

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 19 SEPTEMBER 2017 AT 10:00 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

A G E N D A

1 NOTICE OF RECORDING

Chairman to advise meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 MINUTES

3 - 16

To note the public part of the Minutes of the meetings held on 8 August 2017 and 15 August 2017.

4 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

5 EXCLUSION OF THE PUBLIC

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Minutes - Exempt Paragraphs 3 and 4

PRIVATE AGENDA

1 MINUTES - PRIVATE

To note the private part of the Minutes of the meetings held on 8 August 2017 and 15 August 2017 and to confirm and sign both sets of Minutes as a whole.

2 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENSES

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 OTHER URGENT BUSINESS (EXEMPT INFORMATION)

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE B
8 AUGUST 2017**

**MINUTES OF A MEETING OF LICENSING SUB-COMMITTEE B HELD ON
TUESDAY, 8 AUGUST 2017 AT 1000 HOURS, IN COMMITTEE ROOM 1,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Clinton in the Chair;

Councillors Buchanan and Beauchamp

ALSO PRESENT

David Kennedy – Licensing Section
Sanjeev Bhopal – Legal Services
Gwin Pountney – Committee Services

NOTICE OF RECORDING

1/080817 The Chairman advised the meeting, and the Sub-Committee noted, that members of the press/public may record and take photographs except where there were confidential or exempt items.

2/080817 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

Councillors Buchanan and Beauchamp attended as nominee members for Councillors Ali and Flood.

MINUTES

3/080817 The Minutes of the meeting held on 20 June were noted.
The Minutes of the meeting held on 27 June, having previously been circulated, were confirmed and signed.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT SOIREE LOUNGE,
UNIT 2, 5-11 FLEET STREET, BIRMINGHAM, B3 1JP**

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

(See document No. 1)

The main points of the report were outlined by David Kennedy, Licensing Section concerning the request by the applicant to adjourn the matter and allow the matter to be heard outside of the prescribed timescale due to the applicant's Legal Representative being unable to attend on the required date as she was out of the country.

Mr Bhopal confirmed that Regulation 11 allowed the Licensing Authority to extend the time limit of 20 working days (for the consideration of a premises licence grant) where it was considered within the public interest.

The Sub-Committee therefore were asked to consider the request for the matter to be considered outside of the prescribed period.

4/080817 **RESOLVED:-**

That having considered the application for a Premises Licence for Soiree Lounge Unit 2, 5-11 Fleet Street, Birmingham, B3 1JP in accordance with the provisions of the Licensing Act 2003, this Sub Committee hereby determines to adjourn the formal determination of the application to Tuesday 22 August 2017 @ 10.00am.

The Sub Committee were informed by officers that following a formal request for an adjournment by the legal representative on behalf of the Applicant on the 26 July 2017, (due to her unavailability), those making representations were informed of the request and invited to make representations on the same. The Sub Committee were advised that all of those that responded had indicated they could attend an adjourned Hearing on the above date, if the Sub Committee were minded to agree to the adjournment.

The Sub Committee therefore determined to adjourn today's meeting which took place in the absence of the parties to the date referred to above, in accordance with Regulation 12 of the Licensing Act (Hearings Regulations) 2005 where it considers this to be necessary for its consideration of any representations or notice made by a party.

As the Sub Committee have made no determination on the Application, the agreement to an adjournment by the Sub Committee is not subject to the Appeal provisions contained within Schedule 5 of the Licensing Act 2003. The only recourse against the decision to adjourn the meeting would be by way of judicial review.

5/080817 **OTHER URGENT BUSINESS.**

There were no matters of urgent business.

6/080817 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Minutes – Exempt Paragraphs 3 and 4.

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CHAIRMAN

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB COMMITTEE B -
TUESDAY 15 AUGUST
2017**

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 15 AUGUST 2017
AT 1000 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair

Councillors Alex Buchanan and Bob Beauchamp

ALSO PRESENT

Bhapinder Nasser, Licensing Section
Joanne Swampillai, Committee Lawyer
Katy Poole, Committee Manager

NOTICE OF RECORDING

01/150817 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

02/150817 Apologies were submitted on behalf of Cllr Clinton, Cllr Ali and Cllr Flood, and Cllr Dring, Cllr Buchanan and Cllr Beauchamp were the nominee members.

MINUTES

03/150817 That the public section of the minutes held on 18 July were noted.

LICENSING ACT 2003 PREMISES LICENCE – GRANT SUTTON SPORTS AND SOCIAL, SOUTH PARADE, SUTTON COLDFIELD, B72 1QU.

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:

Emma Davis – Applicant

Walter Handsaker – In support of the applicant

Paul Handsaker - In support of the applicant

Making Representations in respect of the application

Annette Creevy – Manager, Home Hall House

Audrey Wright – Resident, Home Hall House

Frederick Smith – Resident, Home Hall House

Mrs Mountford – Resident, Home Hall House

Following introductions by the Chairman, the main points of the report were outlined by Bhapinder Nasser, Licensing Section.

In response to members questions Ms Emma Davis made the following points:

1. That she had been in contact with West Midlands Police; to which they had discussed the licencing objectives.
2. That West Midlands Police had requested that they put certain measures in place to ensure they meet the licencing objectives.
3. That they had also been in contact with Birmingham City Council Licencing department who had suggested some conditions to which Ms Davis had agreed to.
4. That the representations made today have already been countered for in the discussions with West Midlands Police and Birmingham City Council Licencing.
5. That they will have magnetic double doors fitted to ensure doors are kept closed.
6. That she will be ensuring that no one is outside the front of the building and that no alcohol is taken outside the front of the building.
7. It is mainly the weekends they wish to open longer hours, but it will not be every weekend, only for certain events to save them applying for TENs.

8. That risk assessments will be done and will be kept for 3 months, these will be readily available. They will then be archived, and still made available should anyone want them.
9. That they will employ SIA registered door men and security men.
10. That they will ensure CCTV is installed at the front of the building.
11. That they have an arrangement with a local taxi firm to safeguard their customers, and ensure they get home safely.
12. That they have been trying to ensure everyone moves along safely and quietly during the evening.
13. That the premises had been having multiple enquiries for mother and toddler groups and soft play options; which was the reason for applying for earlier opening times.
14. That alcohol will not be served at 1030hours.
15. That windows and doors will be closed apart from when people arrive or depart. The magnetic doors will help this – they had been aware that doors were accidentally left open on occasions and noise had then been heard further than usual.
16. That they do not wish to cause any ill feeling with the residents and that they had been doing their best to take them into consideration.
17. That all the doors are self-closing apart from the rear exit door, as that door is a fire door.
18. That no more than 150 people have been allowed in the function room, it is a very big room.
19. The capacity set with the fire brigade is more than 150 people.
20. That customers have been cutting through private property to another street, the CCTV that they are going to install should address this.
21. That they are also happy to have a polite notice on the fence to further address the issues.
22. That the parking issue has been ongoing and they have done polite notices themselves.
23. That there is a large car park situated down the street, but instead people park outside the premises, majority of these people had not attended the premises and had in fact been shopping or other similar events.
24. That she had been placing polite notices on cars advising that it is a private road and parking is not permitted.

25. That the longer opening hours should not affect this as it was not their customers parking there.
26. That she would be happy to let West Midlands Police check the risk assessments.
27. That the mother and toddler groups have outgrown the arts theatre next door and that is why they had approached Ms Davis about the possibility of using her premises.
28. That numerous funerals had also been held at the premises and the early opening hours would accommodate that function better.
29. That the later opening hours were to accommodate functions running over and the darts super league.
30. That the opening hours applied for have been considerably longer as they had been having a lot of birthday parties, wedding anniversaries and funerals, to which the additional hours will be helpful.
31. That there is adequate seating and tables for 80 people and then spare tables in the other room. That hardly any vertical drinking happens.
32. That there had been no incidents at the premises apart from one, where the police had been called.
33. That there had never been any issues with licencing or the police.
34. That the other local residents had made no complaints about the premises.
35. That weekly deliveries had been made to the premises to deliver barrels and had sometimes blocked the drive, but that it had only been for 10 minutes or so.
36. That the CCTV had been reviewed by West Midlands Police and they had confirmed they were happy with it, apart from the lack of external cameras. Ms David has agreed to install external CCTV.
37. That the CCTV is available to download for 28 days, and after this it is stored on the hard drive.
38. Training with staff is ongoing.

Meeting adjourned at 1032 hours as Members wished to confirm with the Solicitor the issues around safe guarding in relation to the mother and toddler groups.

At 1047 hours, after an adjournment, all parties were recalled to the meeting and continued.

The Chairman explained that the Committee had concerns regarding the increase the opening hours from 1030 hours in the morning for the sale of alcohol. Further to this that members had concerns regarding the safeguarding of children in the premises from that time, and explained that there are further regulations regarding this – such as CRB checks and ensuring a safe environment for children. To which, the premises would need to look into this further to ensure they meet the licensing objectives.

In answer to members questions Ms Davis continued:

1. That the 1030 hours opening time in the morning is not the “be all and end all”.
2. That she would be happy to open from 1030 hours but only be licenced to serve alcohol from a later time at the sub-committees discretion.
3. That it is not their intention to open at the new hours every day.
4. That all of the staff, apart from two, are personal licence holders; to which Ms Davis had put them through the training.
5. That they want to stay a family, friendly environment and work in unity.
6. That the delivery vehicles do not block the private road.
7. The premises access is only from the private road, so it is their right of way to the premises.

In response to members questions Ms Annette Creevy, Manager at Home Hall House, and on behalf of the residents, made the following points:

1. That they had not experienced any problems with noise or parking prior to the premises operating.
2. That there is a removal van belonging to the premises parked on the private road 24/7.
3. That there have been cars parked on the bridge which had blocked residents in and out.
4. That the issues regarding the parking will never go away.
5. That there have been incidents where music had been heard from the premises till 0200 hours in the morning.
6. Customers had been coming out onto the patio area, singing, dancing, smoking and taking drugs. They also practice the behaviours on the resident benches.

7. That there had been youths sat on the barriers to Home Hall House, subsequently breaking them.
8. That the residents living at Home Hall House had been making complaints daily regarding the premises to include; noise, parking and public nuisance. She stressed that she felt duty bound to solve the issues raised as her residents come to Home Hall House to retire in peace and quiet.
9. She displayed photos of rubbish in the street outside the premises and explained that there had also been furniture dumped on occasions, where she has had to ring the Council to remove it.
10. That when the premises have had private functions there has been mess left outside.
11. That she has had to go clean it up as the residents have complained.
12. That there had been an incident where by one of the residents could not get past a car parked on the bridge and when asked to move, they then blocked the pavement and a resident was unable to get past on her scooter.
13. That the delivery van does block the road, usually for over 10 minutes.
14. That when people leave the premises they are dancing and singing in the street.
15. That since the premises has been operating, the clientele has changed.
16. That there had been two men on the steps outside the premises who had shouted “look at them two wrinklies” to two elderly residents walking by. Ms Creevy was “flabbergasted”.
17. That there had been no problems with the arts theatre nearby.
18. That the Theatre has a parking area at the front and the day centre has its own car park, therefore, they were not contributing to the ongoing car parking issues.
19. That the children in the area had been seen running into private properties, running in between the cars playing football.
20. Mr Frederick Smith explained he moved into his home about 3 years ago, but for him the noise is the biggest issue. The premises have live bands playing, which have been very noisy. Sometimes until 1/2am.
21. Ms Creevy continued that the premises are unable to control their customers, meaning people end up outside drinking and causing a nuisance.
22. That the residents have reported the problems that occurred Saturday to the police.

23. That the smoking area on the premises must be the patio area, but they were not sure. There was no designated area and there had been no ash trays or trays for stub ends.
24. That notices had been put up along the street which stated it was a private road and private property.
25. That the problems they are experiencing, the residents should not have to put up with.
26. That occasionally there have been vehicles parked on both sides of the road, making it impossible for anyone to get past.

In summing up Ms Creevy made the following points:

1. That she did not want to fall out with Ms Davis, or have any problems between them.
2. That she feels Ms Davis needs to consider the residents.
3. That the premises have not done what they should have done.
4. That she did not think Ms Davis would keep to the conditions she stated above, but if they were included as conditions of licence she would be okay with that.

In summing up Ms Davis made the following points:-

1. That it was the first time she had seen any photographs.
2. That the rubbish littered around the property was purely down to the bin collection strike and that animals had opened the bin bags. She did say she had seen the mess on her way to the hearing today and had arranged for dustmen to clear the site at 1300 hours.
3. That they had been aware of the issues residents have raised and they have tried to address them today.
4. That the relatives of residents and people with out of date/old fashioned parking permits park on the private road also.
5. That they have been in contact with the local school to work with them and the residents to stop the nuisance occurring.
6. That the noise and smoking will be addressed; they do have ash trays in front and outside the building. West Midlands Police have recommended they remove the one out the front and then that smoking will only be permitted out in the back patio area.
7. That Ms Davis will put a sign up addressing the public and customers about being respectful to our neighbours and residents.

8. That she will instruct the cleaners to clean the outside of the premises at 0900 hours.
9. That she will be happy to have a noise limiter.
10. That she does not want to cause any issues.
11. That the only reason noise could be heard after 2300 hours was due to the TENs events.
12. That the arts theatre had also had events running on till early morning with the fire doors wide open, therefore they get blamed when it had not always been them.
13. That they will control litter, noise and regulate music.
14. That the concerns regarding the mother and toddler groups would be addressed, she would look into this further. She would only allow them on the premises if she was able to meet the requirements. If it ever become an issue or was an issue she would not continue with it.
15. That the smoking area is licence for drinking till 2300 hours.

At 1134 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1228 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

04/150817 **RESOLVED:-**

That the application by Emma Davis for a premises licence in respect of Sutton Sports and Social, South Parade, Sutton Coldfield, B72 1QU

BE GRANTED

All those matters detailed in the operating schedule put forward by the applicant following advice from West Midlands Police, and the relevant mandatory conditions under the Licensing Act 2003, will form part of the licence issued, together with the following additional condition:

- The applicant will seek advice from the Environmental Health Department of Birmingham City Council regarding the volume level of the music played at the premises, in order that the emanation of noise audible outside the premises is at a level considered satisfactory by the Environmental Health Department

The Sub Committee considered the operating schedule put forward by the applicant and the likely impact of the application, including the proffered conditions (which had been drafted by the applicant following discussions with West Midlands Police), and concluded that by granting the application the four Licensing Objectives contained in the Act will be properly promoted.

The Sub-Committee was reassured by the applicant's confirmation that she will carefully consider child safeguarding requirements before allowing any events specifically intended for children (such as Mother & Toddler Group meetings) to take place. This will ensure that the licensing objective of protecting children from harm will be promoted.

Members carefully considered the representations made by other persons, who were local residents, but were not convinced that there was an evidential and causal link between the issues raised and the effect on the Licensing Objectives. Much of the residents' submissions concerned the use of a road which was owned by the objectors. Residents felt that patrons and staff of the premises were parking there; photographs of the same were shown to the Sub-Committee. Yet it was the objectors themselves who owned the road, and who were therefore in a position to take action regarding the issue. It was not the function of the Sub-Committee to regulate use of a private road for the owner of that road.

The objectors also mentioned litter and refuse in the vicinity, which they felt was caused by the premises. However from the photographs it appeared that this had been caused by birds or animals tearing open refuse sacks. In addition the ongoing dispute regarding refuse collection in Birmingham was known to be affecting many parts of the city in the way shown in the photographs. The applicant stated that she had observed the refuse in the photographs on the morning of the hearing, and had arranged for dustmen to clear it by 1300 hours that day.

The objectors' further submissions related to noise late at night. However on a recent occasion the applicant herself had been disturbed by loud music late at night, emanating from other licensed premises in the vicinity, due to the fire doors at that premises being left (as she described it) 'wide open'. This had occurred whilst the applicant was closing her own premises after the end of the night, namely at 0100 hours. It was therefore not accepted that the loud music nuisance reported by the objectors was definitely caused by the applicant's premises.

The other noise problem raised by the objectors was said to be caused by patrons of the premises - for example, the noise of conversations whilst patrons were smoking outside the front door of

the premises. The applicant stated that this problem would be controlled via the conditions that had been approved by West Midlands Police.

When making their determination the Sub-Committee noted in particular that the Police had not objected to the application. They also considered that whilst the local residents who had addressed the Sub-Committee had spoken of their apprehensions, the grant of a premises licence with conditions approved by Police in fact greatly reduced the risk of nuisance, and would ensure that the premises were carefully managed in a manner considerate to those local residents.

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 applicant and those accompanying her, 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.

05/150817

OTHER URGENT BUSINESS

There were no matters of urgent business.
