drew the attention of the Sub-Committee to a previous Sub-Committee decision. This related to the previous premises licence for Lime and Chilli, and an Expedited Review application brought by West Midlands Police; in that matter, an investigation had revealed that every possible step had been taken by the management at that time to ensure that the licensing objectives were being followed. The incident that had occurred, and which had given rise to the Expedited Review application, had been an isolated incident and an exception, and had been beyond the operators’ control.

The new proprietors had asked the previous designated premises supervisor, Mr Kuldeep Singh, to continue in the role “so that the good practice that he had developed over the previous years in terms of the compliance with the licensing objectives would continue”. Mr Kuldeep Singh also had a good local knowledge of the area. The applicants felt that this would ensure that the business could develop whilst also ensuring the promotion of the licensing objectives.

Mr Kuldeep Singh had noted that the atmosphere of Soho Road tended to change after 23:00 hours, especially on Friday and Saturday nights, when it became difficult to run a family-orientated business because of the number of young people out drinking, who could often cause disruption; accordingly, the applicants had decided that the best course was to end licensable activities at 23:00 and then to close at 00:00 hours every night of the week. This would ensure control and compliance, said the consultant. The Sub-Committee noted that the adoption of a 00:00 closing time had also been suggested by the Ward Councillor.

The applicants had examined all the written representations carefully, and asked the Sub-Committee to note that they had adjusted the proposal to reflect the views not just of the Ward Councillor, but also the residents, the Police and the Neighbourhood Forum. However, whilst the applicants respected the point of view of the residents, in other ways they considered that local streets in fact benefitted from well-managed premises where the offer was aimed at families, observing that family groups could hold their parties there. The consultant also remarked that some public nuisance elements which had been mentioned in the representations, such as street prostitution, had substantially reduced in the immediate area over recent years.

The Sub-Committee then heard from the management team of the premises themselves. The proposed designated premises supervisor reassured the

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Members that he would prioritise the upholding of the licensing objectives. The applicants said that they intended to work together with the community, and observed that they had already accepted that the hours would be reduced.

The Sub-Committee noted that under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to grant such applications unless there was good evidence of a risk to the promotion of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact have an adverse effect on the licensing objectives. These were written representations from the local Ward Councillor and a large number of local residents.

One local resident attended the meeting in person to address the Sub-Committee. He disagreed that the premises would benefit the local community as it was a family restaurant, and instead raised the worry that families would be coming in from outside the area to have parties. He stated that he did not feel that people used facilities for parties in the local area.

He noted that the premises backed onto residents' homes and was worried in particular about the function room; however, he had been very pleased to hear that the proposal had been adjusted such that licensable activities would end at 23:00 rather than 02:00 hours.

He added that the reduction in street prostitution activities in the neighbourhood had largely been down to the Public Space Protection Order which was now in force. He remarked that volunteers from the gurdwara, and a security company, had also been involved in improving the area. However, he had noted that antisocial behaviour and a notable HMO presence were still features of the area, and considered that public nuisance had not been completely eradicated. He expressed his disappointment that other residents had not attended the meeting to address the Sub-Committee.

When summing up, he repeated his concern that there could be noise issues for residents whose properties were nearby, and added that he was also worried that the disabled parking spaces in the vicinity could be used; he felt that these were needed for local elderly persons and for disabled children. He expressed his disappointment that those persons had not represented themselves at the meeting.

At the end of the meeting the consultant summed up the application by stressing that licensable activities were only requested until 23:00 hours "for the whole seven days of the week". The opening hours would be from 12:00 noon until 00:00 midnight, to allow for drinking up time. The premises would be permitted to sell hot food and drinks (non-alcoholic) between 23:00 hours and midnight, with the premises to be closed and emptied of patrons by 00:00 midnight daily.

When deliberating, the Sub-Committee noted that the application had resulted in no representations from West Midlands Police, as the applicant had accepted the Police's proposed conditions in advance of the meeting. The Sub-Committee was of course aware that the Guidance recommended that the Police should be the Sub-Committee's main source of advice on matters of crime and disorder, and

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noted that the fears regarding a potential increase in antisocial behaviour, which had been raised by the local resident who attended the meeting, were not shared by the Police.

Similarly, Environmental Health, Licensing Enforcement, Trading Standards, and indeed the rest of the responsible authorities had raised no issue with the proposed style of operation. The Sub-Committee had heard from those making representations that there were public nuisance risks, particularly relating to noise, for nearby houses; however, these fears were not shared by Environmental Health, who had advised the premises in advance of the meeting (as shown in the Committee Report), and thereafter had been satisfied with the amendments offered relating to regulated entertainment and live music not taking place beyond 23:00 hours daily. The responsible authorities were the experts in their respective fields, and therefore the evidence was that the experts found the application satisfactory.

Whilst the Members had listened carefully to the concerns raised by all of those making representations, it seemed that the majority of the worries had not taken into account the careful operating style of a well-run premises which would end licensable activities early and close at 00:00 midnight. The Sub-Committee considered that the premises would be keen to work with neighbours, and intended to offer a family restaurant which would be a benefit to the local community.

The Sub-Committee took on board the concerns of those living nearby, and noted the very large number of written representations, but after careful consideration, found that these were not closely linked to the promotion of the licensing objectives. The request from the Ward Councillor that operation should end at 00:00 midnight had been accepted by the premises.

After examining the residents' written representations, the Sub-Committee determined that the points made had been adequately covered, namely by the applicant's reduction of the hours for licensable activities and the stringent conditions agreed with the Police. The Sub-Committee therefore did not find that there was an overwhelming evidential and causal link between the issues raised in the written representations and the effect on the licensing objectives.

Suggestions in the representations of a potential for public nuisance, and a potential increase in antisocial behaviour in the area, were rather speculative, and had not been supported by the responsible authorities. Other aspects, such as the use of disabled parking spaces, were not strictly relevant to the application, and the Members considered that residents affected by this type of issue could refer their concerns to the Ward Councillor. There was therefore no aspect of the operation which the Sub-Committee considered likely to create any significant risk to the licensing objectives - particularly not given that the premises would be a family restaurant where the sale of alcohol accompanied meals.

All in all, the Sub-Committee determined that the premises was aware of its responsibilities and the need to trade in a safe manner. The applicant had put forward an operating schedule which properly addressed the promotion of the licensing objectives. The applicants and proposed designated premises

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supervisor were confident that the premises could operate well, and had said that any risks to the licensing objectives would be managed well. The Sub-Committee agreed with this.

The premises had intended to show a cooperative attitude towards its neighbours and the reduction of the terminal hour had demonstrated this. The Sub-Committee was satisfied that trading would be safe, and noted that the applicants and the operating schedule were both suitable. The Members therefore concluded that by granting this application, the four licensing objectives contained in the Act would be properly promoted. The application was therefore granted with the agreed hours and the agreed conditions.

In reaching this decision, 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 application for a premises licence, the written representations received, and the submissions made at the hearing by the applicants via their consultant, and by other persons.

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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**Please note the meeting ended at 1100 hours.**

**Chair**.....