

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 17 MARCH 2023
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON FRIDAY 17 MARCH 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Diane Donaldson and Izzy Knowles.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

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

1/170323

NOTICE OF RECORDING/WEBCAST

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.

2/170323

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

3/170323 Apologies were submitted on behalf of Councillors Penny Wagg and Zafar Iqbal and Councillors Diane Donaldson and Izzy Knowles were the nominated substitute Members.

LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS – GREAT WESTERN HOTEL, 10 YARDLEY ROAD, BIRMINGHAM, B27 6EB.

On Behalf of the Applicant

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

On Behalf of the Premises Licence Holder

Richard Taylor – Solicitor
Joanne Hipkiss - PLH

* * *

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

Richard Taylor, Council on behalf of the licensee requested that the hearing be held in private due to conversations with WMP (that they would request the hearing be held in private due to on-going criminal investigations). Due to an on-going civil matter they also requested it be held in private due to the on-going trial.

Chris Jones, WMP, confirmed that they were requesting the hearing be held in private and had no objections to Counsels request.

After a short adjournment to consider the request the Chair agreed that the hearing would be held in private.

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

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

EXCLUSION OF THE PUBLIC

4/170323

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;

5/170323

RESOLVED:-

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by EI Group PLC in respect of Great Western Hotel, 10 Yardley Road, Birmingham B27 6EB, this Sub-Committee determines:

- that the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application

The Sub-Committee's reasons for imposing the interim step were due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime, which had come to light as outlined in the Chief Superintendent's certificate and application. The Sub-Committee determined that the cause of the serious crime was likely to have originated from an operating style which had failed to uphold the licensing objectives.

The meeting was conducted in private session after the Sub-Committee considered an application made by the licence holder's solicitor under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. West Midlands Police supported the application to hear the evidence in private session due to the ongoing criminal investigation. The Sub-Committee therefore agreed to hear the evidence in private session.

Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Chief Superintendent under s53A(1)(b) of the Act, related to an allegation of serious crime which had happened inside the premises. The Police summarised the investigation thus far – exactly as detailed in the Report. It was the

advice of the Police that the interim step of suspension was required in order to deal with the causes of the serious crime. A criminal investigation was under way.

The premises was a large public house, with a front bar area and a larger rear room. On Monday 13th March 2023, at approximately 21.35 hours, there had been a serious disorder at the premises which had resulted in an assault under s18 of the Offences Against the Person Act 1861. That offence met the definition of “serious crime” under s81 of the Regulation of Investigatory Powers Act 2000.

The disorder had taken place within the licence premises. Pool cues, pool balls and bottles had been used against the victim. CCTV had been viewed by the Police; this was shown to the Sub-Committee in private session.

West Midlands Police had spoken to those at the premises licence holder company, and had noted that those at the company had been “open and honest”. Due to a dispute between the licence holder and the tenant of the premises, the licence holder was unable to influence the operation of the premises. The Police therefore had serious concerns that the licensing objectives would not be promoted if the premises continued to trade, and in particular that there was a risk of further serious crime; for this reason the Police recommendation was that the licence should be suspended.

The Sub-Committee then heard from the solicitor acting for the licence holder. He explained that licence holder had cooperated with Police, and intended to continue to do so; he confirmed that the licence holder did not object to the course proposed by the Police, namely the suspension of the licence pending the full review hearing.

In deliberating, the Sub-Committee determined that there had been a serious crime incident, which was being investigated by Police. It was clear that the operation was not being run in accordance with the licensing objectives. The Sub-Committee noted that the Police had advised that the licence should be suspended “to avoid a serious risk of harm”.

The Sub-Committee found the Police recommendation to be the proper course, and determined that it was both necessary and reasonable to impose the interim step of suspension of the licence to address the immediate problems with the premises, namely the potential for further serious crime.

The Sub-Committee did not consider whether it could impose alternative interim steps as there had been no objection to the suspension from the solicitor for the licence holder. The solicitor observed that there had not been any issues before the incident of the 13th March 2023, and the premises had not been any cause for concern to the Police.

Licensing Sub-Committee C - Friday 17 March 2023

Whilst announcing the decision at the end of the meeting, the Chair of the Sub-Committee invited the Police to inform the designated premises supervisor of the decision. The Police confirmed that they would notify the designated premises supervisor today.

In reaching this decision, the Sub-Committee has given due consideration to 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 solicitor representing the licence holder.

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 1116 hours.

CHAIR.....