

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 26 MARCH 2024
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 26 MARCH 2024 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Phil Davis and Julien Pritchard.

ALSO PRESENT

Shaid Yasser – Licensing Section
Andrew Evans – Legal Services
Katy Poole – Committee Services

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

1/260324 **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.

2/260324 **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

- 3/260324 Apologies were submitted on behalf of Councillors Saddak Miah and Adam Higgs and Councillors Phil Davis and Julien Pritchard was the nominated substitute Member.
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MINUTES

- 4/250324 The Public section of the Minutes of the meeting held on 12 January 2024 at 1000 hours & 1100 hours and the Minutes of the meeting held on 30 January 2024 at 1000 hours were circulated and the Minutes as a whole were confirmed and signed by the Chair.
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LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW – ELITE COCKTAIL BAR AND RESTAURANT, 81 STEWARD STREET, BIRMINGHAM, B18 7AF.

On Behalf of the Applicant

Mark Swallow – West Midlands Police (WMP)
Paul Littler - WMP

On Behalf of Those Making Representations

Duncan Craig – Barrister, St. Philips Chambers
Angella Raymond – Premises Licence Holder (PLH)

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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.

Mark Swallow, WMP made a preliminary request that the CCTV footage of the incident be shown in private due to the on-going investigation and to allow all parties to speak freely in relation to the incident.

Mr Craig was invited to make comments on the request but simply stated that he had no objection to the request that the footage be screened in private.

The Chair approved the request made by Mark Swallow and confirmed that the Committee would benefit from viewing the CCTV footage.

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

EXCLUSION OF THE PUBLIC

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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 public were readmitted to the meeting at 1210 hours.

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;

6/260324

RESOLVED:-

That having reviewed the premises licence under s53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) held by Angella Raymond, at Elite Cocktail Bar and Restaurant, 81 Steward Street, Ladywood, Birmingham, B18 7AF, following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that:

- 1) The Premises Licence is revoked
- 2) Angella Raymond is removed as Designated Premises Supervisor

in order to promote the prevention of crime and disorder and promotion of public safety licensing objectives.

The Sub-Committee exercised its power to hold part of this summary review 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 and parts of the Police's representation related to sensitive information.

The premises licence was suspended and the DPS, Angella Raymond, removed, as interim steps on 29th February 2024 after West Midlands Police applied for a

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review of this premises licence under s53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006).

This premises has a licence which permits the provision of licensable activities until 1am each day with a closing time of 1.30am, by which time a clear condition on the licence requires the premises to be clear of members of the public.

On Friday 23rd February 2024 the premises were open and conducting licensable activities until 01.45 hours in breach of the permissions and conditions on its licence.

At this time an incident of disorder occurred at the premises involving up to 15 persons. The incident was caught on CCTV. It appeared to continue for no more than two or three minutes. It is not known whether anyone was injured in that incident. There is no evidence that weapons were used.

The Police characterise the incident as one of a violent disorder. The Premises Licence Holder's legal representative today submitted that it was not a violent disorder but the sort of jostling that would not cause a person of reasonable firmness present to fear for their personal safety.

The Sub-Committee reviewed the CCTV. In the Sub-Committee's opinion, it shows an incident of disorder in the premises between up to 15 people in which violence was used and likely threatened. Persons could be seen moving away from the disorder likely frightened or concerned by what was occurring inside a licensed premises.

It is not for the Sub-Committee to determine the criminality or otherwise of the events in question, or to determine the criminal charge or label that might apply. The Sub-Committee was satisfied that a significant but relatively short-lived disorder took place which clearly engaged the prevention of crime and disorder licensing objective.

People left the premises of their own accord and no staff appeared to intervene to stop the incident occurring. The emergency services were not called. The inference was that staff and door staff were unwilling to become involved.

Patrons were permitted to smoke at the premises on the night in question, in contravention of the smoking ban.

The Police were also concerned that the safe capacity of the premises fixed at 60 persons was also exceeded with around 80 persons on the premises. The Premises Licence Holder disputed any breach of the fire safety capacity limit by reference to the applicable regulations. There was some discussion on this topic in the hearing which could have further engaged the promotion of public safety licensing objective if the allegation was made out. The Sub-Committee was unable to find that there was a breach of the capacity limit notwithstanding how crowded the bar area appeared at the scene of the disorder.

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The Premises Licence Holder explained through her legal representative that the premises was hired out on the night in question to a man named Ricky for a party. Ricky was told that the closing time was 1.30am. Ricky charged an entrance fee at the door, provided a DJ and 3 security personnel. The Police are therefore additionally concerned that the event was externally promoted in further breach of a specific condition on the Premises Licence.

The Police representation also advised the Sub-Committee that the premises in question is associated with gang activity, to the extent that it is a licensed venue they have historically and currently frequent. The Police advise that prominent gang members were present at the premises on the night in question. The Police are concerned that the style of operation of the premises and its location is attractive to gang members in Birmingham and that there is a continuing risk of crime and disorder occurring. The Premises Licence Holder maintained that she had no knowledge of or association with any gangs or their members. The Sub-Committee accepted this part of the Police's representation having scrutinised the information from a police officer who is an expert in gang activity to support it. The Sub-Committee finds that the premises and its style of operation makes it vulnerable to pressure from gang activity and a risk of serious harm resulting from any failure to promote the licensing objectives.

The Police also suggested that the premises was associated with drug use but the Sub-Committee could make no such finding on the evidence presented to it today.

The Sub-Committee considered that the incident in question amounted a major lapse in responsible control of the premises for which the Premises Licence Holder had to take responsibility, as she properly accepted today.

The Premises Licence Holder has engaged appropriately with the Police since the incident in question but has not been able to allay their concerns in respect of the continuing operation of the premises under present management. The Premises Licence Holder proposed the addition of conditions to the licence, shorting the terminal hour to 11pm each day and that her son Aldane becomes DPS when he obtains a personal licence in the near future. It is their intention, if the premises licence is restored, to take the premises in a very different direction to become a "LGBTQ bar".

The Sub-Committee considered that if the licensing objectives are to be properly promoted this premises, in light of its recent background, and the pressure it is under from gang activity, needs to be operated in any future guise by an experienced personal licence holder and were not satisfied that the Premises Licence Holder's son was a suitable candidate in light of his inexperience and close family relationship to the current Premises Licence Holder and DPS. The Sub-Committee was invited to and did consider whether it should also suspend the licence until such time as these changes could be made but were not persuaded that the proposal was an acceptable way forward.

The Sub-Committee took into account the break in trading over the last month but was not satisfied that this period, or the maximum suspension period of three months would be sufficient to allay their concerns.

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Taking all relevant matters and representations into account the Sub-Committee determines that the appropriate and proportionate step is to revoke the premises licence and remove Angella Raymond as Designated Premises Supervisor.

The Sub-Committee also determines for the reasons set out above to maintain interim steps of suspension of the licence and the removal of Angella Raymond as Designated Premises Supervisor pending the resolution of any appeal that may be made against the decision in the summary review. These interim steps remain necessary, appropriate and proportionate to promote the licensing objectives.

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 2003 Act, 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 2003 Act, 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 on the summary review 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.

The meeting ended at 1213 hours.

CHAIR.....