

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 2 MARCH 2020

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 2 MARCH 2020, IN ELLEN PINSENT ROOM, COUNCIL HOUSE, BIRMINGHAM, B1 1BB

PRESENT: - Councillor Philip Davis in the Chair;

Councillors Mary Locke and Neil Eustace.

ALSO PRESENT

Shaid Yasser – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

NOTICE OF RECORDING

1/020320 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/020320 DECLARATION OF INTERESTS

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/020320 Apologies were submitted on behalf of Councillor Bob Beauchamp and Councillor Neil Eustace was the nominee Member.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – PEPPERS CITY
TAKEOUT, 161 LOZELLS ROAD, LOZELLS, BIRMINGHAM, B19 2TP**

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

Mohammed Shahbaz – applicant

Those making representations

No one making representations attended the meeting.

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The Chairman outlined the procedure to be followed during the meeting and enquired as to whether there were any preliminary points. None of the parties had any preliminary points to make.

Shaid Yasser, Licensing Section, outlined the report and advised that the only representation for consideration by the Committee was that detailed at Appendix 4, all the other representations had been withdrawn.

Mohammed Shahbaz made the following points and answered Members' questions as follows: -

- a) That the restaurant needed to be open until 12 midnight/1am otherwise it would not work.
- b) Due to the nature of the business they needed to open until 12 midnight/1am/2am especially on weekends. Other places were open until 3am in the area.
- c) The rubbish bins would be monitored however the complaint about the bins was due to the rubbish not being collected on time.
- d) There had been no issues with noise.
- e) The parking was on the main road and he did not think the area was particularly busy so didn't see any issues with noise occurring.
- f) The bins were provided by a waste collection company.

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- g) He had a meeting with some of the objectors and most of them were happy now.
- h) He wanted to work with the community.
- i) The nearby premises was a travel agency and a shop.
- j) He did not recall there being any houses on Lozells Road.
- k) He had agreed to curtail the proposed hours to 1am Monday – Sunday.

At 1034 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1056 the meeting was reconvened and all parties were invited to re-join the meeting and decision of the Sub-Committee was announced as follows:-

4/020320

RESOLVED:-

That the application by SSRN Supplies Ltd for a premises licence in respect of Peppers City Takeout, 161 Lozells Road, Lozells, Birmingham, B19 2TP **BE GRANTED**, with

- the opening hours to be 12 noon to 01.00 hours daily, and
- the provision of late night refreshment, to operate indoors and outdoors, to be from 23.00 hours to 01.00 hours daily

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 advance of the meeting, the applicant had discussed the matter with some of the objectors, and upon hearing that the applicant was willing to voluntarily alter the end time for operation to 01.00 hours daily (not 02.00 hours daily, as originally requested), those objectors had withdrawn their representations. The only objection before the Sub-Committee was therefore that at Appendix 4 of the Report.

Members carefully considered the written representations made by another person (shown at Appendix 4 in the Report), but were not convinced that there was an evidential and causal link between the issues raised and the effect on the licensing objectives.

The Sub-Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, and concluded that by granting this application, the four licensing objectives contained in the Act will be properly promoted. The applicant was able to give satisfactory answers to Member questions relating to refuse collection, litter, noise, and the local area in terms of the proximity of residential properties.

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 representation received at Appendix 4, and the submissions made at the hearing by the applicant.

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.

GAMBLING ACT 2005 VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT – RAVEN, HODGE HILL ROAD, STECHFORD, BIRMINGHAM, B34 6DR

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

George Domleo – Solicitor – Flint Bishop
Jacqueline Frow – Manager, Star Pubs Limited
Nigel Swan – Director, Star Pubs Limited.

Those making representations

Sharon Watts – Licensing Enforcement Officer (LEO)

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The Chairman outlined the procedure to be followed during the meeting and enquired as to whether there were any preliminary points. At which stage Sharon Watts, LEO informed the Committee that she wished to withdraw her representation.

Shaid Yasser, Licensing Section, outlined the report.

Sharon Watts LEO explained her reasons for withdrawing her representation namely that the circumstances had changed after additional measures had been put in place by the applicant, a test purchase was carried out and successfully passed, further training had been done, and the machines now had additional

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signage on them or near them, therefore she was satisfied the additional machine would not cause any concern.

Mr Domleo on behalf of the applicant was then invited to make submissions, at which stage he made the following points: -

- a) That the DPS was unable to attend due to health reasons.
- b) That Star Pubs Limited was a tenanted pub for Heineken. There were approx. 2000 Heineken pubs some with Gaming Machines and 51 of those 2000 sites have licences for a minimum of 3 gaming machines.
- c) The pub has had a licence since 2009.
- d) Mr Domleo went through the additional conditions which were detailed within the application.
- e) The premises had no previous or current issues and there was no evidence that the additional gaming machine would be a problem or jeopardise the licensing objectives.
- f) The premises already operated a Challenge 25 policy and notices of that policy appeared on screen throughout the premises.
- g) The premises was ran under a 'Ad Talent Model' and Mr Domleo explained that model, to summarise that it was a model whereby the ownness was on a central delivery, delivered locally meaning that the premises would set up their own prices and run the premises as they wished to.
- h) The reason for the application was due to customer demand.
- i) The machines were monitored by staff and the premises operated a hands-on approach.

Both parties were invited to make a closing submission, but neither of them had anything further to add.

At 1135 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1154 the meeting was reconvened and all parties were invited to re-join the meeting and decision of the Sub-Committee was announced as follows:-

5/020320

RESOLVED:-

That the application by Star Pubs and Bars Limited for the variation of a Licensed Premises Gaming Machine Permit in respect of Raven, Hodge Hill Road, Stechford, Birmingham B34 6DR **BE GRANTED.**

The Sub-Committee deliberated the application for variation, including supplementary documents, put forward by the applicant, and considered the likely impact of the application. The Members noted in particular that the representations made by Licensing Enforcement had been withdrawn; Licensing Enforcement attended the meeting to confirm that they no longer objected.

The reason for the application had been due to the level of customer demand for an additional machine at The Raven. The legal representative for The Raven assured the Sub-Committee that premises was mindful of its responsibilities, and in any event was closely supervised by the Area Manager of Star Pubs and Bars Limited. Close attention was paid to staff training. The Sub-Committee therefore concluded that in granting this application, the three licensing objectives contained in the Act will be properly promoted.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, the application for variation of a Licensed Premises Gaming Machine Permit, and the submissions made at the hearing by the applicant company and its solicitor.

All parties are reminded that under the provisions contained within Schedule 13 to the Gambling Act 2005, the applicant has 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.

**JAM ROCK, 32 NEW JOHN STREET WEST, BIRMINGHAM, B19 3NB –
LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION
ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES
LICENCE: CONSIDERATION OF INTERIM STEPS.**

A certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, an application for Review of Licence, a copy of Premises Licence and Location maps were submitted:-

(See document No. 1)

On Behalf of the Applicant

PC Abdool Rohomon – West Midlands Police (WMP)

On behalf of the Premises Licence Holder

No one attended on behalf of the premises.

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The Chairman introduced the Members and officers present and prior to the commencement of proceedings the Chairman asked if there were any preliminary points. However, no preliminary points were raised.

The main points of the report were outlined by Shaid Yasser, Licensing Section and he also advised the Committee that he had received an email from the Premises Licence Holder (PLH) legal representative who had notified the Licensing Section that they would not be attending the meeting.

PC Rohomon on behalf of WMP, made the following points:-

1. That Jam Rock was situated in an industrial area of Birmingham.
2. WMP received a 999 call from a hospital in Dudley, a male had self presented with 3 stab wounds to his leg. It later transpired during a witness statement that he was in attendance at Jam Rock Sports Bar at around 5am. The premises only had a licence until 2am.
3. WMP had requested the CCTV footage from the premises, however, it was exceptionally poor quality and the actual incident could not be seen.
4. A copy of the injured persons (IP) statement included a description of an after party at Jam Rock in the early hours of the morning. The IP was initially stood by the DJ booth, however he then moved and ended up in an argument with some other individuals. Further, he then went to the back garden to smoke and was told to go to the front of the premises. Outside the front of the premises the IP then felt a punch to the face and fell to the floor where he was continually punched and kicked. He attempted to get up but was hit back down to the floor by 3 or 4 people. He got up a second time and was then hit and punched again, forcing him to the ground where he received even more punches particularly to his left leg, which turned out to be stabs with a sharp object, probably a knife.

At this stage the CCTV footage was shown in public. This footage was very short and showed the premises packed full of people in the early hours of the morning, WMP suggested there was over 200 people inside the venue. There was a DJ and it was possible to see the lack of control in the venue at that time. The CCTV was very poor quality, however, WMP had requested for additional CCTV and were awaiting the footage.

PC Rohomon continued with his submissions: -

1. That the premises were doing whatever they wanted. They did not have a licence beyond 2am, yet the venue was packed out at 5am in the morning.
2. PC Rohomon presented the security book which was described by Councillor Locke as a note pad.

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3. The premises informed WMP that two security men were on duty, however, from the CCTV footage it was impossible to easily locate them on that night. The security men were just friends of the licensee and were employed from 2am, when the premises should have been closing.
4. The PLH explanation was that he forgot to submit a TEN.
5. The PLH didn't know what the capacity of the venue was, however in PC Rohomon's submissions he suggested that due to the fire exits the capacity was about 60 people.
6. There were no searches of patrons on entry and exit.
7. That without the CCTV it was impossible to say whether it was disorder or not, but the Section 18 wounding was a serious crime which resulted in 3 stab wounds to the leg.
8. People were allowed to carry bottles all around the venue.
9. There was a clear failure of management in the premises and therefore, they were requesting suspension.

In answer to Members' questions PC Rohomon made the following points: -

1. The door seen on the CCTV only opened inwards and therefore, people had to knock to gain entry.
2. The premises was granted its licence as a restaurant/bar and yet the CCTV footage looked like a nightclub.
3. The CCTV was not satisfactory.

PC Rohomon did not wish to make a closing submission.

At 1322 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1349 the meeting was reconvened and all parties were invited to re-join the meeting and decision of the Sub-Committee was announced as follows:-

6/020320

RESOLVED:-

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Rohan McKenzie in respect of Jam Rock, 32 New John Street, Birmingham, B19 3NB this Sub-Committee determines that the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

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The Sub-Committee's reason for imposing this interim step was due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime, namely a section 18 wounding, which had come to light as outlined in the Chief Officer of Police's certificate and application. It was thought that the injured party, a patron of the premises, had received three stab wounds to the leg. The stab wounds were thought likely to have been caused by the use of a knife; however it had been observed by Police on viewing the CCTV that some patrons had been walking about in the premises whilst carrying glass bottles.

The Sub-Committee determined that the cause of the serious crime originated from a complete lack of management control on the night in question – particularly in relation to door control and security. The style of management had been incapable of upholding the licensing objectives; the Police therefore requested a suspension of the licence pending the full review hearing.

The premises had been variously described as a 'bar/ restaurant' and a 'sports bar', but upon viewing the CCTV the Members considered it to be operating akin to a nightclub-style venue. The incident was thought to have occurred at around 0500 hours, and it was therefore apparent that the premises was operating far beyond its permitted hours and in breach of its licence regarding regulated entertainment. The Sub-Committee noted that no Temporary Event Notice had been sought for any special event.

The premises licence holder, who was also the designated premises supervisor, had spoken to Police; however his comments had not inspired any confidence whatsoever in his ability to operate safely. He stated to Police that "a few people" had been in the premises having drinks - yet Police estimated the number to have been approximately 200 persons (the Police estimate of the number was borne out by what was shown on CCTV). In any event, the premises licence holder had no way of correctly assessing numbers, as clickers to check capacity had not been in use. Poor door control, as shown on the CCTV, was of great concern to the Sub-Committee, not least due to fire safety. The Police confirmed that no fire risk assessment appeared to have been done.

The premises licence holder's own description of the activity on the night in question, namely that it had been a 'birthday party' which had been booked in advance, was not accepted by Police; his comment to Police that he "forgot" to submit a Temporary Event Notice was similarly not accepted. The Sub-Committee agreed with the Police on these points. These seemed to be extraordinary statements, and not at all what would be expected from any competent operator.

The Sub-Committee was further unimpressed upon viewing some of the premises' records, which were shown by the Police during the meeting. The Incident Report Book and Security Book were not in the usual format, and in any event some of the notes made of the incident gave rise to their own questions; the Security Book, for example, stated that staff came on duty at 02.00 hours, but that was the time that the premises should have closed - if they had been operating to the terms of their licence.

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The Sub-Committee did not have the opportunity to hear submissions by, or on behalf of, the premises licence holder, as nobody representing the premises attended the meeting. However the Members were satisfied that the Police evidence amply demonstrated that the operator had shown a lack of grip which had led to a loss of control and a serious crime incident; as such, the Sub-Committee had no confidence whatsoever that the premises could operate satisfactorily.

The Sub-Committee was therefore of the opinion that the course recommended by West Midlands Police, namely a suspension of the licence, was the proper interim step pending the full review of the premises licence. It was necessary and reasonable to impose this step to address the immediate problem with the premises, in particular the likelihood of serious crime, and to promote the licensing objectives in the Act.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, and the submissions made by West Midlands Police at the hearing.

All parties are advised that the premises licence holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours.

All parties are advised that there is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

Please note, the meeting ended at 1353.

CHAIRMAN.....