

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE THURSDAY 11 MAY 2023</b>
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**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE  
A HELD ON THURSDAY 11 MAY 2023 AT 1000 HOURS AS AN  
ON-LINE MEETING.**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Diane Donaldson and Mary Locke

**ALSO PRESENT**

David Kennedy – Licensing Section  
Joanne Swampillai – Legal Services  
Ed Brown – Committee Services

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

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1/110523      **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 and that members of the press/public would record and take photographs except where there are confidential or exempt items.

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2/110523      **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.

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3/110523     **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

Apologies were received from Councillor Morrall. Councillor Donaldson was the nominated substitute member.

4/110523     **O BAR, 265 BROAD STREET, LADYWOOD, BIRMINGHAM, B1 2DS - LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS**

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

Christopher Jones, West Midlands Police, requested that the expedited review be heard in private session as it was the subject of an ongoing Police investigation, and it was intended that CCTV footage be shown which may prejudice the investigation if shown in public.

The Chair asked the licence holders representative for their view concerning the police request. The consultant acting for the premises did not object to this course.

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

**EXCLUSION OF THE PUBLIC**

**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.

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The public were readmitted into the meeting.

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;

## **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 City Leisure Entertainment Limited in respect of O Bar, 265 Broad Street, Ladywood, Birmingham B1 2DS, this Sub-Committee hereby determines:

1. That the conditions of the licence shall be modified by adopting all those conditions which were agreed between the premises licence holder and West Midlands Police in advance of the meeting
2. That the licence be suspended pending the implementation of these agreed conditions to the satisfaction of West Midlands Police

The conditions which were agreed between the premises licence holder and West Midlands Police in advance of the meeting are as follows:

- From 21.00hrs all customers/artists/DJs to be searched on entry. This search to include metal detection. No search means no entry
- 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
- Premises to risk assess the smoking area to minimise the risk of illicit items passed in by persons outside the venue. This risk assessment to be made available to any of the responsible authorities on request

- CCTV will be updated to the recommendation of West Midlands Police Central Licensing Team

Upon the implementation of these agreed conditions to the satisfaction of West Midlands Police, the suspension shall be lifted and the premises permitted to trade pending the review of the licence, such a review to be held within 28 days of receiving the Superintendent's application.

The Sub-Committee's reasons for imposing the two interim steps are 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 Police were represented at the meeting. A director of the licence holder company also attended the meeting, accompanied by the designated premises supervisor [DPS]. Those from the premises were represented by their consultant.

The Sub-Committee accepted the advice of the Police that the risks of further serious crime and/or serious disorder could be managed satisfactorily via the adoption of a suite of new conditions, which had been agreed between the parties in advance of the meeting. The Police did not have concerns about the style of management at the O Bar, or the management personnel working there; indeed, the Police remarked several times during the meeting that they had found those at the premises to be cooperative and keen to ensure the safety of all.

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 consultant acting for the premises did not object to this course.

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 Sunday 7<sup>th</sup> May 2023. The Police stated that they did not use the s53 power lightly; the Superintendent had signed the certificate to bring the matter before the Sub-Committee as it had been a very serious incident involving the use of a weapon(s).

The Police summarised the investigation thus far – exactly as detailed in the Report. The O Bar was located in the main nightlife district of the city. A double stabbing had happened at the O Bar. A criminal investigation was under way. The incident had been the subject of two crime reports for wounding, per s18 of the Offences Against the Person Act 1861. The Police reminded the Sub-Committee that such offences are serious crimes which on conviction attract a maximum sentence of life imprisonment. The weapon was thought to have been a knife, but no weapon(s) had been located.

CCTV from inside the premises was played to the Sub-Committee. Police bodycam footage (showing the aftermath of the incident, and the first aid attempts) was also played. It was the advice of the Police that interim steps were required in order to deal with the causes of the serious crime and/or serious disorder; to that end, discussions had been held between the Police and those from the O Bar.

The Police had been pleased to observe that the premises' management had been highly cooperative during these discussions. The Police remarked that usually in such matters, they would find that a licence holder hindered or obstructed discussions, which resulted in a disputed position; that was not the case here. In the instant matter, there was an agreed position. Those at the O Bar had engaged well with the criminal investigation, and also with the discussions regarding the modification of the licence. The DPS had been willing to accept the additional conditions, and was particularly keen to prioritise safety.

The Members noted that the proposals did not include the removal of the DPS. This was somewhat unusual for a very serious incident such as a double stabbing. In response to questions, the Police confirmed that they had confidence in the O Bar management, as the DPS had been in place for some time. The Police were satisfied that the events of the 7<sup>th</sup> May had been a one-off, and considered that the DPS had done all she could to engage with the Police during the discussions. The director of the licence holder company had also agreed to all the proposed conditions, and wanted the premises to be safe and well-managed.

Overall, the Police felt confident in the premises' ability to uphold the licensing objectives provided the new conditions were added to the licence. It was therefore the Police's recommendation that the premises licence should be suspended in order to allow sufficient time for the conditions to be implemented, but once this had been done, the premises could reopen and resume trading in advance of the summary review hearing.

The Sub-Committee then heard from the licence holder company, via its consultant. It appeared that on the night in question, some boisterous patrons had been removed by the premises' security staff, and in the course of the removal, the two wounding incidents had happened either outside the premises or on the way out. As soon as the incident had been noticed, the lights in the premises had been turned on, and first aid given to those involved. Nearby Police officers had also entered. The injured parties had been released from hospital, but those at the premises had not yet spoken to them.

The consultant confirmed that both the director of the licence holder company and the DPS were happy to agree to all the proposed conditions, and would not ask for the suspension to be lifted until all measures were properly put in place and endorsed by the Police. The priority was ensuring that admission at the front door was secure; accordingly, an ID scanner and bodycam equipment had been ordered. The consultant agreed with the Police that it had been a one-off incident; he considered that another DPS would not have made any difference. He noted that the premises' staff dealt with ejections well.

The Sub-Committee then heard from the DPS directly. She confirmed that the premises did operate a search policy at the door, and said that she had felt that the arrangements were sufficient as there had never been any incident with a knife. However, all at the premises had seen that more measures were needed, and she was keen to put these in place as per the Police recommendations.

Having heard all of the evidence, the Members were confident that the course proposed by the Police was satisfactory and would ensure that the risk of any further serious crime and/or serious disorder was removed. In particular, the Members were reassured that the DPS understood her responsibilities and could be trusted to take proper management control of the premises in implementing the new measures.

Whilst deliberating, the Sub-Committee agreed with the Police that it would be possible for the premises to resume trading as soon as everything required by the new conditions was implemented. Both parties had anticipated that this could be done in advance of the full summary review hearing; the Sub-Committee felt that this inspired confidence that the premises would handle the implementation smoothly.

Whilst any incident where a weapon(s) had found its way into licensed premises was very serious, the Sub-Committee agreed with both parties that this was perhaps a one-off incident, and that the correct course was that which had been recommended by the Police. The Sub-Committee therefore resolved to modify the conditions and impose the suspension. 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 individual and her management style were satisfactory to 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 premises via its consultant.

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.