

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 9 JANUARY 2024

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON TUESDAY 9 JANUARY 2024 AT 0930 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Diane Donaldson and Penny Wagg.

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)

1/090124

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.

2/090124

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

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/090124 Apologies were submitted on behalf of Councillors Mary Locke and Simon Morrall and Councillors Diane Donaldson and Penny Wagg were the nominated substitute Members.

LICENSING ACT 2003 – AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE - FURTHER REPRESENTATIONS BACK AGAINST INTERIM STEPS IMPOSED – PORTRAIT BAR, THE ARCADIAN, 20 HURST STREET, BIRMINGHAM, B5 4TD.

On Behalf of the Applicant

Sarah Clover – Barrister
Carl Moore – Agent
Raj Bahia – PLH (Premises Licence Holder)

On Behalf of West Midlands Police

Mark Swallow – WMP (West Midlands Police)

* * *

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

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 to make their presentation and Sarah Clover on behalf of the PLH made the following points: -

- a) That they had reached an agreed position with WMP.
- b) The incident took place on 17/18th December, where there appeared to be a discharge of a firearm (they were still unsure of the exact details), someone was injured.
- c) It was a serious matter.
- d) The Interim Steps meeting was held on 19th December and the PLH appealed that decision on 22nd December. However, the police were not ready to sign off on the proposed conditions at that stage. They were not in agreement and conditions and an action plan had been agreed.
- e) The police were not seeking revocation at any stage throughout the process.

- f) There was a new DPS in situ and the police had vetted him and the premises could now open adopting the new regime.
- g) The full review hearing was a week away, and they hoped it would be brief as this meeting pre-empted that review hearing.
- h) It was a historical licence and had no conditions in place. Therefore, the licence needed updating.
- i) That the premises were working with Carl Moore, an experienced licensing consultant, who had a good working relationship with WMP.
- j) That the Committee had a copy of the proposed conditions, which included everything they would want to see.

The Members asked questions in relation to the Security and Operation Action Plan having the date of January 2023 and wanted clarity on whether the date was correct.

Carl Moore clarified it was a typing error and should read 2024.

The Chair then invited WMP to make their case and Mark Swallow made the following points: -

- a) That an incident occurred, and a firearm was discharged in the premises causing and injury to other persons.
- b) WMP submitted an Expedited Review in relation to that matter. On 19 December the Expedited Review hearing took place and the Committee resolved to suspend the licence and remove the DPS.
- c) On 22 December that decision was appealed by the PLH and WMP opposed that application and decision was maintained to uphold the interim steps.
- d) Since then WMP had worked with the premises and measures had been put in place to ensure the licensing objectives would be properly promoted and such an incident would not occur again.
- e) He requested that the Committee adopted those measures and replaced them with the interim steps that were put in place on 19 December 2023.

The Chair then invited WMP to make a closing submission and Mark Swallow made the following closing statements: -

- That he was grateful to all parties for their work during a difficult process. The problems had been identified and measures been put in place to stop issues occurring again.
- He commended the PLH/representatives.

Sarah Clover then made the following closing statements on behalf of the PLH: -

- That she had nothing further to add and was happy to hear what Mr Swallow had to say.
- That the proposed conditions would sort matters going forward.

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;

4/090124

RESOLVED:-

That, having considered the representations made on behalf of DXR Limited, the premises licence holder of Portrait Bar, The Arcadian, 70 Hurst Street, Birmingham B5 4TD, in respect of the interim steps imposed on the 19th December 2023 and maintained on the 22nd December 2023, this Sub-Committee hereby determines that the interim steps are modified as follows:

- The interim step of suspension is lifted
- The interim step of removal of Mr Rajvir Singh Bahia as designated premises supervisor is lifted
- All those conditions agreed between West Midlands Police and the licence holder in advance of the meeting are adopted as interim steps pending the forthcoming full Summary Review hearing. Those agreed conditions are as follows:

**CRIME & DISORDER
DOOR SUPERVISORS**

1. The premises will deploy door staff when trading. Door staff will sign on and off duty.
2. The premise shall maintain staff profiles for all door staff working at the premises, and for any door staff that have worked on the premises in the last three months.
3. The door staff profile will consist of identification for the member of staff which shall include the following: a) A copy of his/her SIA Badge. b) Passport or driving licence. If the proof of identification is anything other than the photo driving licence, then the member of staff will need proof of address, which must be a utility bill and to be dated within the last three months.
4. Door staff will sign on and off duty. The signing in & out sheets and profiles will be kept on the premises for a minimum of 3 months and made immediately available to any of the responsible authorities on request.
5. The numbers of door staff will be risk assessed by the premises. This risk assessment will be made

available to any of the responsible authorities immediately on request.

6. Door supervisors stationed outside the frontage of the premises will wear high visibility

jackets/coats and will have their SIA badge held in a clear arm sleeve holder.

Door supervisors inside

the premises will wear hi visibility waist coats, again with the SIA badge

positioned in a clear arm

sleeve holder in visible view to the public.

7. Door staff will remain on duty until all the customers have dispersed and this will form part of the

premises dispersal plan.

8. The following areas will be covered by a Door Supervisor wearing a Body

Cam. The search area

covering the knife arch and ID scanner. The area inside the premises. If there is an incident in the

premises, then management will ensure that one of the door supervisors with a body cam attends

the incident.

SEARCH POLICY

9. When a security team is deployed at the premises, they are under the control and supervision of a

manager from the premises.

10. The premises will operate a search policy which will be made available to responsible authorities

upon request.

11. From 9pm, Friday & Saturday, to also include all bank holidays and the days immediately

preceding and any other day when a medium/high event risk assessment is required, the search will

be conducted in a sterile area at the front of the premises. Each person entering the premises will be

subject to a full body search, metal detection search in the form of a knife arch with metal wand

detection as support as required.

12. Any person who has gone outside the premises and then wishes to re-enter, they will be subject

to the same search regime as when they initially entered.

DRUGS POLICY

13. The premises has an absolute "zero tolerance" in relation to Misuse of Drugs.

This fact will be

emphasised by signage at premises and within any promotional literature.

14. The premises will operate a drugs policy which will be made available to any of the responsible

authorities on request.

DISPERSAL

15. The premises will operate a dispersal policy which will be made available to any of the

responsible authorities on request.

ID SCAN

16. From 9pm, Friday & Saturday and any other day when a medium/high event risk assessment is

required, the licence holder shall maintain and operate an ID Scan to all persons entering the premises. This will include all bank holidays and the days immediately preceding.
17. The premises is to adopt and display a clear notice to the effect that there is a strict policy of NO ID, NO ENTRY.

INCIDENT BOOK

18. The premise must operate an incident book and record all incidents that occur inside and immediately outside the premises. Incident book can be inspected at any time upon request.
The incident book to be available for inspection by any regulatory body.

EVENTS

19. The premises will take details of persons booking the venue including the name, address telephone number of the person making the booking. Details are to be confirmed by photographic ID or in exceptional circumstances a utility bill no older than 3months old. Booking details are to be kept on the premises for a minimum of 28 days after the event and made available to West Midlands Police on request. A deposit is to be taken for all bookings. Additionally, the persons booking will be informed that it is subject to agreement to the deployment of door staff and the entry/ search policies of the venue.

20. Venue to provide 28 days' notice or less if agreed with WMP, for new events or new promoters to include co-promoters, who wishes to conduct a promotion at the premises. Premises also to provide a full risk assessment with the notification.

21. The condition of notification for events to the Police 28 days from the event is for events deemed to be Medium/High risk.

22. When the premises wish to hold an event as above, all recommendations made by the risk assessment to become conditions of the licence for that event.

23. The premises will supply to West Midlands Police Licensing Unit a standard operating risk assessment for internal events deemed as low risk.

24. The Premises has a last entry time of 01:30hrs.

The Sub-Committee noted that a Variation application regarding the designated premises supervisor had been submitted, nominating a Mr Bennett to become the designated premises supervisor with immediate effect.

The Sub-Committee carefully considered the further representations made by counsel for the premises licence holder. She reminded the Members that after the original Expedited Review meeting, there had been a further Sub-Committee meeting before Christmas (22nd December 2023), to see if the conditions being proposed could be agreed. The purpose of the attempt had been to try to

Licensing Sub-Committee A – 9 January 2024

preserve the Christmas and New Year trade. However, the Police had not been ready to approve the conditions at that stage, although work had been ongoing.

Counsel confirmed that since then, partnership working between the consultant to the licence holder and the Police had continued, and the parties had reached a position where the conditions and the comprehensive action plan (both of which were in the Committee Report) were agreed, which would be sufficient to enable the premises to reopen. Counsel reminded the Sub-Committee that it had been the Police position throughout that there was no particular intention to seek permanent revocation of the licence.

Counsel drew the attention of the Members to the valuable partnership working that been carried out by the consultant to the licence holder and the Police which had ensured that a suitable way forward had been reached. The Sub-Committee noted this.

The Sub-Committee then heard from West Midlands Police, who confirmed that they had worked with the premises to identify the issues that led to the incident. Thereafter, measures had been put in place. These had been designed to ensure that the licensing objectives could be promoted, and so that the risk of any further serious crime incident would not occur again.

The new measures included the complete overhaul of the premises' procedure for booking events, and the search regime at the premises. Accordingly, the Police were satisfied that the suite of conditions was suitable to replace the interim steps currently in place. The Police recommended the new measures as "a proportionate and effective response to the issues that were identified", and asked that the Sub-Committee adopt them pending the final Summary Review hearing.

When deliberating, the Sub Committee gave consideration as to whether there had been a material change in circumstances since the Sub-Committee made its original determination, and gave consideration as to whether to withdraw or modify the interim steps imposed.

The Members concluded that the risks of any further serious crime incident had been satisfactorily addressed by the licence holder and Police, who had worked together in recent weeks to devise a proper way forward, such that the premises could resume trading without risk of a further serious crime incident.

The Sub-Committee therefore lifted the interim steps which had been imposed on 19th December, and adopted the agreed conditions, pending the full Summary Review hearing.

In reaching this decision, the Sub-Committee has given due consideration to the guidance issued by the Home Office, the certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, the application for review, the documents submitted and the submissions made at the meeting.

All parties are advised that there is no right of appeal to a magistrates' court against the decision of the Licensing Authority at this stage.

The meeting ended at 1014 hours.

CHAIR.....