

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 15 September 2021

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Keith Inston

Cllr Rita Potter

Premises Licence Applicant

Patrick Burke

Allan Roper

Agent

Applicant

Responsible Authorities

Greg Bickerdike

Aimee Taylor

Licensing Authority

West Midlands Police

Employees

Anita Chonk

Donna Cope

Sarah Hardwick

Jas Kaur

Senior Licensing & Compliance Officer

Democratic Services Officer

Senior Solicitor

Democratic Services Officer (Host)

Members of the Statutory Licensing Sub-Committee

Cllr Wendy Dalton (Observing)

Item No. *Title*

1 Apologies for absence

Apologies for absence were received from Tracey Homfray, Planning.

2 Declarations of interest

There were no declarations of interest.

**3 Licensing Act 2003 - Application for a Premises Licence in respect of Myla's
Cocktail Bar, Unit 14 Waterside Industrial Estate, Ettingshall Road,
Wolverhampton, WV2 2RQ**

An application for a Premises Licence in respect of Myla's Cocktail Bar, Unit 14 Waterside Industrial Estate, Ettingshall Road, Wolverhampton, WV2 2RQ was considered following representations received from the Licensing Authority, West Midlands Police, Planning and Other Persons.

The Chair welcomed all parties to the hearing and invited all those present to introduce themselves. All parties did so. He outlined the procedure to be followed and all parties confirmed that they understood the procedure.

Anita Chonk, Senior Licensing and Compliance Officer provided an outline of the application. She reported that since the agenda had been published, the Licensing Authority mediation document at Appendix 3 of the Agenda Pack had now been agreed and signed.

Mr Patrick Burke, Agent representing the Applicant, Mr Allan Roper, confirmed that the summary was accurate.

The Chair invited the Applicant to present the application. Mr Patrick Burke did so as per Appendix 1 of the report. He stated the following:

1. Planning consent had been granted in 2018 for a music studio.
2. Small groups booked the rooms and currently provided their own refreshments.
3. The purpose of the application was to allow the premises to provide food and drink, in a controlled manner, to those hiring the premises.
4. The mediation document and revised plan form the Licensing Authority had been agreed and signed.
5. His client had offered a condition to the Planning Authority but had received no response from them upon this.
6. It was not clear what West Midlands Police were objecting to.
7. Prior to lockdown, due to Covid-19, the premises had operated without issue. They had not opened during lockdown so any resident complaints must relate to a nearby skate park.
8. The applicant was happy to reduce licensable hours so that licensable activities would cease at 23:00 seven days a week.

The Chair afforded all parties present the opportunity to question Mr Burke and his client in relation to his submission. Mr Burke responded to questions asked.

The Chair sought legal clarification on the objections submitted by the Planning Authority.

Sarah Hardwick, Senior Solicitor, stated that the representations from the Planning Authority were not relevant for licensing purposes and that it was the function of the Planning Authority, not the Licensing Authority, to deal with change of use considerations.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 3 of the report. He stated that although some of his concerns had been alleviated through mediation, he still had concerns regarding the premises and suggested that, if granted, off sales should be excluded from the licence and additional conditions should be added.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. Greg Bickerdike responded to questions asked and agreed to produce a list of proposed conditions for all parties to consider.

The Chair invited West Midlands Police (WMP) to make representations. Aimee Taylor did so as per Appendix 4 of the report. She stated that the mediation between the Applicant and Licensing Authority had alleviated some of her concerns, but she still had concerns regarding noise and the sale of alcohol for consumption off the premises.

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission. Miss Taylor responded to questions asked.

Following further questions, Mr Burke agreed that the sale of alcohol for consumption off the premises would be removed from the licence if granted and confirmed that licensable activities would only take place inside the premises.

The Chair invited all parties present to make their final address.

Mr Burke, the Applicant's Agent made a final statement.

Greg Bickerdike, Licensing Manager, presented the additional conditions he would like added to the licence, if granted, and Mr Burke queried some of the suggestions.

Sarah Hardwick, Senior Solicitor, suggested that the hearing be adjourned to allow the Licensing Authority, West Midlands Police, the Agent and his client sufficient time to fully consider the proposed conditions.

Members of the Sub-Committee agreed.

Greg Bickerdike, Aimee Taylor, Mr Burke and his client withdrew from the meeting.

The Sub-Committee adjourned at 10.44 hours.

The Hearing reconvened at 11.00 hours.

Greg Bickerdike, Aimee Taylor, Mr Burke and his client returned to the meeting.

Greg Bickerdike outlined the agreement that had been reached between himself, West Midlands Police, the Agent and Applicant, and stated that he would circulate a copy of the agreed conditions to all parties.

Councillor Page, Councillor Potter, Councillor Inston, the Senior Solicitor and Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.04 hours.

The Hearing reconvened at 11.47 hours.

Councillor Page, Councillor Potter, Councillor Inston, the Senior Solicitor and Democratic Services Officer re-joined the meeting.

The Chair advised all parties of the decision of the Sub-Committee, which was read out by the Senior Solicitor.

Resolved:

The Statutory Licensing Sub-Committee had taken note of all written concerns raised in respect of the application for a premises licence for Myla's Cocktail Bar, Unit 14 Waterside Industrial Estate, Ettingshall Road, Wolverhampton WV2 2RQ. They listened to the arguments of those who had spoken at the hearing, both for and against the application.

The Sub-Committee had regard to both the written and oral evidence that had been presented and attached appropriate weight.

The Sub-Committee heard from the Applicant and his legal representative that:

1. The premises currently had planning consent for a music studio.
2. Small groups booked rooms and currently provided their own refreshments.
3. The purpose of the application was to allow the premises to provide food and drink, in a controlled manner, to those hiring the premises.
4. They had offered a condition to the Planning Authority but had received no response from them upon this.
5. It was not clear what West Midlands Police were objecting to.
6. Local residents had complained about noise and hours of trading.
7. Prior to lockdown, due to Covid-19, the premises had operated without issue. They had not opened during lockdown so any complaints must relate to other premises.
8. The applicant would be content to reduce licensable hours so that licensable activities would cease at 23:00 seven days a week.

The Sub-Committee heard from West Midlands Police that:

1. They had made relevant representations in furtherance of the Crime and Disorder Licensing Objective.
2. They had concerns regarding the lack of conditions on the operating schedule.

The Sub-Committee heard from the Licensing Authority as responsible authority that:

1. They had made relevant representations in furtherance of the Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety, and Protection of Children from Harm Licensing Objectives.
2. The plan submitted with the application did not suitably explain the layout of the premises and licensable activities.
3. There was insufficient information within the operating schedule to show how the applicant would address the Licensing Objectives.
4. Some of the conditions proposed were unenforceable.
5. However, terms had been agreed between the Applicant and the Licensing Authority as detailed in the report at pages 36 – 38. Further, it is believed off sales should be excluded from the licence and additional conditions should be added which were proposed, discussed and agreed between the parties at the hearing.

The Planning Authority as Responsible Authority were not in attendance at the hearing, so their written evidence only was considered, and appropriate weight attached. The evidence stated:

1. Planning consent for a change of use would be required and was unlikely to be supported.

In their evidence the Planning Authority made no reference to the Licensing Objectives contained within section 4 Licensing Act 2003 or to how the application would undermine the Licensing Objectives. Further, it was the function of the Planning Authority not the Licensing Authority to deal with change of use considerations. Therefore, the Sub-Committee had disregarded evidence from the Planning Authority.

The Sub-Committee considered written representations from other persons (local residents) who were not in attendance. The evidence stated that:

1. They had made relevant representations in furtherance of the Prevention of Public Nuisance Licensing Objective.
2. That granting the licence would add to the noise pollution already experienced caused by smoking outside and banging car doors late at night. There was concern that extended hours, the sale of alcohol and more music would bring issues and severely impact quality of life for residents in homes on a new estate nearby.
3. That late night music, alcohol fuelled people, vehicles and alcohol were definitely not good for a family estate, comprising 300 new homes, with young children, and would affect the sleep of those who had to get up in the early hours of the morning for work.

4. There were already issues with crime and disorder and safety at the units where the premises would be located. There had been noise issues already with people drinking and loud music during the evenings and at night.
5. Also, that public safety and sanity would be affected.

West Midlands Fire Service had not made relevant Representations. However, they had made recommendations and comments detailed at pages 57- 61 of the report to the Sub-Committee.

The Sub-Committee could take such steps as it considered appropriate for the promotion of the Licensing Objectives.

The Sub-Committee were satisfied that with agreed modification the application, if granted, would not undermine the Licensing Objectives.

The Sub-Committee had considered the evidence presented and had regard to the application, representations made, guidance issued under section 182 of the Licensing Act 2003 and the Council's own Licensing Policy. The Sub-Committee had, on the balance of probabilities, found that in order to promote the Licensing Objectives the application for a premises licence should be granted, as applied for, subject to the terms and conditions detailed below in accordance with section 18 of the Licensing Act 2003.

It was considered by the Sub-Committee that the following conditions should be attached in support of the Licensing Objectives:

1. Those conditions agreed between the Applicant and the Licensing Authority as Responsible Authority and attached to the Report to the Sub-Committee as follows:

Modifications to the operating schedule

The prevention of crime and disorder

To replace:

From: Staff Training - All staff will be trained on signs of drug abuse both on persons and how to recognise signs of use on the premises. Training will also be given on signs of persons drinking to excess. All this training must be recorded on premises and be made available to responsible authority immediately on request.

Staff will be trained in signs of underage drinking and this will be recorded in the training book and kept on the premises and can be inspected on request by any responsible authority.

To: All staff to receive training before their first shift when the premises is open to the public and refresher training every six months on their responsibilities with regard to licensing legislation, underage and proxy sales. Training will also cover Challenge 25, conflict management, recognising signs of drunkenness, how to refuse service, the premises' duty of care, safe evacuation of the premises, company policies and reporting procedures, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services, the conditions in force under this licence. This training must be documented and produced to an officer of a responsible authority upon request.

To add:

Alcohol must not be sold less than 30 minutes before the premises' scheduled closing time.

An electronic or written incidents log will be maintained at the premises with a record of all incidents of crime and disorder reported to or by the premises; all ejections of patrons; any complaints received; seizures of drugs, offensive weapons, fraudulent ID or other items; any faults in the CCTV system; any visit by a relevant authority or emergency service. The incidents log will be produced to an officer of a responsible authority upon request. Where a crime is believed to have been committed, the incident will be reported to the West Midlands Police. The incidents log will be kept for at least 12 months and will be produced to an officer of a responsible authority upon request.

Public safety

To add:

The designated premises supervisor shall ensure that tables are cleared of all bottles and glasses on a regular basis during trading hours to avoid an accumulation of glassware.

The premises licence holder shall ensure that at all times when the public are present there is at least one competent and fully trained person able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises, and that adequate records are maintained in relation to the supply of any first aid treatment.

The prevention of public nuisance

To replace:

From: Drinking - No drinking vessels at any time are to be taken beyond the outside perimeter of the premises and the premises licence holder must ensure notices are displayed in any designated outside smoking or drinking area to inform patrons of the restriction.

To: Any supply of alcohol for consumption beyond the outside perimeter of the premises must be within a sealed container and the premises licence holder must ensure notices are displayed in any designated outside smoking or drinking area to inform patrons of the restriction. Open containers of alcohol must be surrendered by patrons prior to leaving the premises.

To remove:

Wind Down Time – A wind down period will begin 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.

The protection of children from harm

To remove:

All staff, WHO ARE NOT PERSONAL LICENSE HOLDERS, working at the premises involved in the sale of age restricted products including alcohol will receive on-going training and will be refreshed at least every 6 months. This will be recorded in a staff

training register and will also include a written test of knowledge. The Training records must be made available to authorised officers of responsible authorities on request. Records shall be retained at the premises.

2. Those conditions agreed between the Applicant, the Licensing Authority and West Midlands Police at the hearing on 15 September 2021 as follows:

SEARCH POLICY

A zero tolerance policy to all drugs, with signs placed at key locations informing patrons of this. These key locations will be all entrance areas, toilets, bar area and anywhere else the venue feels appropriate.

A clearly visible notice will be placed at each entrance to the premises advising those attending that it is a condition of entry that customers agree to being searched and that the police will be informed if anyone is found in possession of controlled substances or weapons.

A knife arch will be in place on all entrance points and will be used as a condition of entry into the venue. This knife arch and any knife wands will be maintained in good working order and if it breaks, West Midlands Police are to be informed and action taken to repair at the earliest opportunity.

Searching will be a condition of entry if the knife arch indicates that a customer may be carrying a knife. This is to include all staff, performers, DJ's and any other entertainment and entourage.

Search procedure will be as follows: All pockets to be emptied/bags searched, full body pat down from head to toe and a metal detecting wand will then be used to scan from head to toe.

There shall be a lockable 'drugs box' at the premises to which no member of staff, except the DPS and/or a single designated role-holder at business, shall have access. All controlled drugs (or items suspected to be) found at the premises must be placed in this box as soon as practicable. Whenever this box is emptied, all its contents must be given to West Midlands Police for appropriate disposal.

The DPS or representative will attend Pubwatch meetings.

At least one Personal Licence Holder will be on the premises when it is open for licensable activity.

Public Safety:

All staff to be trained in order to carry out a safe evacuation of the premises in an emergency and training to be implemented on an annual basis. A record of this training to be kept on the premises for 24 months and be made available to a RA upon request.

The number of persons permitted in the premises at any one time including staff shall not exceed West Midlands Fire Risk Assessment, and this number shall be prominently displayed by each entrance to the premises. The premises licence holder shall ensure a suitable method of calculating the number of people present during licensable activities is in place, and bookings are recorded for a period of at least 12 months.

All staff on duty at the premises shall be trained in the Fire Safety and Evacuation procedures for the premises and aware of their individual responsibilities.

Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 6 monthly intervals.

Training records shall be made available for inspection upon request by any RA. A full site check, including internal and external areas to be completed, looking for any weapons, illegal substances or insecure areas both before and after opening for business.

Prevention of Public Nuisance:

Deliveries to be conducted not between 23:00 – 05:00 with all deliveries recorded and records kept for 12 months.

Waste management to be completed during daytime hours, such as emptying the bottle recycling bins.

3. Off sales shall be excluded from the licence.
4. Licensable hours for the provision of live music, recorded music, anything of a similar description to live and recorded music or the performance of dance, and the sale of alcohol shall be 08:00 to 23:00 Monday to Sunday.
5. Opening Hours shall be 08:00 to 23:30 Monday to Sunday.

Finally, such conditions as are specified on/or consistent with the operating schedule will be attached to the licence, together with any mandatory conditions required by the Act.

The decision in writing will be sent to all parties forthwith.

All parties have a right of appeal to the Magistrates Court within 21 days of receipt of this decision in writing.