

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE A 25 MARCH 2024</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 25 MARCH 2024 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Sam Forsyth in the Chair;

Councillors Mary Locke and Izzy Knowles.

### **ALSO PRESENT**

David Kennedy – 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)

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1/250324

### **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.

2/250324

### **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**

- 3/250324 Apologies were submitted on behalf of Councillors Phil Davis and Simon Morral and Councillors Sam Forsyth and Izzy Knowles were the nominated substitute Members.
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**MINUTES**

- 4/250324 The Public section of the Minutes of the meeting held on 26 February 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 – THE CASTLE AND FALCON, 402 MOSELEY ROAD, SPARKBROOK, BIRMINGHAM, B12 9AT.**

**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  
Dominic Molloy – 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 if the Members wished to view the CCTV, that it be shown in private. The WMP officer advised that although he did not intend to rely on the footage, viewing it in the public session could jeopardise the on-going criminal investigation.

Mr Craig was invited to make comments on the request but simply stated that he had no objection.

The Chair approved the request made by Mark Swallow and confirmed that the Committee would benefit from viewing the CCTV footage which was shown at the first interim steps hearing.

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.

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**EXCLUSION OF THE PUBLIC**

5/250324 **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 public were readmitted to the meeting at 1106 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;

6/250324 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by The Castle & Falcon, Ceol Castle, 402 Moseley Road, Sparkbrook, Birmingham B12 9AT, following an application for a summary review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines:-

To modify the conditions of the premises licence in accordance with the schedule of conditions put forward by the premises licence holder and previously agreed with West Midlands Police, a copy of which is attached to this Decision Notice.

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 premises licence was suspended and the DPS, Mr Dominic Molloy, removed, as interim steps on 29<sup>th</sup> February 2024 after West Midlands Police applied for a review of this premises licence under s53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006).

The application for a s53A review was made after a serious incident of violence and disorder at the premises in the early hours of Saturday 24<sup>th</sup> February 2024 while the premises was conducting licensable activities. A person was ejected from the premises from the beer garden. On the footpath outside the premises an argument ensued between the person ejected and friends with staff and door staff from the

premises. This culminated with a disorder taking place where a number of punches were thrown. As a result, one person fell to the ground unconscious and was hospitalised. A member of staff working at the premises at that time, a door supervisor, has been charged with unlawful wounding.

West Midlands Police applied for an expedited review because at that time they had no confidence in the management of the premises after unlawful and excessive force was used. The incident was in the Police's opinion a serious one where there was a failure to promote the licensing objectives.

The Premises Licence Holder then made representations in respect of the interim steps imposed and a hearing was held before a Licensing Sub-Committee on 8<sup>th</sup> March 2024, by then around twelve days after the incident on 24<sup>th</sup> February 2024. By that time, and following discussions between the Premises Licence Holder and the Police, the Police's opinion had changed such that they were content to see the suspension lifted, Mr Molloy returned to his role as DPS, and conditions on the licence modified and replaced where necessary with a long list of agreed conditions.

At today's hearing, the summary review hearing that had to be held within 28 days of the s53A application, the Licensing Sub-Committee heard further updated representations from West Midlands Police and the Premises Licence Holder's representative. The Sub-Committee also viewed the available CCTV footage of the incident in private session.

It is not for the Licensing Sub-Committee to judge the criminality or otherwise of the events that took place giving rise to this expedited review, the Sub-Committee is only concerned with its statutory duty and responsibility to promote the licensing objectives. The Sub-Committee finds however that there was a serious incident in which violence was used and disorder occurred at a time when licensable activities were taking place at the premises. Accordingly, the prevention of crime and disorder licensing objective was clearly engaged by the events in question, as the Sub-Committees that imposed and later modified interim steps previously found. The Sub-Committee was also told today that the victim remained in hospital due to his injuries for around two weeks. It is clear that serious harm resulted from the incident in question and failures in the behaviour of persons under the control of the premises on the night in question.

The Sub-Committee could see that by the time representations were made in respect of the interim steps the position of the Police had developed such that they were content that the licensing objectives could be adequately promoted pending this review hearing, by the addition of conditions to the premises licence and that they were content for Mr Molloy to resume his role as DPS.

By the time of this summary review hearing, four weeks have passed since the incident in question, and more than two weeks since the new conditions were imposed by agreement as modified interim steps. The Sub-Committee was pleased to hear that there have been no problems at the premises since the interim step conditions were implemented. The Sub-Committee was informed by the Premises Licence Holder today that the door supervisor in question had been dismissed and the agreed conditions implemented, with the whole episode a salutary lesson for him and his business.

The Sub-Committee, having scrutinised the Police's updated representations and the detail of the proposed conditions, is content that the modification of the licence in accordance with those conditions is now the appropriate and proportionate step to be taken upon this summary review. The Sub-Committee notes in particular that the terminal hour for licensable activities has been reduced to 3.30am and closure of the premises to 4am, with a last entry condition at 3am.

The other conditions to be added to the licence appear to the Sub-Committee to have been carefully thought out with the intention of promoting the licensing objectives and are likely in the assessment of the Sub-Committee to reduce the risk of any further failures to promote the licensing objectives in the future. The Sub-Committee placed weight on the representation of the Police today that they now had confidence in the ability of Mr Molloy to promote the licensing objectives by operating the agreed conditions. The Sub-Committee has a reasonable degree of confidence in the agreed position and identifies in particular the importance of the Premises Licence Holder ensuring through proper management that any friction at the premises is defused and does not escalate in the future.

In addition to the above conditions, those 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.

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 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 Sub-Committee also determines, as they were invited to by the Premises Licence Holder, that the interim steps previously imposed, as modified by agreement in the schedule of conditions attached to this Decision Notice, shall continue to be in effect as interim steps pending the resolution of any appeal.

**Conditions agreed between licence holder and West Midlands Police in advance of the hearing**

**INCIDENT LOG**

An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (1) all crimes reported to the venue
- (2) all ejections of patrons
- (3) any complaints received concerning crime and disorder
- (4) any incidents of disorder
- (5) all seizures of drugs or offensive weapons
- (6) any faults in the CCTV system, searching equipment or scanning equipment
- (7) any refusal of the sale of alcohol
- (8) any visit by a relevant authority or emergency service

### **SERIOUS ASSAULT**

In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:

- (1) The police (and, where appropriate, the Ambulance Service) are called without delay;
- (2) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
- (3) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
- (4) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.

### **CCTV**

CCTV will be in operation 24 hours a day.

CCTV to be installed to the specifications and locations of West Midlands Police Licensing Department at Birmingham Central Police station. Recording at all times premises are open for any licensable activity. Which ever system used all images are to be held for a minimum of 28 days. If tape system used all tapes are to be held in secure holding facility. If tape system used all tapes to be replaced every 6 months with new ones. This is to be recorded in incident book for premises. All images held are to be available immediately on request by any of the responsible authorities.

The CCTV system is to be checked daily, prior to carrying out licensable activity, to ensure it is working and recording this checked will be documented, timed, dated and signed by the person checking.

If for any reason the hard drive needs to be replaced then the previous / old hard drive will be kept on the premises for a minimum of 28 days and made available to WMP if required.

There will be a member of staff on site, while the premises is carrying out licensable activity that is capable of operating the CCTV systems. Images / recording will be made available to WMP on request.

### **CAPACITY**

The maximum capacity of persons shall be subject to a fire risk assessment

### **IDENTIFICATION AND REFUSALS**

## **Licensing Sub-Committee A – 25 March 2024**

The premises will operate a Challenge 25 policy. Signage will be displayed at the venue. The only identification that the premises will accept will be Photo driving licence, Passport or Pass approved card.

Staff will record all refusals of alcohol and other age restricted products and the books will be checked and signed weekly by the Designated Premises Supervisor. The refusal register must be made available for inspection by any of the responsible authorities.

### **SIA DOORSTAFF**

A member of the management team of the premises will have control and direction over the security team when the premises is open for licensable activities

The number of SIA licensed door staff on duty shall be subject to a risk assessment, which shall be documented and made available to the responsible authorities upon request. This condition applies both to normal days as well as to event days.

Where there is a requirement for SIA licensed door supervisors, the licensee shall ensure that

- a) they are on duty at the entrance of the premises at all times whilst it is open for business and remain on duty past the closing time of the premises for a period until all patrons have dispersed from the locality. Door supervisors will patrol areas around collection points for taxis by the premises to prevent disorder and be Deployed as per the risk assessment.
- b) at least one licensed SIA door staff on duty at the premises shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the West Midlands Police. That person shall be required to attend all incidents that require intervention.
- c) all BWV recordings shall be stored for a minimum period of [28/31] days with date and time stamping, and
- d) viewing of recordings shall be made available immediately upon the request of Police or Birmingham City Council

All door supervisors working at the premises are to sign on duty, listing their first and surnames together with their full SIA licence number when they start work and off duty when they finish. All door supervisors must wear there SIA badge in a clear sleeve arm holder.

Door supervisors will wear hi-visibility coats /jackets or tabards. Where door supervisors are used the premises will retain a profile of all door supervisors that have worked at the premises in the last 3 months. A profile will consist of proof of ID (copy passport, photo driving license, SIA badge) and proof of address dated within the last 6 months (copy bank statement, utility bill etc). No proof of address needed if proof of ID is photo driving license

Door supervisor profiles must be retained at the premises and be made available for inspection immediately on request of any of the responsible authorities. Door supervisors will work past the closing time of the premises for a period until all patrons have dispersed from the locality. Door supervisors will patrol areas around collection points for taxis by the premises to prevent disorder.

Door supervisors stationed outside the premises shall wear hi-visibility jackets/coats. Door supervisors inside shall wear hi-visibility waist coats. All SIA door staff will wear their SIA badge in a clear arm sleeve. When door staff are deployed at least one door staff will be equipped with a bodycam and will attend all incidents that require intervention. Bodycam footage will be retained for a minimum of 31 days.

## **STAFF TRAINING**

Staff shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

All staff responsible for selling alcohol shall receive relevant training before making any unsupervised sales.

The training shall include:

- the Licensing Act 2003 in terms of the licensing objectives and offences committed under the Act;
- the conditions of the Premises Licence;
- the sale of age-restricted products.

This training will be refreshed at least every six months. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

Age-restricted products training shall cover the following steps:

- the assessment of age;
- how and when to challenge for proof of age;
- acceptable proof of age and how to check; and
- recording refusals.

All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

All staff shall be trained in how to manage a crime scene and crime scene preservation. This training shall be repeated at least once a year. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

## **OPERATING POLICIES**

A copy of the premises' dispersal/drugs/search/security/vulnerability policies shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Birmingham City Council.

The premises will have at least one staff member on duty that is first aid trained when carrying out licensable activity and a first aid trained staff member will take the lead on any medical or vulnerability incidents

## **STAFF TRAINING**

The premises licence holder shall ensure that all shift managers are trained in safety and accredited Conflict Management Training.

## **LICENSABLE ACTIVITIES**

The premises will conclude licensable activity at 0330 each day.



**LAST ENTRY TIME**

Last entry time, save for smokers, will be 03:00 hours

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**The meeting ended at 1108 hours.**

CHAIR.....