

BIRMINGHAM CITY COUNCIL

**LICENSING SUB-
COMMITTEE C
WEDNESDAY, 18
SEPTEMBER, 2019**

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE A HELD ON 18 SEPTEMBER,
2019 AT 0930 HOURS, IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM, B1 1BB**

PRESENT: - Councillor Mike Leddy in the Chair.

Councillors Neil Eustace and Mary Locke.

ALSO PRESENT

Bhapinder Nandhra, Licensing Section
Parminder Bhomra, Committee Lawyer
Louisa Nisbett, Committee Manager

(5 Members of the public were in attendance)

NOTICE OF RECORDING

1/180019

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.

DECLARATION OF INTERESTS

2/180919

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

3/180919

An apology was received on behalf of Councillor Martin Straker-Welds for his inability to attend the meeting. Councillor Mary Locke attended the meeting as a nominee Member.

MINUTES

- 4/180919 The public section of the Minutes of the meetings on 7 August and 28 August, 2019, having been previously circulated were confirmed and signed by the Chairman.

**LICENSING ACT 2003 PREMISES LICENCE GRANT - HATTER'S HOSTEL
BIRMINGHAM, 89-95 LIVERY STREET, BIRMINGHAM, B3 1RJ**

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

(See document no. 1)

On behalf of the Applicant

Erwin Olivera – Applicant
Angela Cutrera, Applicant
David Roberts – Eversheds Solicitor
Amy Worthington – Eversheds Solicitor's

Those Making Representations

Steve Blundell
Adrian Curtis representing Graham Nicholl
Graham Nicholl – Director Queens Court Manor
Dr Dan Shepherd

Following introductions by the Chairman, the main points of the report were outlined by Bhapinder Nandhra, Licensing Section. It was noted that the representations made by Environmental Health had been withdrawn following agreed conditions with the applicant. Copies had been sent to all parties prior to the meeting.

Following no objections being made by any of the objectors David Roberts gave out copies of the following documents to all parties:-

- Coloured brochure
- Larger coloured copy of the plans
- Some additional photographs
- Copies of the menu

David Roberts made the following points in support of the application and in response to questions from Members:-

1. Hatter's Hostel Birmingham had been acquired by Selina Group in March this year. Selina is a UK Company. They were a bespoke unique brand with 43 hotels across the world including in Manchester and Liverpool.

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2. This would be a quality investment and their developments were ongoing. They were looking at major locations eg South Coast, Cornwall.
3. Their intention was to offer 26 individual rooms including standard, suites and multiple occupation. Flexible accommodation will be offered.
4. Other operations include facilities to local communities such as a daytime café, coffee bar, co-working space and provision of well being.
5. The location was ideal however the premises had been acquired without a licence. There were facilities for a restaurant in the basement and a bar in another area. Significant investment had been made in the building which was 2 buildings amalgamated to the sum of £1.5 to £2 million.
6. The original application was by Hatter's Hostel and the plans were re-considered by the applicant as not being suitable for the premises.
7. The amended plans had been agreed with Environmental Health. There would be a multi use area in the lobby, reception desk, coffee bar and daytime bar area. The capacity for the car park was approximately 55 at the most.
8. As an application for a hotel they were conscious of the noise and live entertainment would be acoustic music eg guitar or a keyboard.
9. It was reiterated that there would be no provision for a nightclub in the basement. The premises will be a restaurant. Staff had been employed to work in the kitchen. The menu was substantial. Last orders would be 10pm and the mornings would focus on breakfasts.
10. With regard to concerns by residents use by non-residents for licensable activities would be from 11am to 12pm.
11. This was a good quality offering. Selina had key values with regards it's operations and must work with those around it. They would work with local residents and the local community in terms of its operation.
12. It was already an established practice by Selina to give 48 hours per full time staff to charity in the area.
13. They were looking at a different market and clientele to Hatter's Hostel. The room rates were not budget level. Rates stated at £25 up to £200 per room per night. There would be a wider market in terms of clientele.
14. David Roberts addressed some concerns regarding the external areas making reference to the site plan showing Livery Street, Queens Court, Cox Street, Metal Works and St Paul's Square. The area was divided by a 25 metre wall. There will be no consumption of alcohol in the area shown as yellow on the plan and a timed light would go off at a specific time.
15. The Central; areas were further away from Queens Court. There will be no access to the back areas and they will be controlled and monitored.

16. There will be controlled smoking areas. CCTV throughout the premises accessible from mobile devices by staff and checked every hour. There was no provision for licensable activities in the outside area.
17. Arrangements had been agreed with a taxi firm to stop at the far end of the premises and switch off their engines on arrival.
18. Sale of alcohol to residents was 24 hours. This gave residents the flexibility to take alcohol to their rooms. Sale would be strictly controlled and ID or a room key was required before the sale.
19. From the positive conversation with Environmental Health, glass bottles would not be put out after the agreed time and the collecting firm will collect them between 10am to 12 midday.
20. The applicant had invested heavily in the premises and once the premises were re-opened residents would see the benefits. There was no evidence to suggest otherwise.
21. 25 staff will be employed. The applicant had a good track record and had worked at the Marriott. He had been kept on by Selina having worked at Hatter's Hostel previously. This was a boutique hotel.
22. They had met with residents when the previous application had been made and would continue to build relationships with residents going forward.
23. In response to a question the training of staff had started on Monday and included Induction, Communities and focussed on conflict management. There was a dedicated first aider, fire wardens/marshalls online courses which would be regularly updated. Health and Safety training was ongoing.
24. The multiple occupancy rooms will be carefully designed.
25. The application was in the name of Hatter's Hostel owing to timelines. A formal application will be made to change this to Selina Birmingham.
26. The intention is not to hire the premises out. The use of the basement as a late night venue had been discussed with the police when the original application had been made however it was not considered to be appropriate.
27. The clientele will be 25 – 40 year olds. The bar will also be open to residents. Residents could be assured that this will be carefully managed to ensure that residents of the premises and nearby residents are not disturbed by noise nuisance. They acknowledged that there had been problems previously however this was when Hatter's Hostel was managed by a different operator.

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

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1. He was an occupant of Kings Court and lived closest to Selina Hotel. With regard to noise leakage and disturbance on Livery Street itself there was only so much that could be done. If people were ejected from the premises they will be ejected onto Livery Street and would add to the noise. He had spent £3,000 on sound insulation in his bedroom owing to the noise and if granted he would need to consider insulation for the rest of the property.
2. He did not feel that Selina Hotel could police the conduct of the agreed taxi firm on a nightly basis.
3. He was concerned that people would cause a disturbance when they left the premises at 1130pm weekdays and 1230am weekends also there would be an issue with noise when they returned to the Hotel. He had not personally experienced noise disturbance from the Chinese Restaurant that was close by.

In making representations against the application Steve Blundell, resident on the corner of Livery and Cox Street made the following points with regards to the application and in response to questions from Members:-

1. Residents included families, school children and professionals. Noise bounced off the railway wall all along the street.
2. The sale of alcohol by the premises will lead to people being disruptive. He had raised his objections with the previous occupants. With reference to the charge for the rooms, the social group people belonged to did not affect how much they caused a disturbance.
3. He wanted to protect residents from unnecessary excessive noise and they wanted the peace and quiet to remain as it had during the building works.
4. There had been significant disturbance from both people and vehicles. He could not be certain that the group causing the disturbance came from Henry's restaurant as they could come from elsewhere.
5. He had taken up the opportunity to engage with Selina's and had raised significant issues, however a second application had been submitted. The previous applicants had been friendly and accommodating only to begin with so he was wary by that experience. He would be a bit more optimistic if there were significant restrictions on non residents and was given substantial reassurance that the noise would be contained.

In making representations against the application Graham Nicholl, Director of Queens Court Management and resident together with Adrian Curtis, his legal representative made the following points with regards to the application and in response to questions from Members:-

1. Selina's clientele was 25-35 year olds. The premises would be a partying playground.
2. The intention was to have a night club otherwise it would not be part of the application.

3. Alcohol will be available to residents 24 hours. Any resident could sign in a guest. Over the last 10 years it had been hard to trust that any new owners would restrict or throw out customers to look after residents in the area.
4. Adrian Curtis added that the key point was the 24 hours element of the application.
5. Some of the building was protected which meant that the windows etc could not be changed. The pictures were beautiful however the windows could not be changed and noise will escape.
6. The recent history of the premises had led to the licence being revoked/refused. In 2011 the application had been granted and subsequently revoked.
7. A clarification of Bona Fide guests was needed. Residents could bring back anyone to the premises and the premises will have no control of them. There were 132 beds and if each resident had 1 guest each that would be 264 at the premises who could buy alcohol all night and chat outside in the courtyard next to Kings Court. It would be difficult to control people who were not a resident of Selinas.
8. They asked the Committee to consider strongly the definition of Bona Fide guests and the grant of a 24 hour licence.
9. The added conditions needed to be further enhanced. A noise monitor should be mandatory and there should be stringent control on any amplified music. Condition 6 of the added conditions needed to be reviewed limiting the time waste could be placed in containers.
10. Customers will be attracted to stay in the dormitory type rooms with alcohol being available. This would lead to one big party.
11. The first application had proposed that part of the premises be used as a nightclub. Residents were concerned that this would still happen and the venue would be a party venue. By the time a person was ejected from the premises the damage had already been done.
12. Graham Nicholl added that another aspect of the objections was the close proximity of Queens Court. The noise emanating from Hatter's Hostel travelled towards Queens Court and was excessive despite the wall being there creating a disturbance. There was also the entrance for the car park in close proximity to the bedrooms. People would be smoking whilst waiting for taxis.

There was no provision for disabled access to the premises.

13. The area was not in a accumulative impact area but this did not preclude the Committee from considering the application as such.

14. The hotel should be judged on its merits however the licence was not appropriate. There was evidence that showed that previous licences had been short lived. The aim of the premises was to serve alcohol in the rooms as there was a small bar. This particular venue in this location was not suitable for a licence even though the licence had been amended. Alcohol would be available 24 hours a day.

During the summing up in making representations against the application Adrian Curtis together with Graham Nicholl said that residents at Queens Court had enjoyed living in a quiet area for 30 years. This development will substantially alter this in terms of noise levels and disturbance from guests. Despite reassurances being given about the noise levels a noise level device with levels set by Environmental Services should be mandatory. There was little to give reassurance that the noise and disturbance would be different to how it had been previously. People congregating in the car park area made the problem worse. There should be a reduction in the hours of sale of alcohol to residents and non-residents. There were already a number of venues where alcohol was available so this licence should not be granted.

During the summing up in making representations against the application Steve Blundell said that he represented a number of people from Queens Court and despite the image Selina was trying to create, the premises were in the wrong area and would exacerbate the existing problems. The licence should be rejected.

During the summing up in making representations against the application Dr Dan Shepherd hoped the application would be rejected however if not there should be a mandatory noise limiter and reconsideration of the proposal for taxis and clarification of bona fide guests.

During his summing up on behalf of the applicant David Roberts said that his clients sympathised with the residents with regard to previous matters. They had however taken on board comments from residents in the second application. They considered that the restaurant was more viable than a night club. They had invested in the property The area had a reputation for being vibrant. He could not guarantee that people would not use their facilities. The conditions would give Selina a parameter. The restaurant in the facility will add to the viability of the premises. They were not in a position to comment on the previous owners. This application should be considered on its own merits.

Selina had brought the premises to develop a quality product in the UK. There was an element of confusion about the noise limiter as it would not control noise outside the premises. The provision of facilities on the premises would reduce the need for customers to go out. The business would need to be well managed in order for the investment to work. They were aware of their obligations towards staff such as staff training. Clarity was needed about the external areas. The best area for a smoking area was the central block. The area nearest to Queens Court would not be used after 10pm and conditions would apply. The premises would provide a good facility in the Jewellery Quarter area. The investment would add to the area. They were happy to meet residents and hoped that in 12 month's

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time they would be impressed with the premises. The Sub-Committee is asked to grant the licence on the basis of the application submitted together with conditions agreed with Environmental Health

At 1140 hours the Chairman requested all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

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

5/180919

RESOLVED:-

That the application by Hatter's Hostel Limited for a premises licence in respect of **Hatter's Hostel Limited, 89-95 Livery Street, Birmingham, B3 1RJ.**

BE GRANTED SUBJECT TO THE ATTACHED, FOLLOWING AGREED CONDITIONS WITH ENVIRONMENTAL HEALTH EXCEPT FOR CONDITION 6 to promote the prevention of crime and disorder and the prevention of public nuisance objectives in the Act:

A.	Sale of Alcohol	The hours for the supply of alcohol for consumption both on and off the premises shall apply as follows: For non-residents (other than bona fide guests of residents) 10:00am -11:00pm (Sunday to Thursday), 10:00am - 12:00midnight (Friday and Saturday).
B.	Regulated entertainment	The hours for the provision of regulated entertainment (films, live music, recorded music, performances of dance and anything of a similar description) to operate indoors only, from: 10:00am until 11:00pm (Sunday to Thursday) 10:00 until 12:00midnight (Friday and Saturday)
C.	Late night refreshment	The hours for the provision of late-night refreshment to operate indoors only, shall apply as follows: 11:00pm until 12:00midnight (Friday and Saturday).
D.	Opening hours	The premises to remain open to the public as follows: 24 hours (Monday to Sunday) Non-residents (other than bona fide guests of residents) shall be required to leave the premises by 11:30pm (Sunday to Thursday) and 12:30am (Friday and Saturday).

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E.	Modified agreed condition 6	No waste or recyclable material, including bottles, shall be placed in containers in areas outside the premises building between the hours of 22:00 and 10:00am.
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The Sub-Committee's reasons for the grant are due to the submissions made by the applicant's legal representative regarding the proposed operation of the business to be managed by the applicant.

Members were provided with a precis of the applicant. An international group of Selina Hotels which had entered the UK market recently acquired Hatters Hostel. The nature of the proposed business included both hostel-like lodging and private hotel rooms, with a bar and restaurant facility for residents and non-residents alike whilst providing both co-working spaces, and relaxation and wellbeing.

The applicant's legal representative disclosed an investment of £1.5million to redevelop the premises to provide a boutique hotel called Selina Birmingham. The applicant aimed to have a positive impact on the local community around the premises location and had done so by engaging with local residents prior to the hearing. Moreover, the applicant agreed conditions with Environmental Health Authority prior to the hearing as set out in the report to control the risk of public nuisance.

In addressing the concerns of residents living near to the premises the legal representative explained the applicant is a food led destination with a carefully managed cocktail bar. Members were referred to the revised ground floor and basement plans including the external courtyard with licensing restrictions. The legal representative demonstrated how the applicant intends to manage additional members of the public (not hotel residents and their bona fide guests) within and immediately outside premises.

Members also heard from various local objectors and their representatives raising their concerns in connection with the application. It was noted, representations were received from a significant number of residents. The theme of their concerns focused on disturbances and noise nuisance occurring on Livery Street as a result of patrons leaving the premises, and from within the external courtyard of the premises late at night. There was also concerns relating to the sound attenuation of the building fabric.

The Sub Committee recognised these concerns were based on the resident's previous experiences of Hatter's Hostel when it was managed by a different operator. Members accepted there was history associated with the previous business model of the hostel which differed significantly to that of Selina Birmingham.

Members accepted all the points made but were mindful that the Sub-Committee is bound to consider the application on its merits that can only be reasonably restricted where evidence shows there is a risk presented to one or more of the licensing objectives.

The Sub-Committee was reassured to hear the detail in relation to the nature of the proposed premises and the fact that the applicant would be very much

concerned to ensure that their own residents as well as nearby residents are not disturbed by noise nuisance at sensitive times. Accordingly, the Sub-Committee assessed the risk in this instance as being relatively low. This assessment was aided by the agreed conditions with one amendment offered during the hearing.

Additionally, it was reassuring to hear that the applicant has engaged with residents and is willing to address their concerns when they arise. Whilst Members, acknowledged that the local residents might wish to achieve a complete ban on any audible noise emanating from the premises and it's patrons, the Sub Committee was not satisfied that effectively, a refusal would be practical nor appropriate at this time given that Selina Birmingham could still operate without a license. The Sub-Committee is not convinced that the operation of the premises will materially affect the behavior of it's residents and non-residents and even if it did this, especially away from the premises onto Livery Street it could be too remote for the Sub-Committee to take into account.

Residents can be reassured that there is a power to instigate a review in the event the licensable activities at the premises do lead to issues undermining the licensing objectives.

The sub committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance arising from the proposed operation of the premises.

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 information in the application, the written representations received and the submissions made at the hearing by the applicant their legal 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.

**LICENSING ACT 2003 PREMISES LICENCE – VARIATION SHELL
HARBORNE, 295 HARBORNE LANE, HARBORNE, BIRMINGHAM, B17 0NT**

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

(See document No. 2)

The following persons attended the meeting.

On behalf of the applicant

Leo Charalambides – Barrister representing Shell
Corrigan Lockett, Lockett & Co - Agent

Those making representations

No representatives were present.

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

The following points were made on behalf of the applicant and in response to questions from Members:-

1. This was a well established premises and had operated over 28 years with a good reputation. Since 2005 there had been no single review of a Shell Petrol Station.
2. The petrol station already opened 24 hours and the fears of any people objecting had not materialised. This was a well-established premise in the area that was already open 24 hours selling age restricted products and late night refreshments
3. With regard to complaints about alcohol and cans in the car park, if this had been the case it would have been captured on CCTV. Representations had been made because of fears but they did not reflect the facts.
4. The Sub-Committee was requested to grant the variation of licence.
5. The boundary to the rear of the existing site was a mixture of fencing, shops, residential properties and it was covered by CCTV.
6. As a business regular checks of incidents etc had been made. Any incidents would be logged and if there were any issues they would know.
7. Each month the general manager checked the vigilances, refusals and test purchases carried out by external parties.
8. Sale of alcohol after hours was through a hatch which staff were secured behind. They called the police if there were any issues.
9. There were no single can sales.

In summing up the Sub-Committee were urged to grant the variation of licence. Shell was a responsible operator nationally in terms of products already on sale for the benefit of the local area. A licence for 24 hours would make them more useful.

At 1242 hours the Chairman requested all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

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After an adjournment and at 1250 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

5/180919

RESOLVED:-

That the application by **Shell UK Oil Products Limited to vary the premises licence in respect of Shell Harborne, 295 Harborne Lane, Birmingham, B17 0NT** under section 34 of the Licensing Act 2003

BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS with immediate effect.		
F.	Modification of hours for the sale of Alcohol	The extension of hours for the sale of alcohol (for consumption off the premises) shall apply as follows: Monday to Sunday - 24hours
G.	Opening hours	The premises to remain open to the public as follows: Monday to Sunday – 24hours

With the exception of the following existing conditions which are removed

H.	a. Conditions listed under Annex3a of the premises licence number 4216/5.
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The Sub-Committee's reasons for granting the variation are due to the submissions made by the applicant's agent and barrister at the hearing which the objector was absent from.

The barrister addressed the Sub Committee on behalf of the applicant. He explained Shell petrol station was a well-established premise in the area that was already open 24hours selling age restricted products, late night refreshments from 11pm until 5am, and alcohol from 6am – 11pm. It was also mentioned that since the Licensing Act came into force there had been no review of Shell petrol stations anywhere across the country.

With reference to the written representation from an objector, the barrister considered the issues described did not reflect the experience of the premises. The applicant's agent confirmed he could not see any anti-social behaviour on site having viewed the premises CCTV. It was noted, the CCTV covered the entire petrol station.

Both representatives for the applicant in response to member questions stated the national operator undertook due diligence checks on a regular basis in accordance with systems in place that were robust. The operator did not sell

single cans only expensive alcohol that a customer would purchase. They also added staff welfare was protected. The premises doors closed at 11pm and re-opened at 5am except for sales through a night hatch. Members were informed there is total control and there is a policy of calling the police.

In weighing up the written representations of the objector, members noted the resident's comment of customers smoking cannabis and drinking alcohol in the car park at night was vague as there was no time line or detail provided for scrutiny. It was not clear if the individuals in questions were indeed customers of the petrol station and whether the alcohol being consumed was purchased from the station or elsewhere. Members could not be certain that the activities as described by the objector arose in connection from the premises or would be associated with the premises on the grant of a variation.

Members were of the view, representatives on behalf of the applicant had satisfactorily addressed the issues raised and did not find that there was evidence of significance public nuisance or risk to crime and disorder, arising from the proposed operation of the premises.

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 information in the application, the written and oral representations made at the hearing by the applicant's barrister, and agent.

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.

OTHER URGENT BUSINESS

6/180919 There was no other urgent business.

EXCLUSION OF THE PUBLIC

7/180919 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:-

Exempt Paragraph 3.