

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 20 APRIL 2022
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 20 APRIL 2022 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Mary Locke in the Chair;

Councillors Martin Straker-Welds and Mike Ward.

ALSO PRESENT

David Kennedy– 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)

1/200422 **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 meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/200422 **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.

There were no interests declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/200422 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Martin Straker-Welds was the nominated substitute Member.

MINUTES

4/200422 The Chairman confirmed and signed the Minutes of the meeting held on 8 October 2021 (1000 hours), 23 February 2022 (1000 hours and 1200 hours), 16 March 2022 (1000 hours).

LICENSING ACT 2003 PREMISES LICENCE – REVIEW – BOOZE BURST, 321 – 323 FOX HOLLIES ROAD, ACOCKS GREEN, BIRMINGHAM, B27 7PS.

On Behalf of the Applicant

Chris Jones – WMP (West Midlands Police)

Those Making Representations

Gary Callaghan – LE (Licensing Enforcement)

Premises Licence Holder

Ghulam Paswal – PLH (Premises Licence Holder)
Duncan Craig – Barrister, Citadel Chambers
Ben Atkinson – Duncan Craig's Assistant

* * *

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

Chris Jones advised that all parties had reached an agreed position namely; the removal of the DPS (Designated Premises Supervisor) and conditions attached to the licence submitted by Duncan Craig.

Duncan Craig and Gary Callaghan confirmed that there was an agreed position.

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

There was discussions between the Members and the Committee Lawyer about the appropriate way to proceed.

Further, Members also asked some questions in relation to how the agreed position had been reached and asked WMP for reassurance that a competent DPS would be sought by the licence holder. WMP reassured the Committee and

explained that the review application was submitted due to issues with the management. Two staff Members were employed who were brothers of the licence holder and had taken advantage of the fact that the PLH was not often in the shop as he had other commitments. Therefore, removal of the DPS would improve the day to day control of the premises. Further, any DPS application would have to be approved by WMP.

Duncan Craig also confirmed that he worked closely with WMP and would continue to consult with them in relation to the DPS application.

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

5/200422

RESOLVED:-

That, having reviewed the premises licence held under the Licensing Act 2003 by Ghulam Musadaq Paswal, in respect of Booze Burst, 321 – 323 Fox Hollies Road, Acocks Green, Birmingham B27 7PS, upon the application of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that:

- Ghulam Musadaq Paswal is removed as designated premises supervisor, and
- the conditions of the premises licence shall be modified by adding (or substituting) the following, in order to promote the licensing objectives of the prevention of crime and disorder, the protection of children from harm, and public safety, in the Act:

1. Ghulam Sanwal Paswal and Ghulam Mubashar Paswal shall have no involvement in the management or operation of the business.
2. Alcoholic drinks in open containers may not be removed from the premises.

CCTV

3. A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped.
 - i. The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.
 - ii. CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.
 - iii. Cameras will encompass all ingress and egress to the premises, the immediate area outside the frontage of the Premises and all areas where the sale/supply of alcohol occurs.
 - iv. The system will record and retain CCTV footage for a minimum of 28 days.
 - v. The system will record at all times when the Premises are open.
 - vi. The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer.
 - vii. The Digital recorder will be password protected to prevent unauthorised access, tampering, or deletion of images.
 - viii. There will be at all times, when the premises is open, a member of staff on duty with access to the CCTV system who is trained in the use of the equipment.

ix. Upon receipt of a request for a copy of CCTV footage from Police, or Officers of any other Responsible Authority, the member of staff will produce the footage within 24 hours, or less if urgently required for investigations of serious crime.

x. CCTV footage must be made available to be viewed by West Midlands Police or an Officer of a Responsible Authority upon request or during an inspection.

INCIDENT BOOK

4. An incident book must be kept at the Premises and maintained up to date (no later than 24 hours after the incident) at all times and will record the following:

i. Time date and details of all incidents/complaints of crime and disorder or anti-social behaviour

ii. All crimes reported to the venue

iii. Any faults in the CCTV system, searching equipment or scanning equipment

iv. Any visit by a responsible authority or emergency service

The incident book must be kept at the premises and made available to West Midlands Police or an Officer of a Responsible Authority on request, or during an inspection.

REFUSALS REGISTER

5. A refusals register must be kept at the Premises and maintained up to date at all times recording the date time, type of product refused, reasons for every refusal to sell alcohol to a customer and the name and signature of member of staff refusing the sale.

6. The refusals record must be made available to West Midlands Police or an Officer of a Responsible Authority on request, or during an inspection.

7. The Premises Licence Holder or the Designated Premises Supervisor must monitor the Refusals Register every month and must sign and date the Refusals Register when this has been completed, or if the Refusals Register is electronic the check and date and time of the check must be clearly recorded.

TRAINING

8. Training in relation to the Licensing Objectives and the conditions on the premises licence, Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, refusals registers, incident records dispersal policy, the premises' drugs policy must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.

9. Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training, the Designated Premises Supervisor, the Premises Licence Holder or external training providers.

10. Documented training records must be kept at the premises and made available to West Midlands Police or an Officer of a Responsible Authority on request, or during an inspection.

11. The Premises Licence Holder will ensure that all staff employed at the premises understand the conditions on the Premises Licence.

THE PREVENTION OF CRIME AND DISORDER

12. The premises licence holder will ensure that individuals who are drunk, disorderly or both will not be permitted access to the premises. Anyone found to be intoxicated shall be removed from the premises.

THE PREVENTION OF PUBLIC NUISANCE

13. The Premises Licence Holder shall ensure notices are displayed at all entrances and exits of the premises advising customers to have respect for the nearby residents and keep noise levels to a minimum as they depart.

PUBLIC SAFETY

14. The premises licence holder shall conduct a risk assessment for the general operation of the premises. This will include fire, health and safety and emergency evacuation. It will cover all areas of the premises.

15. The premises' fire risk assessment will be made available to any responsible authority immediately upon request.

16. The Licence Holder shall ensure that all emergency lighting is checked on a weekly basis. Entrances, exits and passageways shall be kept clear.

THE PROTECTION OF CHILDREN FROM HARM

17. The premises licence holder shall adopt the Challenge 25 scheme and appropriate signage will be placed at the entrance to the premises. The premises will operate a policy whereby any person attempting to buy alcohol or any person attempting to gain entry for premises who appears to be under 25 will be asked for photographic ID to prove their age. The ID that will be accepted is a passport or driving licence with a photograph.

18. The premises licence holder shall display Challenge 25 posters in prominent positions within the premises, including at the point of sale and the entrance to the premises.

In addition to the above conditions, those relevant matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will continue to form part of the licence issued.

The Sub-Committee noted from the Report that it was West Midlands Police who had brought the application for the review of the licence, due to a recent site inspection which had brought to light the complete absence of management control at the premises. Full details of this were in the Report.

At the start of the meeting the Members were taken aback to hear from West Midlands Police that an agreed position had been reached – namely that the designated premises supervisor would be removed and new conditions adopted. This course had also been approved by Licensing Enforcement, who had attended the meeting to make representations in support of the Police.

The Sub-Committee asked the Police for an assurance that the responsible authorities had confidence that a competent designated premises supervisor would be appointed by the licence holder. The Police replied that the concern in bringing the Review application had been the lack of management control; the two members of staff employed in the shop had been brothers of the licence holder, and the Police felt that the brothers had “taken advantage” of the fact that the licence holder's other job (elsewhere) had meant that he was not often at the shop himself. The Police felt that the removal of the designated premises supervisor would improve the control over the day to day management, and reminded the Sub-Committee that any proposed designated premises supervisor had to be approved by the Police.

The Sub-Committee then heard from the premises' legal representative. He confirmed that he enjoyed a close working relationship with West Midlands Police and would ensure that he consulted them regarding the new appointment.

When deliberating, the Members were surprised that the responsible authorities had felt able to express such confidence in the proposed arrangements, given what was detailed in the Report, and found themselves feeling somewhat uneasy in terms of the risks to the licensing objectives – particularly as Ghulam Musadaq Paswal would remain the licence holder.

However, they took their lead from the Police, who were of course the experts in the prevention of crime and disorder. Licensing Enforcement had also found the proposed course to be satisfactory. The Sub-Committee was hesitant to fully share the confidence expressed by the responsible authorities, but was prepared to take on board their advice.

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 written representations received and the submissions made at the hearing by West Midlands Police, by Licensing Enforcement, and by the premises licence holder's 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 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 determined.

The meeting ended at 1025 hours.