

BIRMINGHAM CITY COUNCIL

**LICENSING SUB-
COMMITTEE C
WEDNESDAY, 6
NOVEMBER 2019**

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE C HELD ON 6 NOVEMBER 2019
AT 0930 HOURS, IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM, B1 1BB**

PRESENT: - Councillor Mike Leddy in the Chair.

Councillors Martin Straker-Welds and Neil Eustace.

ALSO PRESENT

Shaid Yasser, Licensing Section
Sanjeev Bhopal, Committee Lawyer
Marie Reynolds, Committee Manager

NOTICE OF RECORDING

1/061119

The Chairman to 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

2/061119

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

MINUTES

3/061119

The public section of the Minutes of the meetings on 9 October 2019, having been previously circulated were confirmed and signed by the Chairman.

**LICENSING ACT 2003 PREMISES LICENCE – VARIATION MOREISH, 337-339
SOHO ROAD, HANDSWORTH, BIRMINGHAM, B21 9SD**

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

(See document no. 1)

On behalf of the Applicant

Rob Edge	– Licensing Agent
Ransford Gordon	– Applicant
Lloyd Spence	– Business Partner

Those Making Representations

PC Abdool Rohomon	– West Midlands Police
Martin Key	– Environmental Health
Councillor Chaman Lal	– Local Ward Councillor, BCC

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

It was noted that the representation made by West Midlands Police and Environmental Health included the provision of both agreed Conditions with West Midlands Police (in the event that the application was approved) and a set of stringent Conditions which Environmental Health, Birmingham City Council would similarly ask the Committee to impose on the Licence, if the Committee were minded to approve the application.

Rob Edge, Licensing Agent, made the following points in support of the application and in response to questions from Members:

- Since the grant of the premises licence in 2013 there had been no complaints or major incidents.
- Events had been held under Temporary Event Notices and there had been no issues reported and the Licensee of the premises had liaised appropriately with West Midlands Police and the Licensing Section when these events had taken place.
- The main reason why the variation was sought to facilitate Dominos League events that take place at the venue.
- The extension of hours was also to facilitate other clubs attending the venue to practise and to support small celebration parties that could be scheduled for Thursday, Friday and Saturday (involving 'live music'), and to avoid the restriction of them having to be held under Temporary Event Notices (TENS).

- The current hours of trading, both restricted and curtailed licensable activities after the match events had taken place.
- The applicant had, during their discussions with Environmental Health, BCC agreed to submit a Noise Management Plan as part of a number of conditions agreed with them.
- The introduction of a noise limiting device at the venue should not be favoured as it was a significant cost to the applicant.
- The music system they used for these events would be relocated from the main room to the office at the rear and the DJ could not adjust the volume as it was pre-set at a certain level.
- Although the Dominoes League events concluded by 10:30 – 11:00 pm, participants and spectators discussed the match afterwards and liked to have music playing in the background.
- The applicant's Business Partner, Mr Lloyd Spence, would regularly monitor the noise levels emanating from the premises and as a result of this, would frequently patrol the external and surrounding areas to monitor noise levels.
- There had been no complaints submitted to the premises from residents regarding noise nuisance issues.

In making representations against the application:

Councillor Chaman Lal, Local Ward Councillor, made the following points with regards to the application and in response to questions from Members:

- The area had been blighted by anti-social behaviour, people inebriated and congregating in the local vicinity and causing upset to residents and the local community.
- He stated that as the venue was in a residential area, believed it was inappropriately placed.
- He believed that the opening hours should not be extended as this would be a further disturbance to residents especially those that were employed and had varied working patterns.
- He reported that there were no other venues in the area that opened late into the evening.
- He further believed that the venue attracted the 'wrong' type of people and to extend the opening hours would cause further detriment to the local area.

- He referred to the number of negative emails received due to his role as a local Ward Councillor from residents regarding the venue.
- He confirmed that he had personally witnessed people loitering in the local vicinity when driving past at various times of the day and night.
- He confirmed that the current opening hours were tolerable however an extension to the hours would be most detrimental to the local area.

Sanjeev Bhopal, Committee Lawyer, BCC, submitted questions:

Lloyd Spence made the following points in response to the questions:

- The licensed premises were a member of 'BID' and paid the subscription.
- When ambassadors of BID visited there had been no issues.
- Patrons visiting the venue were not allowed to take drinks outside and not to loiter outside.
- A smoke shed had been built outside in order that patrons used the facility rather than smoke outside the venue. The facility had been constructed approximately 3 weeks ago.

In making representations against the application PC Abdool Rohomon, West Midlands Police made the following points regarding the application and in response to questions from Members:

- When the application had been received there had been no pre-consultation with West Midlands Police to consider the application and was therefore very surprised when it was submitted.
- There was concern as to whether the applicant had agreed to formally accept all the proposed conditions as sought.
- The Temporary Event Notices previously submitted by the applicant had not been for Domino League events.
- No applications for Temporary events had been submitted in the last 12 months for anything other than sale of alcohol and late-night refreshment.
- The location of the venue generally, was considered by the applicant's advisor 'slightly challenging', this was not the case, as the Police considered the area difficult and a 'high impact' area to police.
- There was concern raised by the Police that given the stringent conditions put forward by them which were additional to the conditions imposed by a Licensing Sub-Committee at a previous Hearing, believed, that the applicant should have given greater thought to the current application,

especially, as the area was difficult to police, which may then have alleviated police concerns, however, this was not the case.

- There was concern and doubt as to the applicant's ability to comply with the conditions and to fully understand what was required.
- There was concern as to whether the applicant was complying with the current licence conditions relating to the use of SIA approved door staff at the venue and was therefore going to investigate in due course.
- When (TENS) events had taken place there had still been a need for some police intervention.
- When premises extended their opening hours, the police witnessed a massive sea change with people visiting premises later rather than earlier in the evening which was a potential higher risk for the police to manage.
- As the domino League events finished by 1030-1100 pm was unable to understand the need for an extension of hours thus reducing the risk for the police.

In making representations against the application Mr Martin Key, Environmental Health, made the following points regarding the application and in response to questions from Members:

- He referred to the building premises and the unsuitability to undertake the type of licensable activities that were being requested, as it had been a former Bank and was totally unsuitable.
- He referred to the location of the premises which was within a residential area and the impact that this would have on residents if the extension of hours was granted.
- He referred to the conditions that were in place now and stated that there should have been the submission to the department for an extraction ventilation system for the premises which had never been received.
- He referred to the smoke shed and stated that there had been no permission granted for that. The concern that it had been erected very close to other residential properties and the impact of noise and associated odour as a result of the new smoking designated area which all needed to be investigated.
- He referred to the general anti-social behaviour that the late-night events attracted and the groups congregating outside during the early hours of the morning.
- He referred to the noise aspect and that if the application for extended hours was granted, noise limiting devices were not expensive as had been suggested.

- He highlighted that the premises were not adequately sound proofed for 'live' music and was of very poor design with no insulation.
- It was noted that the music that was likely to cause noise nuisance was background or ambient music which was to be played.
- Noise nuisance would be caused by patrons leaving the premises by taxi vehicles or being picked up in private vehicles as there was no parking provision outside of these premises.

During the summing up in making representation against the application, Martin Key, Environmental Health, expressed concern as to whether the licence holder had discharged the condition attached to planning permission regarding an extraction system, the lack of operational control for the venue, the noise and associated odour and was unsure if the designated smoke shed was compliant with health activities.

During the summing up in making representation against the application, PC Abdool Rohomon, West Midlands Police, referred to extension of hours and the greater risk to the police, the venue being used for birthday celebrations when Domino League events were not taking place. Domino League events finished by 1030-1100 pm and believed the necessity to extend the hours was unnecessary. He further referred to the two breaches of the licence conditions by the applicant and the breakdown of trust and had no confidence whatsoever that if the application was granted that the conditions imposed would be fully complied by the applicant.

During the summing up in making representation supporting the application, Rob Edge, Licensing Agent and Ransford Gordon, Applicant, believed that some of the faults that had been highlighted during the hearing were as a result of naivety and lack of knowledge which they were more than willing to address. It was highlighted that they worked well with 'The Bid' and were mindful that they were located in a residential area and the premises was situated very close to other residential properties and therefore, very aware of ensuring that there was not cause for complaint with regard to noise nuisance. It was further highlighted that while the Domino League events finished by 1030-1100 the extension of hours (from 4am to 2 am) would be to allow the teams to partake in refreshments and unwind. Further attention was drawn to the music system and that they had already complied with not having sound speakers outside of the property and regarding the parking issue, as they had a parking contract with Lidl Supermarket, coaches attending the event could use their car park. It was highlighted that they were content to comply with the conditions that were in place at present and would not change their business opening hours until the extension of hours had progressed through the appropriate Planning Department procedures.

At 1105 hours the Chairman requested all present except for the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1150 after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:

4/061119

RESOLVED:-

That the application by Mr Ransford Gordon of Moreish, 337-339 Soho Road, Handsworth, Birmingham to vary the premises licence in respect of 337-339 Soho Road, Handsworth, Birmingham, B1 1DA, under section 34 of the Licensing Act 2003 **BE REFUSED**.

The Sub-Committee had regard to the representations made by the Premises Licence, his business partner and their Licensing Consultant in support of the application, which included the provision of both agreed Conditions with West Midlands Police (in the event that the application was approved) and a set of very stringent Conditions which Environmental Health, of Birmingham City Council would similarly ask the Committee to impose on the Licence, if the Committee were minded to approve the application.

The Sub-Committee had also considered the representations put forward by a local ward Councillor against the grant of the variation application on the ground of public nuisance to local residents in an area which according to the Councillor had been blighted by anti-social behaviour. To grant the variation in the terms sought, would in the Councillor's view, contribute to both crime and disorder and public nuisance within the area.

At the start of his submissions, the premises licence holder's licensing consultant had informed the Sub-Committee that since the grant of the premises licence in 2013, the premises had experienced no "major incidents or complaints" and events held under Temporary Event Notices had similarly been carried out without issue.

This was supplemented by representations that West Midlands Police had agreed conditions with the applicant which would address their concerns over the prevention of crime and disorder and promotion of public safety objectives within the Licensing Act 2003, which included a power of veto, if West Midlands Police felt that any event at the premises would compromise the licensing objectives.

The Sub-Committee were informed that the main reason why the variation was sought was to facilitate Dominos League events which took place at the venue. The current hours of trading, both restricted and curtailed licensable activities after match events had taken place.

The Sub-Committee were informed that the applicant had, as part of their discussions with Environmental Health, Birmingham City Council agreed to submit a Noise Management Plan as part of a raft of conditions agreed with them. However, the Sub Committee were informed that imposition of a noise limiting device at the premises should be resisted because it would be a significant cost to the applicant and referred to the Sub Committee guidance issued under Section 182 Licensing Act 2003 in this regard (paragraph 2.17). The Sub Committee were informed that Mr Spence, the applicant's business partner, was quite used to monitoring noise levels emanating from the premises and would frequently patrol the external and surrounding areas to monitor noise seepage. If, the premises were responsible for noise nuisance, he could control this from within the

management office at the premises, to reduce this or stop this altogether. Added to this, the Sub Committee were informed that no residents had formally complained to the premises about noise nuisance issues.

The Sub Committee then received representations from the local Councillor who was of the view that the area had been blighted by anti-social behaviour, crime and disorder and public nuisance. It was in his view "...the wrong venue, in the wrong place, and wrong to extend the hours.." He referenced the location of premises to nearby residents some of whom varied working patterns and the impact this would have on the residents if the application was granted. When asked how many had actually complained, the Councillor referenced emails he had received in his capacity as a local ward member. In his summation, the Councillor said he was prepared to give the applicant's the benefit of doubt to see how they got on but ultimately, did not believe the application as sought should be granted.

The Sub Committee then heard from West Midlands Police in support of their representations and stated that none of the Temporary Event Notices the applicants had previously submitted were for Domino League events and no applications for Temporary Events had been submitted in the last 12 months for anything other than sale of alcohol and late night refreshment. They were firmly of the view that the location of the premises generally, was not "slightly challenging" as suggested by the applicant's advisor but was instead a "very difficult area" to police. West Midlands Police felt that the applicant could have undertaken more meaningful consultation with them prior to submitting the variation application referencing the ambiguity over whether the applicant had in fact agreed to formally accept all the proposed conditions as sought.

The conditions being put forward by West Midlands Police were very rigid, in that the extended hours of trading to 0400 hours (Thursdays to Saturday) would only be permitted for "...the playing of Dominoes in an organised Domino League. Domino competitions must be played through these hours, with the sale of alcohol and regulated entertainment being ancillary for the usage of the premises." These conditions were in addition to those conditions imposed by a licensing Sub Committee after a Hearing. West Midlands Police therefore felt that more thought should have gone into the current application, acknowledging that the premises were in a difficult area to police, with proposed conditions which might alleviate their concerns. Put simply this did not occur on this occasion, as a result of which the police expressed significant doubt over the applicant's ability to properly promote the licensing objectives.

During the course of the police's representations, reference was made to the use of SIA approved door staff at the venue and whether the applicant was currently complying with the relevant condition on the premises licence. Following clarification by the applicant's consultant, the Sub Committee were satisfied, on balance, that applicant was adhering to this condition. However, the police continued to express their doubt over of the applicant's ability to comply with the conditions and trust them to do so.

The Sub-Committee then heard representations from Environmental Health of Birmingham City Council who were of the view that the premises, being a former

Bank, were entirely unsuitable to undertake the type of licensable activities sought for the durations requested and that the application should be refused. The restriction imposed on the premises in terms of planning consent meant that any decision of the Sub Committee to grant the application would be subject to a further application for planning permission to remove the current terminal hour of 2330 hours. This was imposed at the time due to concerns over the impact on the residential amenity particularly around noise and odour. Environmental Health maintained that it could be cost effective to install a noise limiting device (in the event that the Committee were minded to grant the application), and that modern devices are not prohibitively expensive as suggested. The premises do not benefit from glazing, or any attenuation devices and was not suitable for live music. The music which was unlikely to cause noise nuisance was background or ambient music.

As part of their submissions, Environmental Health also referred to two breaches of the Licensing Act 2003, which had resulted in the applicant being issued with a simple caution in September 2018 by the Council's Licensing and Enforcement department. They therefore disputed the assertion that the premises had not had any "major issues" since the licence was granted in 2013. They also expressed doubt over whether the licence holder had discharged the condition attached to planning permission in respect of an extraction system, lack of operational control for the venue, the noise and associated odour from the new smoking area at the premises.

Although, in summing up the licence holder's consultant had sought to curtail the hours of licensable activities from 0400 hours to 0200 hours Thursday to Saturday, this was not sufficient to address the Committee's very serious concerns about the premises licence holder's ability to properly promote the prevention of Crime and Disorder, and Public Nuisance as referenced within the representations made by West Midlands Police, Environment Health of Birmingham City Council and a local ward member.

On balance, the Committee were not persuaded to Grant the variation application on this occasion primarily as a result of the following:-

- 1) They expressed serious concerns about the suitability of the premises to undertake licensable activities for the periods sought in the application without having a negative effect on the promotion of the aforesaid licensing objectives for the reasons set out above;
- 2) There was significant doubt on the part of the Committee that the agreed or imposed conditions would negate the impact of the licensable activities within an area that was experiencing anti-social behaviour, although not directly attributable to the premises;
- 3) The Committee were also concerned about the premises' recent history of trading, in particular the "simple caution" which Licensing and Enforcement of Birmingham City Council, and to issue to the premises licence holder in 2018 in lieu of a prosecution.

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 Home Office, the application for a premises licence variation, 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.

OTHER URGENT BUSINESS

5/061119

No items of other urgent business were submitted.
