

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B 23 FEBRUARY 2016

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 23 FEBRUARY 2016
AT 1000 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair

Councillors Nawaz Ali and Gareth Moore

ALSO PRESENT

Shaid Yasser, Licensing Section
Sanjeev Bhopal, Committee Lawyer
Gwin Pountney, Committee Manager

NOTICE OF RECORDING

1/230216

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.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

2/230216

There were no apologies or nominee members.

**LICENSING ACT 2003 PREMISES LICENCE – REVIEW I-BAR, 48 THE
PARADE, SUTTON COLDFIELD, B72 1PD**

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the West Midlands Police

PC D Walker – West Midlands Police

On behalf of the Applicant

Mr Jon Gaskarth – MD of I-Bar Sutton Ltd

Mr Chris Hopkins – Barrister

Mr Steve Walton – Designated Premises Supervisor (DPS)

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

PC Walker, in presenting the case on behalf of the Police and in response to questions from Members, made the following points:-

- a) The premises had had a licence for 6 years and had been granted with minimum conditions given the projected trade at the time. However within the 2nd year from January 2012 the premises had been a drain on both police and ambulance resources.
- b) There had been a catalogue of anti-social behaviour resulting in victims of crime, intoxicated customers and crime and disorder.
- c) Door staff had been ineffective and had been arrested themselves for drug taking and assaults on each other.
- d) The club had breached licensing conditions regarding the promotion of crime and disorder, being aware of assaults within the premises and failing to notify the Police.
- e) There had been 3 DPSs at the premises since its opening, the 2nd of whom had not been seen on the premises for 12 months. The new DPS appointed in December 2015 had come up with an action plan to improve the venue but this had failed on 31 December 2015 with issues taking place in the early hours with customers being intoxicated with excess alcohol.
- f) Whilst the whole of Sutton Town Centre was a ban zone with regard to glasses and bottles the premises had been monitored on CCTV with numerous incidents of customers leaving the premises with drinks to purchase food from the burger van outside the premises.
- g) That the rooftop area, scheduled to close at 1.00am was frequently open later and had remained open until 2.00am on New Year's Eve.
- h) The management style was very unprofessional with regard to promotion of the licensing objectives, a meeting had been held with the DPS on 28 December following incidents at Christmas, to try and implement a more professional approach but the licence had been breached again on New Year's Eve, leading to the review.
- i) That several people had been arrested on the premises on numerous occasions and had been issued with fixed penalties for drunk/disorderly

behaviour.

- j) That he was seeking revocation as the premises had previously had several licence variations and received persistent support from the police but had failed to improve. Furthermore since the request for a review the premise licence holder had made no attempt to contact the police regarding premises' improvements.
- k) That SIA registered door staff to a ratio of 350 customers (irrespective of lesser numbers) should be put into place on the premises.
- l) That properly implemented additional conditions should prevent public nuisance on the premises, these would be monitored and if these were breached the premises could be brought back before the sub-committee.
- m) That the grounds of the review were regarding breach of the crime and disorder and public safety objectives.
- n) DVD footage was shown to the Sub-Committee highlighting incidents outside the premises showing intoxicated customers, customers fighting and the use of continuous excessive force by a member of door staff following the ejection of a customer from the premises.

Mr Hopkins made the following points in respect of the applicant and in response to Members' questions:-

- a) He thanked the Police for their assistance in working with the premises to improve matters following incidents at Christmas.
- b) The premises were happy to comply with the police request for an incidents book.
- c) This was the first time the premises licence had been called for review in the 3½ years of the premises operating
- d) The premises licence holder had attempted to work with the police during this period and Environmental Health to address any concerns.
- e) That the premises logged most of the incidents within the premises and some of those outside, but that there was a limit to what could be controlled outside the premises.
- f) The premises hosted most of the local Pub Watch meetings and acted in a responsible fashion to prevent any incidents as this was not good for the reputation of the business.
- g) The incident that had occurred on Xmas Eve had clearly been serious, where a customer had attacked someone with a bottle, but this was the first occurrence in 3½ years. The person concerned had been banned from all premises in Walsall, but this information had not been notified to the premises. This was the first occasion he had been in I-Bar.

- h) That the incident on New Year's Eve regarding the admittance of a drunken customer who had been escorted off the premises by the police was an isolated occurrence as the person was someone known to the PLH for over 30 years.
- i) That the incident on the CCTV regarding ejection of a customer from the premises was the right actions but carried out in an incorrect manner. He had been suspended that evening and was no longer working at I-Bar.
- j) That Mr Gaskarth was shocked that the premises had been taken to a review, he was aware of the importance of working with the police in the future and in operating as a responsible venue.
- k) That the premises would be happy to install a noise limiter at the entrance of the premises.
- l) That the premises operated a Challenge 25 policy.
- m) That the key driver in tackling incidents (9 over the last year) was the appointment of a new DPS in 2015, following which the venue had taken positive steps to actively engage with the police to address problems.
- n) That the DPS had been in the nightclub industry since he was 19 and was now 36. He had established a good communication with the police every week and was working with Mr Gaskarth to ensure a successful, reputable business.
- o) That all security staff were now S.I.A. trained. All new staff had an initial 2 week training period and any lapses in training were regularly addressed and all training was recorded. There were 17 employees on the premises.
- p) That the premises would employ extra door staff on Thursday evenings and at weekends.
- q) That the premises would agree to a condition of no activity on the rooftop terrace after 1.00am and the premises itself would cease the sale of alcohol at 2.30am, allowing a drinking time of 30 minutes with the gradual dispersal of customers.
- r) That no alcohol would be served at parties for children.

In summing up, Mr Hopkins stressed that I-Bar had operated for 3 ½ years and this was the first occasion it had come under review. This had caused a 'shot across the bows' for the premises and had acted as a wake-up call for the premises. The premises had engaged actively with Environmental Health and the Police in the past and actively participated in Pub Watch. The premises would be happy to work to the conditions requested by the police and with the new DPS in place it would give the business an opportunity to implement them.

In summing up PC Walker pointed out that there had been 44 incidents at the premises in which the police had been involved which had increased from

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September 2015 to Christmas 2015, prior to which they had been periodic incidences. Whilst the premises played an active part in Pub Watch this was not a police event. Bringing these premises to a review had been a last resort by the Police and it was hoped that they would abide by any agreed conditions if they were allowed to continue operation, as the Police would not want to bring them to another review.

At 1212 hours the Sub-Committee adjourned and the Chairman requested that 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 at 1350 hours and the decision of the Sub-Committee was announced as follows:-

3/230216 **RESOLVED:-**

That, having reviewed the premises licence held under the Licensing Act 2003 by iBar Sutton Limited, in respect of I-Bar, 48 The Parade, Sutton Coldfield, B72 1PD upon the application of West Midlands Police, this Sub-Committee hereby determines that the licence be suspended for a period of one month in order to promote the prevention of crime and disorder and public safety objectives in the Act:

The Sub Committee's reasons for imposing the suspension are due to the serious concerns raised by West Midlands Police as set out in their Review Application, various incidents of crime and disorder which emanated from the premises and the significant and sustained management failings in seeking to address these matters to the satisfaction of West Midlands Police.

The Sub Committee also noted that evidence had been presented by West Midlands Police, concerning the breach of existing Licensing Conditions by the Premises Licence Holder, namely, in allowing the roof terrace to be used contrary to the Condition imposed after 0100 hours, allowing the premises to be used by under 18 year olds after 2100 hours, permitting or otherwise preventing patrons from consuming alcohol off the premises in otherwise than in a sealed vessel, employing or using the services of door staff otherwise in accordance with a valid SIA accreditation.

In addition to the above, the Sub Committee also determined:

A.	Modification of hours	All licensable activities shall cease at: 02:30 hours The Premises shall be closed to the public at 02:30am with a winding down period between 02:30am and 03:00am during which patrons will be dispersed from the premises in an orderly and controlled manner. The venue will be empty and closed by 03:00am.
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B.	Noise limiter	The applicant shall install a noise limiter at the premises to be calibrated at a level set by Environmental Health of Birmingham City Council.
C.	Plastic glasses	The licence holder shall require customers to use plastic glasses for the consumption of alcohol from 2200 hours onwards.
D.	Other Conditions agreed with West Midlands Police	<p>The Conditions proffered by and agreed with West Midlands Police and the Premises Licence Holder at today's Meeting will also be incorporated into the Premises Licence, save for the following amendments:</p> <p>Door staff – change 2000 hours to 2100 hours</p> <p>No speakers – this has been superseded by the Noise Limiter Condition set out above.</p> <p>Children- All persons under the age of 16 will be monitored by at least one parent/guardian of a minimum age of 21 at all times.</p> <p>No alcohol will be served during any event or party attended by children.</p> <p>Public Safety</p> <ul style="list-style-type: none"> • Staff Training – Premises License Holder and Designated Premises Supervisor will ensure that all staff are trained before they first start work at the premises and that refresher training is regularly provided (minimum of every two months). Individual staff training records will be kept for each employee, all training will be recorded and the record will be made immediately available upon request by any responsible authority. <p>The training will include –</p> <ol style="list-style-type: none"> 1. Staff themselves might be personally liable if they sell to young persons in breach of legal requirements. 2. Proxy sales – staff should remain vigilant to the age profiles of groups of customers to avoid adults purchasing alcohol destined for somebody under age. 3. Staff will be trained on signs of persons drinking to excess and also under the influence of drugs. 4. Age Verification – Staff to be trained on types of proof of identification. Individuals who appear to be

		<p>under the age of 25 years of age to produce on request, before being served alcohol identification bearing their photograph, date of birth and either a holographic mark or ultraviolet feature. Such ID can be a passport, photo card driving licence, PASS-approved card or military ID.</p> <p>5. Crime Scene management.</p> <ul style="list-style-type: none"> • Capacity – The location must have full risk assessment carried out by responsible authority or company. This must be displayed to the front of the premises. <p>Prevention of Crime and Disorder</p> <ul style="list-style-type: none"> • CCTV - It will be digital recorded for up to 28 days and will be made available on request to all licensing authorities. There will all be a member of staff on duty who is trained and able to show and download images from the system during opening hours. It will be in recording during opening hours and it will cover all licensable activity areas of the premises. • Door Staff - They will be in place from each evenings of opening from 21:00 hours to close and 30 minutes after closing. They will also be in place for any function night, either private or run by staff from the location out of normal hours. All door staff will wear a minimum florescent tabard jacket and will display "Door Supervisor" to the front and rear. All door staff must book on and off duty and their profiles be recorded on the premises, this record will be made available on request by any licensing authority. • Door Staff numbers – The venue will operate a minimum of 1 door supervisor to every 75 customer plus one. This will be based on their capacity outlined in their risk assessment. These numbers will be on duty regardless of numbers inside the venue. • Incident Book - The premises will have an incident book and record all incidents that occur inside or immediately outside the premise, regardless of whether any of the emergency services have been called. The record of incident will include details of the member of staff involved in the incident and the actions taken. Regular liaison with police will be encouraged to ensure cross-reference of premises related incidents. This incident book can be inspected at any time by all reasonable time by all authorities. • Events - Local police licensing officer will be informed of
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		<p>any events (out of normal weekend opening) and be given 14 days notice. Details should include, the nature of the event, name, address of booking party and the number of persons attending. A full risk assessment for each event must be carried out and this will include the consideration to use SIA approved door staff.</p> <ul style="list-style-type: none">• Pubwatch - The licence holder or the DPS must play an active part in the local pubwatch, work closely with other members in the watch and must show representation to pre-arranged meetings.• Drinking - No drinking vessels at any time are to be taken beyond the outside perimeter of the premises as shown on the licensing plan and the premises licence holder must ensure notices are displayed in any designated outside smoking or drinking area to inform patrons of the restriction.• The venue will have a radio link in use when open. This will be linked to all other venues in the town and also the Gracechurch security. A member of staff will be in possession of the radio on the front entrance of the venue. <p>Prevention of Public Nuisance</p> <ul style="list-style-type: none">• Wind Down Time - Music levels will be reduced considerably 30 minutes before last drinks are served. This will encourage customers to begin to leave the location as this will indicate the night is ending. It will also reduce noise leaving the location through the opening and closing of the main door when customers leave.• Signage - Signage displaying to customers to "Respect Local residents, please leave quietly" to be on display around location and especially at the exits and smoking areas. <p>Protection of Children</p> <ul style="list-style-type: none">• Signage - Challenge 25 policy to be on display at all times.• The premises will be strictly over 18's only after 2000hrs regardless of any event or private booking they have
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As a result of the above, the Sub Committee felt the management of the licensed premises required a comprehensive review, and have in place staff with strong leadership and conflict management skills, to promote and maintain high standards within the licensed premises. The period of suspension would provide the licensed premises holder with an opportunity to engage with the relevant Licensing Section of

West Midlands Police in a meaningful and constructive manner, to implement the conditions agreed with West Midlands Police and highlighted above.

It was therefore necessary and reasonable to impose the suspension and modify the Conditions these steps to address the concerns of West Midlands Police with the premises, in particular the shortcomings identified in the management of the premises, and prevent the likelihood of crime and disorder in the future, and to promote the public safety objective 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 under Section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received and the submissions made at the hearing by the applicant / premises licence holder / their legal adviser / and other persons.

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.

The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

LICENSING ACT 2003 PREMISES LICENCE – GRANT 40 ST PAUL'S BAR , 40, COX STREET, HOCKLEY, BIRMINGHAM, B3 1RD

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

(See document No. 2)

The following persons attended the meeting.

On behalf of the Applicant

Mr Harminder Johal – Applicant
Mr Duncan Craig – Licensing Agent

Those making Representations

There was no-one present to make representations.

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

Mr Craig, in presenting the case on behalf of the Applicant and in response to questions from Members, made the following points:-

- a) Addressed the concerns expressed by the representation at Appendix 1 of the

report and stated that:

- i. The first objection regarding licensed premises beneath a residential development was not relevant under the licensing act.
 - ii. The second point addressing people drinking outside the premises was based on speculation and was not based on evidence. The premises had been trading since 4 December 2015 with Temporary Event Notices (TENs) and there was no evidence of any nuisance being caused.
 - iii. The final point in the objection concerning relevant licences for operation since December 2015 was incorrect as a series of TENs had been properly applied for and granted without any representations from any responsible authorities or persons.
- b) This was a new premises licence applied for by Mr Johal similar to licensed premises already managed by him. He had 9 years' experience of managing a bar and his partner had 15.
- c) The premises were a small unit on a corner of the street and held capacity for 20 – 25 people. It was a Gin Bar with 2 enthusiastic bar staff and was a credit to the area and the local community.
- d) Mr Johal was a previous bar manager himself and the operating schedule for the premises addressed all 4 licensing objectives including public nuisance and paid care to noise reduction.
- e) The premises would only be open until 11.00pm for 7 days per week without any regulated entertainment. The service would be table service only with no vertical drinking and no smoking outside underneath the residential unit. Signage was displayed on the door of the premises to indicate this.
- f) Mr Johal had had constant dialogue with residents above the premises and had taken steps to keep noise levels to a minimum including when customers left the establishment. He had held a meeting with the residents above the premises prior to seeking planning permission for the premises who had all indicated that they trusted implicitly that he would undertake the actions he indicated and carry them through.
- g) The application for the licence had been put in on 6 January 2016, following the bar opening on 4 December 2015, allowing 2 months for objections by residents above the premises – but none had been received.

In summing up Mr Craig stressed that Mr Johal was a conscientious person who took his responsibilities seriously and was confident and clear in what he said and undertaking to stick to what he said. Furthermore, Mr Johal took his responsibilities to the wider community seriously and had no wish to alienate the community.

At 1425 hours the Sub-Committee adjourned and the Chairman requested that 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 at 1430 hours and the decision of the Sub-Committee was announced as follows:-

4/230216 **RESOLVED:-**

That the application by Den of Echoes Ltd for a premises licence in respect of 40 St Paul's Bar, 40 Cox Street, Hockley, Birmingham B3 1RD **be granted.**

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, including the proffered conditions and concluded that by granting this application, the four 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 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, 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.

5/230216 **OTHER URGENT BUSINESS**

There were no matters of urgent business.

The meeting ended at 1432 hours

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CHAIRMAN