

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE B
12 JANUARY 2024**

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 12 JANUARY 2024 AT 1100 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Sam Forsyth and Julien Pritchard.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

7/120124 **NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

8/120124 **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an

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interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

9/120124

Apologies were submitted on behalf of Councillors Saddak Miah and Adam Higgs and Councillors Sam Forsyth and Julien Pritchard were the nominated substitute Members.

LICENSING ACT 2003 AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE – CONSIDERATION OF INTERM STEPS – HNDRX, 89 HOLLOWAY HEAD, BIRMINGHAM, B1 1QP.

On Behalf of the Applicant

Chris Jones – WMP (West Midlands Police)

Ben Reader – WMP (West Midlands Police)

On Behalf of The Premises Licence Holder

Dorian Chan – Manager of PLH (Premises Licence Holder)

* * *

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

Dorian Chan, the Manager for the PLH advised that she had submitted late supporting documentation and wanted clarification that the Committee had received those documents and read them.

The Chair confirmed that the Committee had received it.

Ben Reader, WMP advised the Committee that there was an on-going criminal investigation linked to the expedited review application. Persons had been bailed due to offences. WMP intended to screen photos and video footage of what officers found when they visited the premises. Disclosure of that information could prejudice the on-going criminal proceedings and subsequently they requested that the meeting be held in private.

Following a short adjournment the Committee approved the request submitted by Ben Reader, WMP and the Chair announced that the meeting would be held in private following the usual procedural points and after the Licensing Officer had presented the report in the public session.

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At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. David Kennedy Licensing Section, outlined the report.

At this stage the chair invited the applicant/their representative to make their presentation in private.

EXCLUSION OF THE PUBLIC

10/120124 **RESOLVED:-**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision was announced at the meeting. A full written decision of the Sub-Committee was sent to all parties as follows;

11/120124 **RESOLVED:-**

That having considered the application made and certificate issued by a Superintendent of West Midlands Police under section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Mao Wah Limited in respect of HNDRX, 89 Holloway Head, Birmingham B1 1QP, this Sub-Committee hereby determines:

- that the licence be suspended, and
- that Parmjit Singh be removed as the designated premises supervisor pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reasons for imposing the two interim steps are due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime, which had come to light as outlined in the Superintendent's certificate and application. Those documents were in the Committee Report.

The Sub-Committee determined that the cause of the serious crime originated from a style of management which had been incapable of upholding the licensing objectives. The style of management was the responsibility of the company, as premises licence holder for the premises.

West Midlands Police attended the meeting. A manager representing the licence holder also attended the meeting. The manager confirmed that the name of the

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venue was as per the name shown on the premises licence. The Sub-Committee noted this.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that the matter was a live police enquiry regarding a serious crime incident. A Police investigation was ongoing regarding the incident. The Police asked for the proceedings to be conducted in private. The Sub-Committee conducted the meeting in private session.

Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Superintendent under s53A of the Act, related to an allegation of serious crime which had originated at the premises. The details were as per the documents in the Committee Report, and related to the execution of a search warrant at the venue under s23 of the Misuse of Drugs Act 1971.

The Police summarised the investigation thus far, relating to the discovery of significant quantities of what were suspected to be illegal drugs, and also significant sums of cash, at the site. An offence(s) under the Misuse of Drugs Act 1971 was suspected; the quantities discovered suggested an intent to supply, rather than simple possession.

The Police advised the Sub-Committee that such an offence was classed as a serious crime under s81 of the Regulation of Investigatory Powers Act 2000, as the sentence on conviction was likely to exceed three years. The incident therefore warranted the use of the s53A power, and the matter had been brought before the Sub-Committee for an Expedited Review hearing.

The Police view was that interim steps were required in order to deal with the causes of the serious crime whilst the criminal investigation was under way. It was the advice of the Police that a lack of management control had led to the incident. It was the Police's recommendation that the incident had been so serious, and the risk to the upholding of the crime prevention objective so grave, that specific interim steps were required.

The Police recommended that the correct course was to remove the designated premises supervisor for the reasons given in the Superintendent's certificate and application. This was in the interests of guarding against the risks of further serious crime, pending the full Summary Review hearing in 28 days' time.

The Police did not press the Sub-Committee to suspend the licence, suggesting instead that the conditions could perhaps be modified, such that the premises would not be permitted to trade without the permission of West Midlands Police, pending the full Summary Review hearing in 28 days' time.

The Police stated that the reason that they suggested this course was because the priority was "to safeguard the public by not allowing the premises to trade". The Police confirmed that in the next 28 days they would work with the manager regarding the company's use of its licence.

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The licence holder, via the manager who had attended, then addressed the Sub-Committee to explain that there were ongoing issues relating to the lease arrangements at the site. She stated that the licence holder company was not involved with the activities which had been described in the Superintendent's certificate and application.

She endorsed the Police's proposed course, remarking that she did not see that the licence holder company should be punished via a suspension of its licence when it was not responsible for what had been discovered. She further remarked that if the company retained its licence, the venue could be "let to someone else". She requested that the Sub-Committee impose "more conditions so that no-one can trade using our licence".

Regarding the other suggestion made by Police relating to the designated premises supervisor, the manager confirmed that she agreed with the Police that the designated premises supervisor should be removed, remarking that she had been endeavouring to do this herself.

Having heard all of the evidence, the Members were mindful of the Guidance issued by the Secretary of State under s182 of the Act, which advised them to only impose those steps which were necessary to guard against the risks of further serious crime. However, the starting point was that the Members were not confident that the company understood its responsibilities as licence holder, and moreover were not satisfied that there was proper management control of the premises.

The Police had suggested that a suspension was not necessarily vital to guard against the risks of further serious crime. Ordinarily, the Sub-Committee would accept the advice of the Police without question, on any and all aspects relating to serious crime, as the Guidance issued by the Secretary of State deemed the Police to be the experts in dealing with crime and disorder.

However, on this occasion, the Sub-Committee considered that the wholly inadequate style of management described was a significant risk to the upholding of the crime prevention objective, especially in relation to illegal drugs in Birmingham.

The Sub-Committee felt strongly that it was not possible to have any trust in the management of the site. The Members felt that they were not prepared to take any risks whatsoever regarding the potential for further serious crime, particularly relating to illegal drugs being found within licensed premises, pending the full Review hearing.

In deliberating, the Sub-Committee determined that there had been a discovery of a matter relating to serious crime, which was being investigated by Police. It was abundantly clear that the operation was not being run in accordance with the licensing objectives. Any instance of illegal drugs finding their way into licensed premises was extremely serious; moreover, on this occasion, significant quantities of illegal drugs had been discovered inside the premises whilst it was trading and open to the public.

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The Sub-Committee was not satisfied that the licence holder could be trusted to operate in a manner capable of preventing further serious crime. The Members noted in particular the Police comments regarding the quantities of both illegal drugs and cash found at the site. This was a clear risk to the prevention of crime and disorder objective. All in all, the management style seen at the premises was not at all the standard expected of premises licence holders in Birmingham.

The Police were the experts in crime and disorder, which the Sub-Committee accepted. However, the Police's advice, namely that a suspension was not necessarily required, was in the eyes of the Members a potential risk to the licensing objectives generally, and to the likelihood of further serious crime in particular. The Members found themselves unable to take any risks whatsoever regarding public protection where illegal drugs were concerned.

The Sub-Committee considered the other options of modification of the conditions of the licence, and exclusion of the sale of alcohol by retail from the scope of the licence, but did not consider that these would adequately cover the risks, given the seriousness of what had been described in the Superintendent's certificate and application.

Although the Police had recommended that the Sub-Committee should consider adopting a new condition, whereby the licence would remain in place but trading would not be permitted without Police approval, the Sub-Committee was not satisfied that this would adequately cover the risks, or be properly enforceable. The Members considered the suggested condition to be nebulous and vague, and therefore inadequate to cover the risk of further serious crime at the site.

The correct way forward was therefore to suspend the licence pending the full Review hearing, even though this had not been explicitly demanded by the Police. The Sub-Committee considered suspension to be entirely the proper course given what had been described in the certificate and application, and determined that it was both necessary and reasonable to impose the interim step of suspension of the licence to address the immediate problems with the premises, namely the potential for further serious crime.

The Sub-Committee felt that on this occasion, given the quantities of illegal drugs and cash found at the site, a "belt and braces" approach was required to ensure the safety and protection of the public. The amounts discovered were in quantities which suggested a supply operation, and not simple possession; this was a huge risk to the community given that the site was a licensed premises. The Members felt that the protection of the public required an overabundance of caution, and for this reason decided to take the unusual step of imposing a suspension even though the Police had not in fact demanded this step.

Public safety was of paramount importance, and the Members considered that it was a danger to the public for the premises to continue to operate in the manner seen on the night in question. Under the current style of operation, large quantities of illegal drugs and cash had been found inside a licensed venue, and the quantities of both suggested that an intent to supply was likely. The Police had stated that the priority was "to safeguard the public by not allowing the premises to

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trade”; the Sub-Committee considered that the only way to properly ensure this was to suspend the licence as an interim step pending the full Summary Review hearing.

The Sub-Committee further noted that it was the responsibility of the designated premises supervisor to ensure that alcohol sales were conducted in accordance with the licence. The Sub-Committee therefore determined that the removal of the designated premises supervisor was a very important safety feature. This course had been endorsed by both the Police and the manager representing the licence holder.

The Members considered that Parmjit Singh had fallen far short of the standards expected of any designated premises supervisor, and that the style of operation described in the Superintendent’s certificate and application was a very significant risk to the upholding of the licensing objectives in Birmingham. Moreover, there was something of a suggestion that the Parmjit Singh could perhaps be connected to other premises operated by the licence holder company. The Sub-Committee had concerns that there could potentially be links of a type which could undermine the prevention of further serious crime. The designated premises supervisor was therefore removed pending the full Summary Review hearing.

In reaching this decision, the Sub-Committee has given due consideration to the application made and certificate issued by a Superintendent of West Midlands Police, the City Council’s Statement of Licensing Policy, the Guidance issued by the Home Office under s182 of the Act, the written submissions made, and the submissions made at the hearing by West Midlands Police and by the manager representing the licence holder company.

All parties are advised that the premises licence holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours excluding non-working days.

All parties are advised that there is no right of appeal to a Magistrates’ Court against the Licensing Authority’s decision at this stage.

The meeting ended at 1317 hours.

CHAIR.....