

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 7 JUNE 2023
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 7 JUNE 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth 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)

1/070623

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.

2/070623

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.

Councillor Diane Donaldson advised that she knew Mr Olley on a personal level, however she had not discussed this matter with him and hadn't spoken with him for over a year.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/070623 Apologies were submitted on behalf of Councillor Zafar Iqbal and Councillor Diane Donaldson was the nominated substitute Member.

LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS – VELVET MUSIC ROOMS, GROUND FLOOR, CUMBERLAND HOUSE, 200 BROAD STREET, LADYWOOD, BIRMINGHAM, B15 1SU.

On Behalf of the Applicant

Mark Swallow – WMP (West Midlands Police)
Huram Taj – WMP

On Behalf of the Premises Licence Holder

Heath Thomas – Solicitor
Dani Collins – Director of the PLH (Premises Licence Holder) Company
Eilis Collins – Family Member and staff
Rory Collins – Family Member, part of the PLH company
Martyn Greene – SNSG Security
Mike Olley – Manager Broad Street BID

* * *

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

Heath Thomas, on behalf of the PLH company requested that all parties be present at the hearing, namely those involved in the company (the Collins). The company is family owned and therefore, he requested that all those whom are part of that company be party to the hearing.

Mark Swallow, on behalf of WMP requested that due to on-going criminal investigations and proceedings that the CCTV be screened in private. He also responded to Mr Thomas's request for all three family members to be involved in the hearing and opposed this, stating that Dani Collins is the only person listed on company's house who is a director, no other persons have any registerable interest in the company according to the record listed on companies house. Therefore, he requested that Dani Collins and Heath Thomas are the only persons present.

Heath Thomas informed the Committee that whilst he understood the request for CCTV to be heard in private, he didn't see any requirement to have the discussions following on from that in the private session.

The Chair informed all parties that there have been late documents served which, due to time constraints have not been read or considered by the Committee. She asked Mr Thomas if he wished for these to be considered and he confirmed that he did as they show the dialog between WMP and the PLH and also show the proposed conditions from both parties.

At this stage the Chair adjourned the meeting to consider the preliminary points and take legal advice.

At 1030 the meeting was re-convened, and the Chair announced the determination on all three preliminary points:

1. In order to ensure fairness and proportionality the Committee determined that Dani Collins as the Director of the PLH company and Heath Thomas would be present at the hearing, all other parties would need to remove themselves and would have an opportunity to make representations at the Summary Review hearing in 28 days.
2. That the hearing would be held in private, in order to allow all parties the freedom to speak freely and openly on the matters to be discussed and to ensure all evidence can be disclosed in light of their being sensitive material and an on-going investigation.
3. That in order to give the Committee time to read, consider and absorb the further additional late documents submitted by Heath Thomas, the Committee will adjourn for one hour. If this takes less time, all parties will be notified to re-join the hearing at an earlier time.

Mark Swallow confirmed he had understood the determination of the preliminary points.

Heath Thomas advised that he was disappointed in the Committee's decision and had never been in a position where the DPS had been told they could not attend and speak before the Committee.

The Chair interjected and advised Mr Thomas that he had had an opportunity to speak and make his representation on such matters and asked him to confirm that he had understood the Committee's decision on those such matters?

Mr Thomas advised that he would be taking some time to look at the hearing regulation when the Committee retired to read the further late documents he had submitted.

The Chair advised Mr Thomas that she was indeed Counsel as well as a Councillors and understood the regulations fully.

She asked him to confirm he had understood their decision again, at which stage he confirmed he had.

The Committee adjourned to read the supporting documents at 1036 hours.

At 1148 hours the Committee reconvened and the Chair continued to outline the procedure to be followed at the hearing.

David Kennedy, Licensing Section, outlined the report.

The Chair then advised that the private session would start and all parties moved over to the separate private Teams session.

At this stage the Members, officers and other parties joined a separate MS Teams meeting which was held privately.

EXCLUSION OF THE PUBLIC

4/070623 **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.

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

5/070623 **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 Sugar Leisure Ltd in respect of Velvet Music Rooms, Ground Floor, Cumberland House, 200 Broad Street, Ladywood, Birmingham B15 1SU, this Sub-Committee hereby modifies the conditions of the premises licence, namely by adopting all those conditions proposed by West Midlands Police in advance of the meeting, pending a review of the licence, such review to be held within 28 days of receiving the Superintendent's application.

The conditions are as follows:

- From Thursdays through to Sundays or on any evenings where promoted events take place from 21.00hrs all customers/artists/DJs to be searched on entry. This search to include metal detection. No search means no entry
- From Thursdays through to Sundays or on any evenings where

promoted events take place from 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry

- All staff will be trained in (crime) scene management. This training will be documented and signed by the trainer and trainee. These training records to be made immediately available to any of the responsible authorities on request
- The premises security risk assessment for deployment and numbers will be made available to any of the responsible authorities immediately on request
- All door staff to wear either a hi- visibility coat, jacket or tabard
- The premises to ensure that door staff will wear body cams. There will be a minimum of 50% of door staff on duty who wear a body cam. These cameras will record throughout the tour of duty with images & audio, be downloadable and be made available to West Midlands Police on request. Images will be kept for a minimum of 31 days
- Door staff to sign on and off duty. Each entry will include their full SIA licence number. This documentation to be made immediately available to any of the responsible authorities on request and kept on the premises for a minimum of 2 months
- Premises to keep a profile of all door staff to include a copy of their SIA licence, photographic ID (or if photographic is not available then a copy of a utility bill, no older than 3 months.) These profiles to be kept on the premises for a minimum of 2 months after the last shift
- The premises will have a staff member on duty that is first aid trained
- The premises will have a bleed kit available on site
- The premises will maintain an incident register. Each incident will be signed off by the DPS or their nominated deputy. The incident register will be made available to any of the responsible authorities on request

The Sub-Committee's reasons for imposing the modification of conditions were due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime and/or serious disorder, which had come to light as outlined in the Superintendent's certificate and application. The Sub-Committee accepted the advice of the Police that the risks of further serious crime and/or serious disorder could only be managed satisfactorily via the adoption of the Police's suggested conditions.

The Police were represented at the meeting. The director of the licence holder company also attended the meeting, accompanied by others. Those from the premises were represented by their solicitor.

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 to view the CCTV evidence in public could prejudice an ongoing criminal investigation. The Police therefore asked for the Sub-Committee to go into private session for the meeting. The Police also observed that the proper way to proceed was for only the director of the licence holder company and

her solicitor to attend the meeting and address the Sub-Committee.

The solicitor considered that there was no reason to exclude the other persons from the meeting, and also considered that whilst the CCTV should be viewed in private, the oral submissions should be heard in public.

However, the Sub-Committee was aware that under paragraph 4.3 of the Procedural Rules (issued to all parties in advance of the meeting), it was at the discretion of the Sub-Committee whether to permit the request for other persons to appear at the meeting. The Police had observed that the company director was present, and the Members noted that she was represented by a solicitor; in the interests of focusing properly on the issues, and in particular the risks of further serious crime and/or serious disorder, the Sub-Committee considered that the proper course was to restrict attendance to only the company director and her solicitor.

Regarding the application to conduct the meeting in private, the Sub-Committee considered that the best course was to hear all of the evidence and submissions in private session. This was to ensure fairness to all parties, and to ensure that the licence holder company was able to properly address the Police submissions without the need to avoid mentioning those parts of the evidence shown in private.

The meeting therefore went into private session and Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Superintendent under s53A(1)(b) of the Act, related to an allegation of serious crime and/or serious disorder which had happened at the premises in the early hours of Monday 5th June 2023.

The Police summarised the investigation thus far – exactly as detailed in the Report. The Velvet Music Rooms premises was located in the main nightlife district of the city. The incident had been the subject of a crime report for wounding, per s18 of the Offences Against the Person Act 1861. A criminal investigation was under way. CCTV from inside the premises was played to the Sub-Committee.

The Police felt that there had been what they described as “a catastrophic breakdown of the security arrangements at the premises”. The risk assessments for operation had either not been followed, or had been inadequate; a weapon of some kind had found its way into the premises and was then used to commit a wounding. The person responsible had then left the premises; enquiries were ongoing.

The Police felt that the only suitable remedy was the adoption of suitable conditions; these had been submitted in advance of the meeting. The Police remarked that these would prevent human error and protect public safety.

The Police had noted that the licence holder company had not agreed the proposed conditions, and had instead submitted its own suggested conditions. The Police view of these was that they were “unworkable and not fit for purpose”. It was therefore the Police’s recommendation that only the Police’s proposed conditions were suitable, as they were “the minimum [*which would be*] acceptable”. The Police also remarked that a number of other licensed premises in and around Broad Street had voluntarily taken on such conditions, and were operating well as a result.

The Sub-Committee then heard from the licence holder company, via its solicitor. The Velvet Music Rooms was a long-established venue which had been trading since 2005, without incident. It had an impeccable record and was an exemplary operator, said the solicitor. It was known as a safe place which attracted minority groups, such as the LGBT community, and also an older style of clientele who attended for entertainment aimed at their age group (such as jazz evenings). It also hosted a variety of classes such as salsa lessons and cocktail-making classes, and was also used for art events such as those held by the Birmingham Art Zone.

The solicitor drew a distinction between the premises’ normal trade, as opposed to externally-promoted events. A normal week’s trade would be for the more mature customer. However, on the night in question, the premises was hosting an afterparty-style event which followed a separate event which had been held at an unconnected premises in Digbeth. The DJs and entourages, and fans, then came to the Velvet Music Rooms. The Velvet Music Rooms premises had previously hosted two afterparties without incident.

Seven security guards were on duty, which was more than a normal night. Searches were conducted at the door and a “spotter” was on the lookout for known troublemakers; had the premises known that the event was going to be high-risk, it would not have hosted it, said the solicitor. The clientele for the afterparty was a different demographic from the premises’ usual clientele. The solicitor then went on to explain what had happened during the incident in question.

Regarding the modification of conditions, the solicitor urged the Sub-Committee to distinguish and discuss the root cause – namely an externally-promoted event which was quite unlike the premises’ normal style of trading. The solicitor therefore submitted alternative conditions requiring 28 days’ notice of events, and giving the Police 7 days to respond (and also a power of veto). The premises also did not see the need for the ID scanner proposed by the Police.

The Police however found the premises’ suggested conditions to be completely unsatisfactory, reiterating that the risk assessment and search regime had been proven to be completely inadequate. The Police also considered the staffing to be inadequate in terms of preventing persons from entering and in managing the scene. The ID

scanner was a very important feature of safe operation – both as a deterrent, and to ensure that appropriate action could be taken. These requirements were the only way to guard against the risk of further serious crime and/or serious disorder, and to ensure public safety; they had been seen to do so at other venues elsewhere in Birmingham.

The Police further remarked that it was up to the premises to run its events safely, and that no venue could rely on the Police to make decisions for it regarding operating style and the upholding of the licensing objectives. The Police therefore urged the Sub-Committee to use only the conditions proposed by the Police as a proportionate and reasonable measure to ensure safe trading.

Having heard all of the evidence, the Members were confident that only the course proposed by the Police was satisfactory, and accepted that only the Police's course would be sufficient to ensure that the risk of any further serious crime and/or serious disorder was removed. Whilst deliberating, the Sub-Committee agreed with the Police that the suggestion made by the licence holder company did not adequately cover the risks. Any incident where a weapon(s) had found its way into licensed premises was very serious, and the correct course was that which had been recommended by the Police. This was particularly important given that minority groups were a regular part of the clientele.

The Sub-Committee therefore resolved to modify the conditions in the terms proposed by the Police. This was both necessary and reasonable to address the immediate problems with the premises, namely the potential for further serious crime and/or serious disorder. It was not necessary to consider other steps such as the removal of the designated premises supervisor, as this had not been recommended by the Police.

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 licence holder company via its solicitor.

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.

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

Please note the meeting ended at 1328 hours.

CHAIR.....