

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Wednesday 29th September 2021
Subject:	Licensing Act 2003 Premises Licence – Variation (Update Report)
Premises:	Premises at 23a St Marys Row, Moseley, Birmingham, B13 8HW
Ward affected:	Moseley
Contact Officer:	Bhapinder Nandhra, Senior Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

To update the Committee as to the status of the variation application submitted by Kathleen Westwood in respect of 23a St Marys Row, Moseley, Birmingham B13 8HW which was scheduled to be determined by Licensing Sub Committee C on Wednesday 15th September 2021.

2. Recommendation:

To note the status of the application which is deemed to be invalid due to the applicant's failure to comply with the statutory advertisement requirements and rescind the decision made in Resolution No. 05/150921 of this Sub-Committee dated 15 September 2021.

3. Brief Summary of Report:

Variation application received on 30th July 2021 in respect of the Premises at 23a St Marys Row, Moseley, Birmingham, B13 8HW.

A representation had been received from Planning, as a responsible authority.

The application was listed before Licensing Sub Committee C on Wednesday 15th September 2021 for determination however neither the applicant nor those making representations attended the meeting.

Following the meeting it was established that the applicant had failed to advertise the application in accordance with the statutory requirements thereby disadvantaging other persons whose attention may not have been drawn to the application and who may have wished to lodge a representation.

As the application has not been properly made it is deemed to be invalid.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

Kathleen Westwood applied on 30th July 2021 to vary the Premises Licence for the Premises at 23a St Marys Row, Moseley, Birmingham, B13 8HW.

On receipt of an application for variation of a Premises Licence the applicant is sent an acknowledgement reminding them of the statutory requirements, including the advertisement requirements, they must follow to ensure that the application is properly made.

A copy of the acknowledgement is attached at Appendix 1

The application was listed before Licensing Sub Committee C on Wednesday 15th September 2021 for determination due to a representation being lodged by Planning as a responsible authority however neither the applicant nor those making representations attended the meeting.

Following the meeting it was established that the applicant had failed to advertise the application in accordance with the statutory requirements thereby disadvantaging other persons whose attention may not have been drawn to the application and who may have wished to lodge a representation.

A copy of the email from the applicant in which they confirm that the application had not been advertised in accordance with the statutory requirements is attached at Appendix 2.

Due to the statutory timescales associated with advertising applications of this nature there is no ability for this non-compliance to be regularized save for the applicant re-applying.

As the application has not been properly made it is therefore deemed to be invalid.

a.

6. List of background documents:

Copy of acknowledgement sent to applicant confirming statutory requirements Appendix 1

Email from applicant evidencing that application had not be advertised in accordance with the statutory requirements Appendix 2

7. Options available

The Sub Committee is requested to note that as the application has not been properly made it is deemed to be invalid and therefore cannot be determined by the Sub Committee and rescind it's previous decision.

From: Wendy Gayle **On Behalf Of** Licensing Online
Sent: 02 August 2021 12:55
To:
Subject: Variation - 23a St Mary's Row

Dear Sir/Madam

LICENSING ACT 2003- PREMISES LICENCE (VARIATION)
Premises: 23a St Marys Row, Moseley, Birmingham, B13 8HW

I refer to your application for the **Variation** of a Premises Licence which was received in this office on 30th July 2021.

Please note that under the Licensing Act 2003 Regulations (Section 25 and 26), you are required to display a notice detailing the application for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the licensing authority. In your case this would be from 31/7/21 – 27/8/21.

In addition to the Notice advertised at the Premises, you are required to publish a Notice in a local newspaper on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the licensing authority (template of notice attached).

Further details of the information which should be contained in the advertisements can be found on the website of the Home Office at

<http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licences/>

If you fail to advertise your application in accordance with the regulations then your application will not meet the relevant Legal Requirements and your application will be returned to you. **In order to ensure that you have complied with the legal requirements, please ensure that you provide the Licensing Section with a copy of the newspaper advert and the blue notice within 14 days.**

PLEASE NOTE: IF YOU HAVE MADE YOUR APPLICATION VIA THE GOV.UK PORTAL, THE LICENSING SECTION WILL SERVE THE APPLICATION ON THE RESPONSIBLE AUTHORITIES. IF YOU HAVE MADE YOUR APPLICATION BY EMAIL OR POST, THEN IT IS YOUR RESPONSIBILITY TO SERVE THE APPLICATION ON THE RESPONSIBLE AUTHORITIES. A LIST OF RESPONSIBLE AUTHORITIES CAN BE FOUND ON OUR WEBPAGE.

**Please be aware that our postal address has changed and this must be reflected in your newspaper advertisement and notice. The postal address is: Licensing Section, PO Box 17831
BIRMINGHAM, B2 2HJ.**

If you are in any doubt as to the implication of this letter please contact the Licensing Section immediately.

Yours faithfully

Wendy Gayle
Licensing Officer

From: Kathleen Westwood
Sent: 21 September 2021 09:18
To: Licensing
Subject: Application 1105540 Kathleen Westwood Fao Bhapindra Nandra Urgent

Dear Bhapinder Nandhra

Ref App 1105540
Extended Licensing Hours
23 A St Marys Row
Moseley
B13 8HW
Tel

Thank you so much for contacting me.

I apologise profusely for the delay but my General Manager mislaid my application and I was off sick isolating.

I want to get my ad in the paper this week but please could you send me a template and a copy of what has to be stated abd which news paper you would recommend.

Kind regards and many thanks for your help and support.

Kathleen Westwood