

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 29 JUNE 2020

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 29 JUNE 2020 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Martin Straker-Welds.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services
Phil Wright – Committee Services

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

NOTICE OF RECORDING/WEBCAST

- 1/290620 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/290620 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/290620 Apologies were submitted on behalf of Councillor Bob Beauchamp and Councillor Martin Straker-Welds was the nominee Member.
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**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – COSTCUTTER, 129
GREAT HAMPTON ROW, HOCKLEY, BIRMINGHAM, B19 3JN.**

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

On Behalf of the Applicant

PC Abdool Rohomon – West Midlands Police (WMP)
Pc Barrett – WMP

Those on behalf of the Premises

No one attended on behalf of the premises.

Those Making Representations

No one attended on behalf of the those making representations.

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

At which stage PC Rohomon indicated that he had a preliminary point, however Councillor Martin Straker-Welds lost connection and the meeting was paused for 10 minutes in order for Councillor Straker-Welds to re-join the meeting. Having re-joined the meeting, the Chairman invited PC Rohomon to make his preliminary submission.

PC Rohomon informed the Committee that he intended to rely upon 'bodycam' video footage. However, due to the speed at which these types of hearings are conducted he had not had an opportunity to edit the footage or pixelate out the sensitive material. Further, he had not served the video on Mr Ali (premises licence holder) as he had not had any communication with him. Having spoken to the solicitor on behalf of the premises, he could confirm that he had not been instructed and would not be representing the PLH at the hearing.

Therefore, due to the sensitive material PC Rohomon requested that the footage be heard in private. All other parts of WMP's representation to be conducted in public.

The other point PC Rohomon raised was in relation to the Section 18 order issued by the Magistrates court, which he confirmed was still in effect.

Additionally, the licence holder had not been forthcoming in engaging with WMP or the review proceedings, yet he had appealed the decision of the Magistrates Court. PC Rohomon suggested that this was an indication that the licence holder

'can't be bothered' with the review. Given that. PC Rohomon submitted that the hearing ought to go ahead.

David Kennedy, Licensing Section outlined the efforts made by Licensing Enforcement officers to inform the licence holder of the review proceedings by way of hand delivered letters to both the premises address and the PLH's home address. Despite service of those documents there had been no direct communication from the licence holder, and as such, there had been no confirmation as to whether he intended to participate in today's hearing.

At 1050 the meeting was adjourned in order for the Members to seek legal advice. At which stage the Members, Committee Lawyer and Committee Manager went into the private session.

At 1117 the Members, Committee Lawyer and Committee Manager re-joined the public meeting and the Chair advised that the Committee had decided to continue with the review hearing and the 'bodycam' footage would be screened in the private session.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy to outline the report.

Afterwards, the Chairman invited WMP to make their submission. At which stage PC Rohomon, made the following points: -

- a) That there were two key points that had to be met for grounds of authorisation for an application of a closure order; the use of the premises had resulted or was likely to result in nuisance to the public and there had been or was likely to be disorder that was associated near or with the use of the premises. There had to be a direct causal link.
- b) The application for closure order was heard on 27 May and issued by Birmingham Magistrates' Court. PC Rohomon read out the statement at page 137 of WMP evidence bundle. The statement referred to the decision of the Magistrates' Court as noted by the Barrister from 4-5 Gray's Inn Square, who was representing WMP. The main points were as follows: 1. PC Barrett gave credible evidence about serious incidents. 2. Mr Ali on the other hand was lacking in detail. 3. Mr Ali tried to blame the police. 4. He was satisfied that there was disorder near Costcutter associated with its use.
- c) Having submitted a google map on page 131 in the evidence bundle, PC Rohomon focussed his efforts on the location of the premises and particularly that it was surrounded by a 'great deal of residential property'. Further, there was also high-rise flats in close proximity to the premises.

PC Barrett added the following points: -

- a) The shop was situated with a group of shops and yet, it was only this premises that had issues with street drinking, violence, criminal damage and issues inside the premises.

PC Rohomon continued: -

- a) The issues resulting in action by WMP were things like; staff with weapons, sale of alcohol to drunks and minors, refusing to hand over CCTV when requested, drug dealing in and around the premises, breach of Covid-19 lockdown regulations, stabbings, discharge of firearms and other serious criminal activity.
- b) It was highly unusual for residents to 'put pen to paper' and assist WMP but PC Rohomon stated that the residents were fed up with the issues and problems with the premises.
- c) That the statements from local residents were signed and highlighted the level of concerns people had with the nuisance and disorder the premises was causing. Furthermore, PC Rohomon requested that the Committee scrutinised those statements in detail before making any judgement. The persons who made those statements wished to remain anonymous due to fear of reprisal.
- d) One of the statements referred specifically to drug dealing happening directly outside the premises, whereby people were exchanging small items for money – they were not at all discreet. PC Rohomon emphasised that it was considered normal for the premises to allow drug dealing to happen directly outside.
- e) The residents felt that the premises attracted drug dealers and gang members.
- f) Many of the residents refused to use the premises due to feeling intimidated by the gangs of people gathered outside.
- g) People openly used drugs outside Costcutter.
- h) The community officers were being told about the issues on a daily basis.
- i) PC Rohomon referred to page 86 of PC Barrett's statement, specifically the section about a group of people drinking and smoking weed outside the shop. The resident felt intimidated by them.
- j) The issues were not common with any other premises in the vicinity, only this one.
- k) It was having a big impact on the local community, but also the level of policing required was also taking a lot of effort from PC Barrett.

PC Rohomon was invited to make his submissions and it was at this point he indicated that he wished to show the 'body cam' footage and therefore the session should be conducted in private.

EXCLUSION OF THE PUBLIC

4/290620 **RESOLVED:-**

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

COSTCUTTER, 129 GREAT HAMPTON ROW, HOCKLEY, BIRMINGHAM, B19 3JN.

At this stage in the meeting having heard the submissions in private the public were readmitted to the meeting and PC Rohomon continued to address the Committee.

PC Rohomon made the following points: -

- a) That the premises weren't helping the police.
- b) A member of staff had a weapon on him.
- c) The knuckle duster was found in a 'man bag' which was on the male.
- d) That it was unacceptable that staff thought it was okay to have weapons on them.
- e) CCTV had been requested and not been forthcoming.
- f) The premises was not promoting the licensing objectives.
- g) The drug dealers felt comfortable at the premises.

In answer to Members question, PC Barrett made the following points: -

- a) That he had seen people using the store room to store belongings and to drink alcohol, even during the Covid-19 lockdown.
- b) That females were being employed and paid in alcohol. They were very vulnerable females.
- c) They were sisters (he did mention their names, but the Chairman reminded him that the meeting was being live streamed on the Council website and therefore, it was not appropriate to be using people's names).
- d) The problems always occurred outside the premises.

PC Rohomon added that the premises even had issues during lockdown, when people were supposed to be at home.

He also confirmed that the anti-social behaviour did not happen at other premises and since the shop had been closed, there was no issues anywhere else. The ASB had disappeared. Revocation was the only option.

In answer to Members questions, PC Rohomon made the following points: -

- a) That the PLH had held the licence for 15 years.
- b) The area had been subject to serious issues for many years.
- c) That he would be surprised if paying employees in alcohol wasn't illegal. He also didn't know how it was possible to pay PAYE if employees were being paid in alcohol.
- d) That the PLH was just 'passing the buck'.

At this stage the meeting was paused as Councillor Straker-Welds was experiencing technical difficulties and as such was unable to participate in the meeting.

Once Councillor Straker-Welds had resolved the issues, the meeting was resumed.

PC Rohomon answered a final question from Members: -

- a) The licensing objectives were not being promoted given that staff had been found with weapons on them, staff were being paid in alcohol, there was disorder outside the premises and nuisance to residents. Further, people had been shot outside the premises.

In summing up, PC Rohomon, on behalf of WMP made the following points: -

- That the Committee should read the statement from Mr Ali which was used in the court proceedings.
- That WMP's stance was clear – revocation should be the only consideration.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

5/290620

RESOLVED:-

That, having reviewed the premises licence held under the Licensing Act 2003 by Abid Ali and Fazal Ali, in respect of **Costcutter, 129 Great Hampton Row, Hockley, Birmingham, B19 3JN**, in accordance with section 167 of the Licensing Act 2003, and section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014, this Sub-Committee hereby determines that the licence be revoked, in order to promote the prevention of crime and disorder, public safety,

prevention of public nuisance and protection of children from harm objectives in the Act.

The Sub-Committee decided to proceed with the hearing in the absence of the premises licence holder, having heard the steps taken by a Licensing Enforcement Officer to serve notice of the review proceedings and details of the hearing on the licence holders and having canvassed the views of parties present.

The Sub-Committee's reasons for revoking the licence were due to concerns expressed by West Midlands Police in relation to this problem off-licence premises which had become something of a blight on the lives of the local community in Hockley. The poor management style at the shop was not only failing to uphold the licensing objectives, it was actively undermining them.

The Police explained that the Magistrates' Court had recently imposed a three month Closure Order against the premises, due to the negative impact that the shop was having on the area. Local residents were unhappy about the style of operation. Officers from the local neighbourhood team believed that the situation was caused by a lack of control by the management. It had become apparent that drug dealers felt entirely at ease to deal drugs directly outside the shop, feeling at ease to walk into the shop even when Police officers attended the area.

There had been a noticeable increase in the severity of the issues in and around the premises – namely a firearm discharge in December 2019, a stabbing in January 2020, and a further firearm discharge in May 2020.

The Police gave the Sub-Committee detailed evidence of the operation style of the shop. Crime and disorder, and also public nuisance, had been an ongoing issue for some time. The problems related to drug dealing, weapons, staff fighting, irresponsible sales of alcohol, and associated antisocial behaviour. Overwhelmingly there was a complete lack of cooperation with Police - in particular the refusal to provide CCTV to Police when required. It was noteworthy that the Costcutter shop was the only premises in the Great Hampton Row area with this poor standard of operation.

The recommendation of the Police was that the licence should be revoked; it was the view of the Police that to leave it in place would allow the level and the seriousness of the criminality to increase substantially.

The Sub-Committee accepted the Police evidence and resolved to revoke the premises licence. The premises had proven itself wholly incapable of upholding the licensing objectives.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence, remove the Designated Premises Supervisor or suspend the licence for a specified period of not more than 3 months, but was not satisfied given the evidence submitted, (part of which was heard with the public excluded from the hearing following a request from West Midlands Police, in accordance with Regulation 14 of the Licensing Act 2003 (Hearings)

Regulations 2005), that the licensing objectives would be properly promoted following any such determination.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the Order made by the Magistrates' Court, the written representations received and the submissions made at the hearing by West Midlands Police.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision. The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

* Under Section 168(7) the premises must remain closed (but the licence otherwise in force) until the relevant time. The relevant time is the end of the period given for appealing against the decision, or if the decision is appealed against, the time the appeal is disposed of.

Please note, the meeting ended at 1303.