

# BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE C  
7 FEBRUARY 2024**

## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 7 FEBRUARY 2024 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Diane Donaldson in the Chair;

Councillors Jilly Bermingham and Penny Wagg.

### **ALSO PRESENT**

David Kennedy – Licensing Section  
Andrew Evans, St Philips Chambers – Legal Services  
Katy Poole – Committee Services

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

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### 1/070224 **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.

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### 2/070224 **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**

3/070224

Apologies were submitted on behalf of Councillor Sam Forsyth and Councillor Diane Donaldson was the nominated substitute Member.

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**LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW –  
HOLLOWAY CLUB TRADING AS KING VN (LICENCE NUMBER 5426), 89  
HOLLOWAY HEAD, BIRMINGHAM, B1 1QP.**

**On Behalf of the Applicant**

Ben Reader – WMP (West Midlands Police)  
Chris Jones - WMP

**On Behalf of The Premises Licence Holder**

Duncan Craig – Barrister  
Hoal Man Li – PLH (Premises Licence Holder)  
Miss Thi Van  
Tracy Arnold – Proposed DPS (Designated Premises Supervisor)

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

Ben Reader, on behalf of WMP requested that the hearing be held in private due to the on-going criminal investigation and concerns about protecting those proceedings.

Duncan Craig raised no objection to WMP's request.

The Chair adjourned the hearing at 1010 hours in order to consider WMP's request for the meeting to be held in private.

The meeting was reconvened at 1017 and the Chair announced that the Committee had approved the request submitted by WMP and the hearing would be held in private once the procedure had been outlined and the Licensing Officer had presented his report.

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 advised that the meeting would go into private session.

**EXCLUSION OF THE PUBLIC**

4/070224 **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

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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;

5/070224 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by Hoai Nam Le in respect of Holloway Club T/A King VN, 89 Holloway Head, Birmingham B1 1QP (Licence No 5426), following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that the premises licence be revoked and interim steps maintained.

The Sub-Committee exercised its power to hold part of the hearing in private in accordance with regulation 14 of the Licensing Act 2003 (Hearings Regulations 2005) because there is an ongoing criminal investigation the integrity of which ought reasonably to be protected at this time.

The Sub-Committee determines that the licence be revoked, in order to promote the prevention of crime and disorder objective in the Act:

The Sub-Committee's reasons for revoking the licence are due to concerns by West Midlands Police in relation to the use of the premises for the commercial supply and consumption of a variety of suspected illegal drugs.

On Saturday 6<sup>th</sup> January 2024 at around 10.30 pm the Police executed a drugs warrant at the premises while it was in operation. They were acting on intelligence sources that the premises were being used for the supply of drugs. A drugs dog was used and it indicated to officers the presence of drugs in a number of places inside the premises. The Premises Licence Holder Mr Nam Hoai Le and Designated Premises Supervisor Miss Thi Van were present. They were understood by the Police at the time to have been resident, or if not closely associated with the flat above the premises. There was evidence that the flat was being lived in and used at the time.

A large number of items were seized during the search.

In the cloakroom on the ground floor the Police found a blue box inside of which was a plastic cup containing small plastic bags one of which contained small green tablets, another four gold tablets, which looked to the seizing officer like ecstasy tablets. There was also a plastic bag containing straws with white powder with the appearance of cocaine.

Behind the bar in the premises was a handbag containing identification in the name of the DPS Miss Van with around £2,000 in cash.

In the first-floor kitchen above the licensed premises the Police found a small clear packet of a crystalline white substance which, in the seizing police officer's opinion, had the appearance of ketamine. There was a large quantity of small plastic bags of a size and type suitable for dealing drugs. There were multiple bags of what appeared to be ketamine and pills with the appearance of MDMA. There were also two bowls, one with what looked like cocaine residue on it. It had the appearance of a bowl being used for cutting drugs. There were also pills in the process of being physically cut up that looked the same as the ones found in in the medical kit.

Also in the flat the Police found, amongst other things, £3,000 in cash and five small bags of what looked like cocaine.

A great number of other items including cash, currency, materials relating to financial transactions were also seized from the flat. The Sub-Committee was also told that a large quantity of cash was found in a different restaurant premises, Miss Vietnam, linked to Mr Le in a dishwasher. Business bank statements relating to that premises were found in the flat above the premises in question.

The Police also went on to search Mr Le's home address the following day and found quantities of tablets in small bags, cash, documents relating to financial transactions

The Police stated that the discovery of these items in addition to the other items seized leads them to the conclusion that these licensed premises and those who operate them are involved in the supply of suspected illegal drugs and that there are serious questions around the legitimacy of their business activities.

On 11<sup>th</sup> January 2024 the Police served a certificate and in doing so an application for a review of the premises licence under Section 53A of the Licensing Act 2003 (as amended). A licensing Sub-Committee met on 12<sup>th</sup> January 2024 to consider interim steps and determined to suspend the premises licence and remove Miss Van as DPS pending a review of the licence. The premises licence holder did not attend that hearing and it was noted that Mr Craig on his behalf stated today that he had been unable to attend on that

occasion to provide advice and representation. The Sub-Committee today has taken into account that the premises has remained closed and unable to trade for licensable activities since that time so as to amount to nearly a month's break in trading.

The Sub-Committee took into account that the substances seized have not yet been subjected to chemical analysis. Nevertheless, the number of tablets and powders found, along with the circumstances in which they were found, including their location and in conjunction with "dealer bag" and on or in straws, raises a very strong inference, and likelihood, that they are illegal drugs. The discovery of these items on licensed premises and in an associated flat above it is extremely concerning to the Sub-Committee. It appears likely that the premises were being used for the preparation and commercial supply of a variety of suspected illegal drugs while under the direct control of the premises licence holder and DPS on the night.

The Sub-Committee was not able to conclude that Mr Le and Miss Van were resident in the flat, only that they had open access to it and it was under their control at the time of the search.

In these circumstances the Sub-Committee can have no confidence in the ability of the premises licence holder and DPS to effectively and responsibly manage the premises in a way that promotes the licensing objectives. The Sub-Committee has had reference to the s182 Guidance under the Act which advises licensing decision makers to take the use of licensed premises for the sale and distribution of illegal drugs particularly seriously, and to seriously consider revocation on review even in the first instance.

The Sub-committee gave careful consideration to the representations both oral and in writing of the premises licence holder through his legal representative Mr Craig. The Sub-Committee was told that Mr Le had no knowledge of the items seized at the premises or in the flat and denied any involvement in illegal activity. It was further asserted that he did not live in the flat upstairs and had been seriously disadvantaged by not being able to show and present his own CCTV in defence of the Police's allegations. It was argued that the operation of cash led businesses was a cultural factor in these circumstances and no adverse inference ought to be drawn from the presence of cash alone. It was also stated that the substances found at his home were not illegal drugs but pharmaceutical drugs from Vietnam.

The Sub-Committee was not today presented with any or any adequate evidence to substantiate Mr Le's assertions. He was present on the premises with the DPS when the search occurred and appeared to be in control of the licensed premises and the flat above. No evidence was presented to show who else had access and control of the flat beyond the suggestion it was staff. No evidence was presented to explain precisely what the pills and

powders found were if not illegal drugs. There was insufficient evidence presented to displace the strong inference presented by the Police that the licensed premises and flat were being used for the supply of suspected illegal drugs.

The Sub-Committee also considered the proposal from the Premises Licence holder that a new DPS be appointed and a long list of new protective conditions be added to the licence, the details of which were provided today. The Sub-Committee concluded that these proposals were inadequate to promote the licensing objectives so long as Mr Le is still the premises licence holder due to their concerns about his ability to manage and control the premises, which would remain his responsibility.

The conclusion of the Sub-Committee is that the appropriate step is the revocation of the premises licence and the removal of Miss Van as DPS.

The Sub-Committee considered whether some lesser step than revocation including a further period of suspension, and removal of the DPS alone with or without conditions modifying the licence, was appropriate and proportionate to the concerns they held having considered all of the representations. It was determined that no lesser step would suffice in the circumstances to promote the licensing objectives.

The Sub-Committee also determined to maintain the interim step previously imposed of the suspension of the premises licence and removal of Miss Van as DPS. The reasons for doing so are the lack of confidence in the premises licence holder or Miss Van as DPS's ability to promote the licensing objectives.

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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 Guidance issued by the Home Office in relation to expedited and summary licence reviews, the application and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, the written representations and the submissions made at the hearing by the police, and the premises licence holder and their legal representative.

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, save for the maintenance of the interim steps, does not

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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.

**The meeting ended at 1203 hours.**

CHAIR.....