

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B - TUESDAY 27 JUNE 2017

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 27 JUNE 2017
AT 1000 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair

Councillors Nawaz Ali and Des Flood

ALSO PRESENT

Shaid Yasser, Licensing Section
Joanne Swampillai, Committee Lawyer
Gwin Pountney, Committee Manager
Katy Poole, Committee Manager

NOTICE OF RECORDING

01/270617 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

02/270617 There were no nominee members.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT LONDON
INTERNATIONAL SUPERMARKET, 235-237 LOZELLS ROAD, BIRMINGHAM,
B19 1RJ**

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

(See Document No. 1)

The following persons attended the meeting.

On behalf of the applicant:

Shukriya Zardary - Applicant

Patrick Burke – Licensing Agent representing the applicant

Making Representations in respect of the application

PC Abdul Rohomon – West Midlands Police

Mahir Akgul – Local Business Owner

Heath Thomas – Solicitor (Representing Mr Akgul)

Aisha (Interpreter for Mr Akgul)

Following introductions by the Chairman, the main points of the report were outlined by Shaïd Yasser, Licensing Section.

Mr Burke, in presenting the case on behalf of the applicant and in response to questions from Members, made the following points:-

1. That the applicant had leased the premises since 2014 and had run the business as a grocery and general goods store between 2014 – 2015.
2. In 2016 she had been approached by a neighbouring business owner, who had advised her that he wanted to purchase the premises – he had then submitted an application for a premise licence to sell alcohol - which had not granted and had therefore withdrawn his offer.
3. Therefore, the applicant had made the decision to apply for a licence herself.
4. That the applicant objected strongly to any allegations that she had any other connections to the owner of 117 Villa Road other than talking to him about the sale of her premises.
5. Explained that although the objectors had stated the applicant had not contacted the police prior to submitting her application, this was not a legal requirement.
6. The applicant had been operating a business since 2014; she had a good knowledge of the area, had managed the premises without any issues and had not purposely avoided the police.
7. With regards to the objections regarding alcohol related crime in the area, this could not be attributed to this business as it was not yet opened. Furthermore *Thwaites v Wirral 2008* stated that with regard to the promotion of the licensing objectives evidence should not be speculative – she could not be judged on the crime and disorder occurring at/outside other premises.
8. Mr Burke also presented some additional conditions during the meeting :-

(See Document No. 2)

Ms Zardary in response to questions from Members, made the following points:-

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1. That she had not experienced any crime related incidents whilst operating her business.
2. That although she had no experience in alcohol sales, she would try her best.
3. That she had decided to open an off-licence in addition to selling household goods after suggestions from her family that it would be popular in the area and be very profitable.
4. In response to a question regarding how the applicant would meet the 4 licensing objectives, Ms Zardary stated that although she knew a lot of things about this subject and had a personal licence, she felt confused and could not think of anything straightaway.
5. That she understood however, that if anything went wrong in the shop, she would be in 'big trouble' and that the shop would be closed down.
6. Ms Zardary told Members that with regard to alcohol sales 'she had never done this before' and it would be a new business venture for her.
7. That after the sale of the business had fallen through, although she had no experience in alcohol sales, she had decided to try to get a licence and run the business as an off- licence.
8. That the neighbour who had offered to buy the premises was 'Mansur'
9. That she had a personal licence, and had completed all the training for this.
10. That she would have CCTV installed on the premises.
11. That she was feeling panicking and was expecting a baby.
12. That she was currently working in a dental hospital, prior to this she had been running a shop until it had closed in 2016.

PC Abdul Rohomon, presenting the case on behalf of West Midlands Police and in response to questions from Members, made the following points:

1. That he had strong concerns about this application given that the applicant was applying for a licence with very limited experience and in an area that was a hotspot for alcohol related crime, as well as anti-social behaviour.
2. He drew attention to the shop sign photos available in the bundle which stated that the shop had sold shisha, bongs, and shisha pens despite the applicant's evidence that she had only sold everyday items.
3. That there were links between this premises and another premises referred to as 117, known to the police for selling illicit tobacco and alcohol.

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4. Made clear to Members that the neighbour who had offered to purchase Ms Zardary's premises was actually the former premises licence holder for premises 117, who had had his own licence application for these premises refused and had then pulled out of purchasing the premises.
5. That he wanted clarity regarding the relationship between the applicant and the former premises licence holder for 117.
6. That there was confusion around the CCTV recording times and days in the Ms Zardary's premises licence application.
7. That the applicant has not demonstrated in any way that she was a responsible person to hold a licence. There was no reflection in the application or in what had been submitted in evidence at the meeting that suggested the applicant had any knowledge of regard for the licensing objectives.
8. That looking at the new proposed conditions which had been submitted at the meeting, he recognised the wording of these and suggested they had been copied out of a book.
9. Suggested that the language in the new conditions such as "should" ought not to be included, as it is left conditions open ended.
10. That there was an issue with alcohol related crime and anti-social behaviour within the area.
11. There was no history to these premises as it had been managed by various owners selling various different products.
12. That there was a hostel for the homeless above the premises.
13. Prior to 2014 the premises had sold Shisha, but not alcohol.
14. That the nearest premises to Ms Zardary's selling alcohol were next door.
15. That there had been an incident outside the shops along this road involving a gang of Somali youths who had been drinking and were causing anti-social behaviour resulting in the police being called to the scene.
16. Stated that the applicant has not met with the police and discussed the proposed application.
17. Stated that the police would not be attempting to get a Public Space Protection Order (PSPO) in the area if alcohol related problems were not such a big issue in the area.
18. The applicant did not seem strong or strong minded enough to deal with the alcohol related problems, or with people trying to buy alcohol who shouldn't be.

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19. That despite obtaining her personal licence the applicant could not quote the four licensing objectives.
20. That the police had concerns that the applicant was associated with the owner of 117 Villa Road who had had his premises reviewed on more than one occasion and had had his licence revoked after he had been found selling illicit tobacco and alcohol.
21. The area seems to be attracting homeless people who drink a lot; these groups are then causing anti-social behaviour. In addition, they are also littering in the street.
22. The police statistics provided in evidenced showed the area as one of the 'hot grids' within the city for alcohol related issues. The area was attracting communities that drank a lot of alcohol on the streets from cans.

Mr Heath Thomas, presenting the case on behalf of Mr Mahir Akgul and in response to questions from Members, made the following points:-

1. That he supported much of the comments from West Midlands Police.
2. That this was 'the cash cow that keeps on giving' for Mr Burke as this was the third application for these premises within in the last few months that he had represented.
3. Mr Akgul had no objections to another trader operating a business next door to his premises provided that it was run as a legitimate business. The individual and operator at 117 Road however, had sold illicit tobacco and alcohol which had been problem for Mr Thomas's client, as it had affected their business - and Ms Zardary was associated with this owner

Meeting adjourned at 1100hrs as Members wished to confirm with the Solicitor that the case being presented by Heath Thomas needed to be evidence based and needed to directly relate to this application.

At 1102 hours, after an adjournment, all parties were recalled to the meeting and continued.

The Chair stressed to all parties that the cases being presented today, should be based on evidence only and not hearsay.

Mr Heath Thomas continued:-

4. There was indeed a link between 117 Villa Road and this applicant – there had been an application in September 2017 for these premises by the owner of 117 Villa Road which had been withdrawn due to the mounting evidence stacking up against that applicant.
5. Ms Zardary was now a new applicant seeking a premises licence for this address as yet another front person.

6. Mr Akhgul however, was trying to engage in legitimate activity and was concerned about the links between the 117 owner and the applicant as to the illicit sale of tobacco and alcohol.
7. Referring to papers submitted by the applicant as part of her application.

(See Document No. 3)

Mr Thomas stated that the information submitted was relevant to the licensing objectives.

8. He pointed out that the documents showed someone setting up this business, which would cost a lot of money - and had a bank account which had no money in it.
9. That in terms of the crime and disorder, these premises had been burgled on 2 occasions and this had not been reported to the police.
10. Mr Akhgul had also stated that Ms Zardary's shop contained contents belong to the owner of the 117 premises. Mr Akhgul had seen these items being brought in.

Ms Zardary, in response to questions from Members, made the following points:-

1. That the premises had not been burgled to her knowledge.
2. That she had not been to the premise since September 2016, therefore, she could not be certain it had not been burgled however; no one had reported anything to her or the police.
3. That she had the keys to the premises but had given a set to the prospective purchaser.
4. That the owner of premises 177 did keep goods on her premises but had intended to move them.
5. The alcohol on the premises, which was owned by the 117 premises owner, was not insured - but was only there because the owner had not had an opportunity to move it.

In summing up Mr Thomas explained that his client only had concerns over the sale of illicit tobacco and alcohol, and not in regard to legitimate competition.

In summing up PC Rohomon expressed the West Midlands Police were maintaining their objections and asked the sub-committee not to grant this licence due to the evidence they had submitted, the related issues with 117 and due to the applicants lack of knowledge demonstrated at the meeting.

In summing up the applicant expressed that she did have experience of selling age restricted products.

At 1155 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1305 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

03/270617

RESOLVED:-

That the application by Shukriya Zardary for a premises licence in respect of **London International Supermarket, 235-237 Lozells Road, Birmingham B19 1RJ 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.

The Sub-Committee's reasons for refusing this application for a premises licence followed the submissions made by, and on behalf of, the applicant.

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 the applicant was sufficiently experienced to take on responsibility for alcohol licensed premises or to properly promote the licensing objectives.

The applicant accepted that she was inexperienced, but was keen to assure the Sub-Committee that she intended to do her best. However, when Members asked her about her proposals for the operation of the premises, the answers given did not persuade them that either the applicant or her style of management were capable of promoting the licensing objectives. When Members asked her about her business plan for the premises and the motivation behind including alcohol sales as part of her business, for example, the vague answers they received did not reassure them.

Members heard that she had had experience of running a convenience store in recent years, and had been accustomed to handling the sale of age-restricted products at that shop; however the Sub-Committee considered that taking on the responsibility for alcohol sales at an off-licence premises was altogether more onerous, and required considerably more experience than that shown by the applicant.

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 could be granted. In particular they considered the new proposed Conditions submitted by the applicant's representative during the hearing. These included a significant shortening of the hours for off-sales. However the Sub-Committee considered that these new Conditions did not address the real issue, which was the lack of experience of the applicant.

The Sub-Committee then heard representations from West Midlands Police about

general crime and disorder in the area, but as the shop was currently closed, this could not be attributed in this instance to these premises, and Members did not consider that any particular weight should be attached to this.

Background information was given about the local area, and Members noted that a 10-bed homeless hostel was in the near vicinity – in fact the front door to the homeless hostel was next to the London International Supermarket. Given the lack of experience of the applicant, the Sub-Committee could not feel confident that she would be capable of promoting the licensing objectives in this situation.

The Sub-Committee also heard representations on behalf of another person (a local business owner). The Sub-Committee found these submissions, made via a legal representative, to be unpersuasive from start to finish. The legal representative adopted a misguided approach from the outset by advancing a speculative opinion, insistently and repeatedly, that the applicant was linked to some third party who had mismanaged other premises elsewhere - yet was unable to provide proper evidence to support his accusations.

The applicant and her representative had already explained that there was no link, and in addition West Midlands Police had already addressed the Sub-Committee and not evidenced any link. However despite this the legal representative continued with this speculative and improper theme, in a hectoring manner that was both unfair to the applicant and her adviser, and entirely unhelpful to the Sub-Committee's decision-making process.

The legal representative also made representations regarding the business documents which the applicant had submitted, and made untoward remarks about the financial details given in the documents. These representations again were irrelevant, and also displayed a lack of fairness; the financial circumstances of a business are not part of the decision-making considerations of the Sub-Committee. The Sub-Committee saw nothing in the business documents which was of relevance to the licensing objectives.

Extraordinarily, the legal representative even saw fit to make unwarranted comments about the applicant's representative and the remuneration he was receiving for his work. He then chose to repeat these comments later, despite the improper remarks having caused consternation among the committee lawyer and the Chair of the Sub-Committee earlier in the hearing.

There was something of a flavour that the lack of proper evidence, and/or genuine grounds on which to object, had induced the legal representative to act in a manner which was perhaps ill thought out.

All in all, the legal representative's submissions were overwhelmingly speculative in content. In particular the Sub-Committee looked askance at the legal representative's own declaration, during his summing up, that he had 'not presented hard evidence' – yet he had addressed the hearing at length and had levelled accusations against the applicant and her representative. Given this startling admission, the Sub-Committee felt it wise to disregard the legal adviser's representations in their entirety; none of his submissions had assisted Members with their decision-making in any way, due to the fact that they were not only wholly irrelevant, but also unfair.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the latest 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, their adviser and 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 OLD MONASTERY, 173-174 DIGBETH HIGH STREET, DERITEND,
BIRMINGHAM, B12 0LD.**

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

(See Document No. 4)

The following persons attended the meeting.

On behalf of the applicant:

Hitesh Chauhan (Billy Chauhan) - Applicant
Carl Moore – Licensing Agent: CNA Risk Management
Leo Charalambides – Barrister representing the applicant

Making Representations in respect of the application

PC Ben Reader – West Midlands Police
Paul Samms – Environmental Health

Following introductions by the Chairman, the main points of the report were outlined by Shaid Yasser, Licensing Section.

Mr Charalambides in presenting the case on behalf of the applicant and Mr Chauhan in response to questions from Members, made the following points:-

1. That the applicant had previously been granted a licence to use the first floor of the premises for licensable activity. He had purchased the site, a listed building and had done some work and was looking to complete it.
2. Mr Chauhan had meetings planned with the conservation officer on 25 July and was also meeting with One Nation Media looking at programming outdoor events throughout the days in the external areas of the premises.

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3. However, Mr Chauhan could not invest further without knowing whether or not he would get a licence for the use of the whole of the premises and would be prepared for the licence to be subject to conditions stating 'cannot....until'.
4. It was accepted that the premises was in a Cumulative Impact Area (CIA) and that paragraph 14.9 of the Cumulative Impact Policy that new licences should not be granted in a CIA unless there were exceptional reasons for doing so.
5. Some of the supporting evidence for this from the applicant was the fact that all the events held on the first floor since the grant of the licence and the 10 Temporary Event Notices (TENS) had all taken place without incidence.
6. In addition to this there was a Grand Design being carried out by these premises in consultation with a number of departments and agencies.
7. The concerns Mr Samms from Birmingham Environmental Health had put forward regarding the use of the outside areas had been noted and both parties had agreed that there would be no licensable activity in the outside licensed premises after 2300 hours and before 1000 hours.
8. A number of processes would have to be met before the premises could open and it was recognised by the applicant that a lot of work would have to be done/undone to comply with both insurance and conservation purposes.
9. An example of this was the windows which needed to be insulated and put back in the correct way with the fronts being glazed to a conservation specification, with the inside panels being in-filled for noise insulation - the intention was to get this work done in the first instance.
10. It was proposed that a condition was included in the application that referenced that the windows would be rectified and also meet the conditions to make them safe.
11. A Fire Risk Assessment would be undertaken as part of the process to obtain permission for extra doors and an extra stairway.
12. That the suggestions made by Mr Samms regarding the Noise Management Plan, Smoking Area Plan, and Yard Management Plan, (email of 26.6.17 and in discussions prior to the meeting) would be agreed.

(See attached Document No.5)
13. That the condition put forward by Mr Samms requesting that all events be disclosed to West Midlands Police and BCC Environmental Heath would be agreed.
14. That a new condition be considered – that all policies be reviewed every 4 months and that each policy be marked accordingly.
15. That the capacity for the 1st floor of the premises was 195 persons which was in full compliance with the Fire Safety Officer. If planning permission were to be

granted the total capacity for the building would be 348 – however the extra rooms would not be used until certification from the Fire service had been received.

16. That this venue should be considered as something other than adding to the cumulative impact policy within the area as this was an exceptional project within an exceptional area – sufficiently exceptional to not apply the policy to – this would be an opportunity to contribute to something bigger in Birmingham.
17. Furthermore, the 1st floor was already in operation without any problems and there had been no problems with any of the TENs events that had taken place.
18. There would need to be a multi-agency approach to the venue encompassing planning, building control, the police and the environmental health service hurdles before the venue could open – this would not just be a nightclub – it would be a regeneration of the building with an arts based area in the rear garden.
19. The long-term plan was to restore the building to its former glory, for the premises to be a part of the community, to help build up local SMEs and to contribute to a cultural effect of its own – similar to the Hippodrome in Leicester.
20. Areas of anti-social behaviour within the premises would be addressed via risk management plans.
21. The football season would not impact on the premises given its location.
22. The Fire Assembly point would be a boxed off area based in the Car Park on the High Street – this had been agreed to by the Fire Service.
23. That the premises would not be fully open until all the conditions set by all the responsible authorities were met.
24. There had been up to 395 people at each of the TENs events.

PC Reader in presenting the case on behalf of West Midlands Police and in response to questions from Members, made the following points:-

1. That this was an organic application which was constantly evolving and which now included food-led activities outside. With the changes agreed with Birmingham Environmental Health it was nearer to the agreed position acceptable to the police, but there was still a gap. (The initial application had called for reduced conditions and longer hours).
2. Referred Members to his email of 22 and 27 June 2017.

(See attached Document No.6)

3. In looking at the current licence for the premises and the proposed variations he had felt that there would be significant changes to the way the premises operated resulting in a significant increase in capacity (8 times over the premises' current capacity) and operational hours within a special policy area.

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4. The operation of a successful number of TENs was difficult to quantify as there was insufficient feedback from officers conducting walkthroughs and looking at customer numbers and operation of the premises at these events.
5. Stated that he had visited the premises in the early hours of 25 June when a TEN event had been taking place and had noticed:
 - Of the 3 door staff, 1 had no high-viz clothing, another had no high-viz, no radio and no profile kept on the premises.
 - 1 member of door staff had no radio
 - There were only 30 people present.

Therefore he could not comment on how well the premises would operate in a busy environment. However, he stressed that what he had seen was not a professional venue or a professional operation.

6. That the hours requested were too generous to the premises and would lead to a massive increase in licensable activity.
7. His main concern was the after party element – late night trading at the premises would increase significantly.
8. The premises were in a Cumulative Impact Area (CIA) and the significant increase in hours and capacity would add to the cumulative impact. However there were no data sets for the premises from the police.
9. The food events at the premises would not be a problem – it was only the late night after party activity that gave rise to concern.

Paul Samms in presenting the case on behalf of Birmingham Environmental Health and in response to questions from Members, made the following points:-

1. Referred Members to the email from Jane Dunsford to Licensing on 30 May 2017 submitting a representation against the application on the grounds of public nuisance given that there were flats in the direct line of site of the venue, approximately 20 metres away.
2. This venue was in a Cumulative Impact Policy area.

(See attached Document No.4)
3. That the TENs events were only a snapshot in time – the residents were unlikely to complain if an event was a one-off but more likely to do so if it was a regular occurrence.
4. The TENs events had been held in April when it was cool, a more realistic picture of noise nuisance would be obtained in July/August when it was warmer and people had windows open.

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5. Stated that he was unaware of the numbers attending the TENs events or how loud the music had been but was certain that noise nuisance would increase with increased numbers at the venue.
6. That a complaint had been received regarding noise nuisance in the area but this could not clearly be linked to the premises and contact had been lost with the complainant for several weeks.
7. That there were 2 issues regarding the noise report provided by the premises - firstly that it did not address the cumulative impact policy i.e. that all noise readings needed to be undertaken at a time when all premises within the area were open and these premises were also open, then incrementally increasing noise levels to the point where it could be shown that the premises did not affect the cumulative impact of noise within the area. Secondly, the report did not address compounding issues such as increased hours and dispersal of customers and how these would add to the cumulative impact.
8. That the noise complaint had been received in January 2017.
9. That Birmingham Environmental Health had not objected to the TENs as they had been aware that accumulative impact policy was in place in the area at this time.
10. That a TENs event in July would provide a more accurate measure of cumulative impact.

In summing up PC Reader stressed that the premises already had a licence and if the old licence was surrendered and a new one granted with longer hours and a greater capacity it would exceed the threshold for the cumulative impact policy area. The after party nightlife would cause problems and there would be 740 people at the venue at full capacity 500 inside and 240 outside.

In summing up Mr Charalambides pointed out that the premises were constantly under review by the Fire Service as changes happened and would review capacity at each stage. That the responsible authorities had no intelligence or research to back up their arguments regarding cumulative impact which was exceptionally disappointing. They also showed a lack of understanding of the cumulative impact policy as problems were only likely to occur late at night not during the rest of the day. He stressed that no-one had challenged the premises' commitment to the regeneration of the building or the area.

Mr Charalambides further argued that this was a very serious application and the premises had expected visits from the police to the venue and to use their intelligence data to support their arguments rather than arguing that 'we're a bit concerned it will cause an impact'. He stressed that the premises were in an ongoing conversation with all responsible authorities throughout the conversion of the premises and would accept any conditions regarding continuous risk assessments and make any changes accordingly. Neither of the 2 responsible authorities present had made any objections to the TENs and had not been called to the premises because they had not been needed to be called – there had been no problems. Mr Chauhan was confident that a noise assessment would not add to the cumulative impact of noise within the area.

In conclusion, Mr Charalambides pointed out that there was no challenge to the application, no evidence and therefore the application for a premises licence was effectively endorsed through the lack of a challenge. Mr Chauhan would be happy to accept/adopt any conditions on the licence and therefore the licence should be granted.

At 1540 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1643 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

04/270617

RESOLVED:-

That the application by **Strand 2015 Limited** for a premises licence in respect of **The Monastery, 173 - 174 Digbeth High Street, Deritend, Birmingham, B12 0LD** **BE REFUSED.**

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act as well as the Cumulative Impact Policy.

An amended application was proposed and explained by the applicant's legal representative in the hearing. The Sub-Committee carefully considered the amended operating schedule put forward by the applicant, and the likely impact of the application.

Very detailed submissions were made by the applicant's legal representative about the proposed new conditions. Discussions had taken place between the premises and Environmental Health shortly before the hearing, he explained, and in recent weeks the premises had also been consulting various other departments of the City Council.

Members noted that the issue of planning permission was still at large, and it was confirmed by the premises' legal representative that even if the licence were granted, it would be probable that the premises would have to return before the Sub-Committee to vary it, as there was so much that was yet to be discussed.

The premises were keen to develop and build on the existing Licence (which covers licensable activities on the first floor). It was submitted that these proposed new conditions would be sufficient to ensure that the premises was able to operate in a manner which would uphold the licensing objectives.

However, the starting point for the Sub-Committee was whether or not to depart from Policy. Having listened carefully to the submissions of the applicant's legal representative, the Sub-Committee were not persuaded that there was in fact any substantial reason to depart from Policy. Whilst they had been told by the applicant's legal representative that The Monastery was an 'exceptional project' and a 'grand design', Members did not consider that they had heard anything that was genuinely so exceptional that they could depart from Policy.

The Sub-Committee also heard submissions from West Midlands Police and from the Environmental Health department.

West Midlands Police were unhappy with both the opening hours and the capacity numbers, and also observed that on a recent visit they had discovered that the security personnel arrangements were not satisfactory. Overall it was the view of West Midlands Police that these types of elements would in fact add to the cumulative impact on the area.

Environmental Health were also of the view that the Cumulative Impact Policy should be upheld, regardless of the reduced hours and significantly amended terms that were discussed in advance of the hearing. Environmental Health stated that the premises had not shown that emanation of noise from these premises would not affect the cumulative impact on the area – particularly given that the premises wanted to increase their hours.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the latest 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, their legal adviser, and by those making representations – namely West Midlands Police and Environmental Health.

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.

05/270617

OTHER URGENT BUSINESS

There were no matters of urgent business.

The meeting ended at 1647 hours.

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CHAIRMAN