

**Minutes of the
Licensing Sub Committee 1**

**16th December 2019 at 10.00am
at Sandwell Council House, Oldbury**

Present: Councillor Allen (Chair);
Councillors Downing and E M Giles.

69/19 **Minutes**

Resolved that the minutes of the meetings held on 14th October, 4th and 25th November 2019, be agreed as a correct record.

Matters Delegated to the Sub Committee to exercise those functions of the Licensing Committee under the Licensing Act 2003 and any regulations made under that Act, together with any related functions.

70/19 **Application for the variation of a Premises Licence in respect of Taste Harmony, 100 Waterloo Road, Smethwick B66 4JN**

Present: Kiran Jalaf - Licensing Officer;
David Elliott - Local Authority Solicitor;
Kevin Ruty - Premises Licence Holder;
Duncan Craig - Premises Licence Holder's Barrister.

The Licensing Sub Committee was asked to consider the application for the variation of a premises licence under section 34 of the Licensing Act 2003 in respect of Taste Harmony, 100 Waterloo Road, Smethwick, B66 4JN.

West Midlands Police had made a relevant representation to this application under the protect children from harm licensing objective.

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The applicant wished to remove a condition that would allow third-party delivery companies to undertake the delivery of alcohol to home addresses.

West Midlands Police concerns were that under Section 151 Licensing Act it appeared that delivering alcohol to children could only be committed by persons who worked on the relevant premises. Companies such as Uber Eats, Deliveroo did not work on the relevant premises. Section 151(6) of the Licensing Act stated that a person does not commit an offence where these conditions apply.

Section 151(6) Subsections (1), (2) and (4) do not apply where:-

- a) the alcohol was delivered at a place where the buyer or, as the case may be, person supplied lives or works, or
- b) the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol, or
- c) the alcohol is sold or supplied for consumption on the relevant premise.

Therefore, a third-party delivery driver had no accountability and they would not be convicted of an offence.

West Midlands Police made the representation in relation to the removal of the original condition for the delivery of alcohol because with the original condition there was some accountability on the Premises Licence Holder, Designated Premises Supervisor and staff who worked at the premise to safeguard children who may wish to use this service to obtain alcohol.

The Licensing Sub Committee was advised that on application of the Premises Licence, the Premises Licence Holder had consulted with West Midlands Police who had requested that a condition be agreed on the licence as follows:-

- That alcohol deliveries would be undertaken from staff within the business. The delivery driver would be at least a personal licence holder or received training in relation to underage alcohol sales. The training would be recorded at the premises and handed to any responsible authority on request.

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The applicant requested that the condition be replaced with the following condition:-

- The premises shall only engage the services of third parties, for the purpose of delivering age-restricted products, that deploy an age verification policy requiring the production of photographic ID (passport, identify card or driving licence) at point of delivery.

The applicant had also proposed that the following conditions be added to the licence to further support the protect children from harm licensing objective:-

- customers must confirm that they were over 18 when placing on line orders;
- deliveries of alcohol shall only be made to the registered address of the person placing the order which would also be the designated home address on the order, otherwise the alcohol must be returned to premises;
- no deliveries would be made to open spaces;
- no cash sales allowed for deliveries;
- a record would be kept of the company, name of driver, time of delivery and the address of the delivery.

The Premises Licence Holder had asked for the variation of the condition as the condition was too onerous on the business model. This had prevented him from opening his business.

The Premises Licence Holder's Barrister advised the Licensing Sub Committee that the Police representation did not make reference to the premises but to the perceived shortfall within the legislation.

It was acknowledged that any premises with a licence for off sales could undertake deliveries of alcohol and the Premises Licence, of similar establishments in the area, had not been encumbered with any additional conditions in respect of deliveries.

A copy of the Deliveroo age verification policy was circulated to members and the Premises Licence Holder assured that the staff at the premises would remind all delivery drivers to adhere to the Challenge 25 policy.

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The Sub Committee took advice from its legal advisor before adjourning to make a decision.

Having considered the Licensing Officer's report, representations made by West Midlands Police, the Premises Licensing Holder and legal advice given by the Local Authority's Solicitor, the Licensing Sub Committee was minded to approve the variation requested.

The reason for the decision was that there was no adverse history, the Premises Licence Holder had offered alternative conditions which were appropriate and proportionate.

Resolved that the variation to Premises Licence in respect of Taste Harmony, 100 Waterloo Road, Smethwick, B66 4JN be granted and the condition regarding alcohol deliveries be removed and replaced with the following conditions:-

- (1) The premises shall only engage the services of third parties, for the purpose of delivering age-restricted products, that deploy an age verification policy requiring the production of photographic ID (passport, identify card or driving licence) at point of delivery.
- (2) Customers must confirm that they were over 18 when placing on line orders.
- (3) Deliveries of alcohol shall only be made to the registered address of the person placing the order which would also be the designated home address on the order, otherwise the alcohol must be returned to the premises.
- (4) No deliveries would be made to open spaces.
- (5) No cash sales allowed for deliveries.
- (6) A record would be kept of the company, name of driver, time of delivery and the address of the delivery.

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Application for a Temporary Events Notice in respect of M J's Bar and Venue Limited, 38 Bridge Street, Wednesbury, WS10 0AQ

Present: Kiran Jalaf - Licensing Officer;
David Elliott - Local Authority Solicitor;
Michael Straker - Premises Licence Holder;
Terri Langford - Premises Manager;
Duncan Craig - Premises Licence Holder's Barrister.

The Licensing Sub Committee was asked to consider an objection made by West Midlands Police for a Temporary Event Notice, in respect of M J's Bar and Venue Limited, 38 Bridge Street, Wednesbury, WS10 0AQ.

The grounds for the objection was in respect to the Prevention of Crime and Disorder Licensing objective.

West Midlands Police had concerns as there had been recent disorders at the location, one of which had resulted in a wounding and criminal damage to a police vehicle.

The premises were currently licensed for the sale of alcohol and regulated entertainment from 9.00 am to 1.30am daily. The application sought an extension to permit licensable activities on Saturday 21st December 2019 from 10.00 pm Saturday 21st December 2019 – 4.00am on Sunday 22nd December 2019. The Temporary Event Notice was for 150 people to attend a Christmas party at the premises.

The Premises Licence Holder explained that the circumstances surrounding the recent incidents had occurred outside the premises as follows:-

- A customer had been ejected from the premises by security staff because of his unruly behaviour and subsequently spit at a Police Officer. The incident was not captured on the CCTV footage as the incident happened a distance away from the premises.
- A further incident on the police log was suspected to be due to a malicious call as when the police arrived there was no

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one in the vicinity, the premises were unable to supply any CCTV coverage due to the company who had installed the equipment not checking that the equipment was recording correctly.

- Another incident referred to an altercation on the same road as the premises and security staff from the premises had assisted in suppressing the disturbance, people involved had not been customers from the premises.

The Premises Holder's Barrister pointed out that the premises had operated six Temporary Events Notices in the last six months and there had been no issues.

The Sub Committee took advice from its legal advisor before adjourning to make a decision.

Having considered the Licensing Officer's report, representations made by West Midlands Police, the Premises Licensing Holder and legal advice given by the Local Authority's Solicitor, the Licensing Sub Committee was minded to grant the Temporary Events Notice in respect of M J's Bar and Venue Limited, 38 Bridge Street, Wednesbury, WS10 0AQ subject to the following condition:-

- That a total of ten SIA registered door staff, of which two must be female, be in attendance from midnight until the premises closes.

The reason for the decision was that the premises had a good record and the Premises Licence Holder's engagement with Police was positive.

Resolved that the Temporary Events Notice in respect of M J's Bar and Venue Limited, 38 West Bridge Street, Wednesbury, WS10 0AQ be granted subject to the following condition:-

- (1) That a total of ten SIA registered door staff, of which two must be female, be in attendance from midnight until the premises closes.

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(Meeting ended at 2.04pm)

Contact Officer: Shane Parkes
Democratic Services Unit
0121 569 3190