

# Minutes of Licensing Sub Committee 1

**Friday 8 April 2022 at 10:00am  
in Council Chamber, Sandwell Council House, Oldbury**

**Present:** Councillor Allen (Chair);  
Councillors Fenton and R Jones.

**Present:** Tracey Hubball (Licensing Manager);  
Geeta Bangerh (Licensing Officer);  
David Elliott (Legal Advisor);  
Karen Walden (Legal officer);  
Rob Edge (representing the applicant);  
Owner of the business;  
Three local residents;  
Trisha Newton (Senior Democratic Services Officer);  
Amundeeep Johal (Democratic Services Officer).

## 7/22 **Apologies for Absence**

No apologies for absence were received.

## 8/22 **Declarations of Interest**

No declarations of interest were made at the meeting.



## Application for the grant of a New Premises Licence at 2A Barnsley Road, Birmingham B17 8ED

The Sub Committee gave consideration to an application for a new premises licence in respect of De La Vies, 2A Barnsley Road, Birmingham, following representations received from local residents and a local councillor, objecting to the application due to public safety and the prevention of crime and disorder issues.

The proposed licensable activities were live music, recorded music, performances of dance and anything of a similar description falling in these categories and late night refreshment. The proposed hours were Sunday to Wednesday 23:00 to 00:00 (Midnight) and Thursday to Saturday 23:00 to 02:00.

The Sub Committee were advised that additional conditions had been agreed with the Police Licensing Officer on 8 March 2022:-

- premises to be clear of customers no later than 30 minutes after the termination time for the sale alcohol;
- the lower ground floor to trade as a restaurant only and any alcohol sale to be ancillary to the purchase of a meal;
- there will be no DJs allowed to perform throughout the premises;
- recorded music will be played at a back ground level where customers can hold a conversation in a normal speaking tone;
- the management team will ensure that someone controls the entry of customers to the upstairs lounge, by way of a member of staff being present in the foyer;
- the management team will operate a 'dispersal plan' to ensure customers do not cause unnecessary nuisance to neighbouring residents.

The Sub Committee noted the following issues were raised by local residents:-

- there were concerns of noise nuisance and lack of privacy;



- children's bedrooms were adjacent to the premises, therefore there were concerns of disruption;
- the restaurant was out of character for the area as it was predominately residential;
- light from the floodlights would shine into neighbouring properties during the night;
- the size of the car park was not suitable;
- the use of the car park, balcony and the proposed opening hours going into the early hours of the morning would result in noise and light pollution in the area;
- the extractor fan on the premises was noisy and disruptive;
- the restaurant was situated on a dangerous junction which would exacerbate existing parking and traffic issues;
- no assurances had been received from the owner of the premises that the concerns would be considered or addressed.

The objection received from the local ward councillor had been withdrawn upon assurances that the appropriate measures would be implemented to uphold the licensing objectives. No representations had been received from any of the statutory authorities.

The applicant's representative advised the Sub Committee:-

- the premises had sufficient parking for 25 cars at the side and rear of the premises, therefore there would be no need for customers to park on the road adjacent to the restaurant;
- it was intended there would be a row of trees between the rear of the car park and the residential properties to provide a natural visual and noise barrier, however, planning permission on the derelict land prevented this;
- the floodlight's voltage would be reduced to ensure the light pollution was minimal;



- Environmental Health had conducted a visit and checked the extractor fan and were satisfied that the decibel level met the requirements, however if this issue persisted the owner would look to see if anything further could be done to mitigate the noise pollution;
- the owner was happy to work alongside local residents to address any issues.

In response to the Committee's questions of the objectors, applicant and his representative and officers present, the following points were noted:-

- licensable activity was excluded from the balcony area and to prevent any additional public nuisance by noise occurring, the balcony was not be used after midnight;
- consumption of food on the balcony was not a licensable activity;
- the planning application for the premises contained conditions including:
  - Conditions 4: The external area hereby approved shall be open to patrons between the hours of noon and 11pm daily;
  - Conditions 5: There shall be no amplification of music to the external areas of the building;
- the management team would operate a dispersal plan to ensure customers did not cause unnecessary nuisance to neighbouring residents;
- there would be a dedicated nominated taxi service for restaurant staff that would use a specific bay adjacent to the premises. This would prevent any taxis waiting outside the premises or parking on double yellow lines;
- with regard to the derelict land, the owner of the site would maintain oversight to decide what, if any, action to take;
- all doors and windows would be kept closed when music is playing, other than for access and egress;



- the restaurant had operated under a temporary events notice to measure the ability to achieve the licensing objectives and management believed that this had proved to be successful;
- trained and experienced staff had been employed to ensure the professional running of the business;
- the type of clientele that the restaurant intended to attract would not be disruptive;
- the noise management plan would be implemented, and noise levels would continually be monitored.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all of the information provided, the Sub Committee granted the licence, along with additional conditions to address the concerns of the residents. The decision was based on members' local knowledge, concerns raised by local residents in relation to potential public nuisance issues and the conditions agreed by the Police.

**Resolved** that the Premises Licence in respect of De La Vies, 2A Barnsley Road, Birmingham, be granted with the following conditions:-

1. The supply of alcohol both on and off the premises from Sunday -Thursday 11am to midnight and Friday and Saturday 11.00am-2.00am.
2. The playing of live and recorded music, the performance of dance and anything of a similar description and the provision of late night refreshment from 11pm - midnight Sunday -Thursday and Friday and Saturday 11pm -2am.
3. The permitted opening hours are to be Sunday-Thursday 9am -12.30am and Friday and Saturday 9.00am -2.30am



4. The premises are to be cleared of customers no later than 30 minutes after the termination time for the sale of alcohol.
5. The lower ground floor is to trade as a restaurant only and any alcohol sale in to be ancillary to the purchase of a meal.
6. There will be no DJs allowed to perform throughout the premises
7. Recorded music will be played at a background level where customers can hold a conversation in a normal speaking tone
8. The management team will ensure that someone controls the entry of customers to the upstairs lounge by way of a member of staff being present in the foyer.
9. The management team will operate a dispersal plan to ensure customers do not cause unnecessary nuisance to neighbouring residents
10. The premises licence plan shall be amended so as to remove the balcony from the area of licensable activities
11. The “external area” (balcony) shall be open to customers from 12 noon to 11pm.
12. There shall be no amplification of music to the external areas of the building



13. The operating schedule in so far as it remains consistent with the above shall be incorporated as conditions into the premises licence.

In making its decision the Sub Committee took into account the Licensing Act itself, the Section 182 Guidance and noted that it must carry out all its functions under the Act with a view to promoting the licensing objectives. It also took into account the Human Rights Act 1998.

The Premises Licence Holder would be advised of his right of appeal under section 53c of the Licensing Act 2003 to the Magistrates Court within 21 days of receipt of the decision letter.

Meeting ended at 1.13pm

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

