

## **BIRMINGHAM CITY COUNCIL**

<b>LICENSING AND PUBLIC PROTECTION COMMITTEE 21 NOVEMBER 2018</b>
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**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY 21 NOVEMBER 2018 AT 1000  
HOURS IN COMMITTEE ROOMS 3 AND 4  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Barbara Dring in the Chair;

Councillors Olly Armstrong, Bob Beauchamp, Nicky Brennan, Neil Eustace, Adam Higgs, Nagina Kauser, Mike Leddy, Mary Locke, Simon Morrall, Hendrina Quinnen and Martin Straker-Welds.

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**NOTICE OF RECORDING/WEBCAST**

- 1081 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

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**DECLARATIONS OF INTEREST**

- 1082 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

There were no declarations of interest.

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**APOLOGIES**

- 1083 Apologies were received from Councillors Bruce Lines, Mike Sharpe and Sybil Spence for non-attendance.
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**MINUTES**

- 1084 The Minutes of the meeting held on 24 October 2018, having been previously circulated were confirmed as a correct record and signed by the Chairman.
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**The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.**

**CONTROL OF SEX ESTABLISHMENTS – SEXUAL ENTERTAINMENT VENUE, SCARLETS 34 HORSE FAIR RENEWAL REPORT**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 1)

The following people were in attendance for the hearing.

**On behalf of the Licence Holder**

Mrs Michelle Monaghan	-	Licence Holder
Ms Sarah Clover	-	Legal Representative

**Those making Representations**

Mr Oliver Drain	-	Birmingham Royal Ballet
Mr Peter Evans	-	Birmingham Hippodrome

At this juncture, the Chair welcomed everyone to the meeting and made the necessary introductions. She outlined the running order of the business and the times each party would have to make their representation and summary.

The Chair after seeking confirmation that the applicant did not wish to make any preliminary points invited the Licensing Enforcement Officer to present the report.

David Kennedy, Licensing Section, made introductory comments relating to the report.

Ms Clover and Mrs Monaghan made the comments in support of the application and in response to questions from Councillors:-

- That this was a request for the renewal of a Sexual Entertainment Venue (SEV) licence the original application having being obtained 2011 and under the scheme of law, the requirement was to renew the application every year.
- There had been various visits to the premises since the licence had been issued in 2011 but no issues had been raised by the responsible authorities following these visits nor indeed upon application for renewal of the licence.

- No objections to the renewal of the licence had been made by any of the responsible authorities or by Southside Bid. Ms Monaghan also held an SEV licence for the Cyclone premises in Broad Street.
- There has been a regular objection on behalf of Birmingham Royal Ballet and Birmingham Hippodrome they object nearly every year on the same ground.
- The premises were located in an area listed as suitable for a sexual entertainment venue by Birmingham City Council.
- Ms Monaghan confirmed that they had been trading for sufficient time from September 2017 up until April 2018. There have been some problems with the building structure, uncertainty regarding the renewal of the lease and today's application and staffing issues (relating to bar and security staff) rather than performers, which had all since been resolved and were now ready to re-open.
- Ms Monaghan also held an SEV licence for the Cyclone premises in Broad Street. She stated that the performers working at both premises were self-employed and confirmed that the licensing authority had never raised any queries with regard to any inadequacies relating to the rules and regulations for the protection of the performers.
- Ms Monaghan confirmed that the performers were provided with separate changing rooms, toilets, refreshments and discounted drinks. She confirmed that all of the door staff was Sia licensed and the performers were monitored by CCTV. When leaving the premises they were escorted by security staff to their taxis or vehicles for their safety. She added that generally the performers were happy in their work and there had only ever been relatively minor complaints received.
- Ms Monaghan referred to the issue of fines and explained the reason for their implementation was to ensure the smooth running of the business. She added that generally fines did not occur and at the last time of inspection, no fines had been taken from the venue.
- Ms Monaghan briefly explained the reason for the renewal application licence being refused in September 2016 on 'suitability.' She stated that the business rates had not been paid due to a disagreement with the landlord as the building was not fit for purpose. She confirmed that the disagreement had since been resolved and after making payments on the arrears and following an appeal at the Magistrates Court the licence had been granted. It was reported that the outstanding debt had now been completely repaid.
- It was noted that the level of impact occurring in times of when Scarlets was trading were nowhere near enough for Birmingham

Royal Ballet or Birmingham Hippodrome to be aware that it was happening.

- The premises had not changed since 2011 when representation had been received from the Birmingham Royal Ballet and the Birmingham Hippodrome and while there had been no direct complaint from the premises, Ms Monaghan had changed the premises opening hours from 9.00pm to 10.00pm (even though she had been granted a licence from 9.00pm to 6.00am) so that there would be no significant crossover of customers for the 2 venues.
- The exterior of the premises was very discreet with no large logos with a notice indicating that it was a late night venue – nothing indicating the type of entertainment offered.
- While there were various developments taking place in and around the area, it was highlighted that the city council's policy remained unchanged with the number of eight Sexual Entertainment Venues including Scarlets being appropriate in the area.
- That according to the licensing policy for SEVs there were no moral judgement to be made when looking at the licence for an SEV - this was a legitimate business with regulatory conditions.
- Ms Monaghan confirmed that there was the provision of a smoking area outside which was screened and it was a private locked garden. It was further confirmed that performers and patrons shared the area.

At 1125 there was a five minute adjournment in order that the photographic evidence of the smoking area could be circulated to the Committee and the attendees.

As the photograph was not a good judgement an up to date photograph was provided later.

At 1130 the meeting reconvened.

Mr Oliver Drain Birmingham Royal Ballet and Mr Peter Evans, Birmingham Hippodrome made the comments in support of the application and in response to questions from Councillors:-

- Mr Drain referred to the dance facilities at the Royal Ballet used by the number of children and vulnerable adults and was of the opinion that Scarlets was an inappropriate business to be located in this vicinity.
- Mr Drain highlighted that Birmingham Hippodrome and Birmingham Royal Ballet were joining together with One Dance UK to build the DanceHub and it was hoped that Birmingham would become the home of Dance, Globally. He highlighted that taking into account the new facility due to open next year and the impact that this would have it was

therefore inappropriate to have a Sexual Entertainment Venue located nearby.

- Mr Evans highlighted that they had expanded their youth environment in Birmingham Hippodrome over the past months providing an expansive educational network. He highlighted that families and children not only used Hurst Street entrance but also widely used Thorp Street entrance.
- He added that Thorp Street entrance had been refurbished 2 years ago and that all the young dancers used that entrance. He confirmed that although Scarlets was located on the opposite side of the road, the smoking area and gardens were nearly opposite the doors of the Hippodrome and it was therefore important that they were screened correctly. He gave assurance that if further action was required regarding screening, that the applicant would most probably address this as she had done in the past.
- It was noted that with the changes that were taking place in Southside and with the expansion of business relating to Birmingham Royal Ballet and Birmingham Hippodrome, the drive for more families and young people having greater exposure to the arts in various forms, and the residential developments that were taking place, they believed it was not an appropriate to have a Sexual Entertainment Venue nearby.
- It was noted that the evening performances at the Birmingham Royal Ballet and Birmingham Hippodrome finished at approximately 10 pm with dress rehearsals finishing a little later. It was highlighted that they were always encouraging more diverse groups to the arts and that their policy was 'everybody was welcome'.
- Mr Evans detailed the future events that would be taking place at Birmingham Hippodrome resulting in approximately 130,000 families and school groups attending these events in the forthcoming months. It was highlighted that children taking part in the shows were licensed to perform. It was noted that children attending the events would be under the supervision of an adult and that it would be the adult's choice whether they used the Thorp Street route.
- It was highlighted that in the past the Southside Bid had objected to Scarlets, however on this occasion they had not.
- In response to a question as to whether any issues or complaints had been raised by the parents of the children attending Birmingham Hippodrome, Mr Evans confirmed that no complaints regarding Scarlets' operation had been lodged.
- In response to a question relating to whether they had considered the SEV when Birmingham Hippodrome were looking to expand their business, Mr Evans confirmed that they were following their remit to create a bigger and better creative hub for Birmingham. Mr Drain,

Birmingham Royal Ballet confirmed that they were always looking to improve and increase their outreach.

In summing up, Mr Evans made reference to the developments that were taking place in Southside. He highlighted that with Birmingham Hippodrome and Birmingham Royal Ballet joining together with One Dance UK to build the DanceHub which will encourage more family oriented activities and as part of that given the increased use of Thorp Street was of the opinion that the licence should not be renewed.

In summing up, Ms Clover made reference to the DanceHub as put forward as the change to the area highlighting that it was part and parcel of Birmingham Hippodrome and that the use of the building would remain the same. Ms Monaghan had operated the premises successfully without giving cause for complaints and could see no specific risk arising due to increased business resulting from the new DanceHub. It was highlighted that the licence renewal was annual and if problems occurred in the future these could be addressed at that time.

At 1225 hours the Committee adjourned and the Chair requested that all present with the exception of the Members, the Committee Lawyer, the Committee Manager and Camera Operator withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1317 hours and the decision of the Committee to grant the renewal of the Sexual Entertainment Venue licence was announced with everyone being advised that they would receive the full decision and reasons as set out below in due course:-

The Chair put the vote to the meeting and following a show of hands, by 7 in favour and 5 against it was:-

1085

**RESOLVED:-**

That the application by Michelle Monaghan for the renewal of a Sexual Entertainment Venue licence under the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect of Scarlets, 34 Horse Fair, Birmingham B1 1DA.

**BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

Those matters detailed in the application and the Council approved standard conditions will form part of the licence issued subject to the **additional** conditions below:

[1] The licence holder is to ensure that the outdoor smoking area is effectively screened so that the area cannot be seen from the street.

[2] The licence holder is to provide a separate and dedicated smoking area for performers to which patrons shall not be admitted.

[3] The hours of operation are amended (with the agreement of the applicant) to 22:00 – 06:00.

**Reasons**

Members carefully considered the representation on behalf of the applicant and had careful regard to the representations made on behalf of the Birmingham Royal Ballet and the Hippodrome.

The Committee noted the discussion and submissions concerning the use of premises in the vicinity and also the character of the area. The Committee in particular noted that construction had begun on the Dance Hub but that the construction works had yet to be completed.

The Licensing Committee noted the representations that the character of the area is changing, the Committee expressly requested that a fuller report on the use of premises in the vicinity and the character of then locality is provided at the time of the next renewal application to enable a fuller and detailed examination of the use of premises in the vicinity and the character of the area.

The Committee heard from the representatives of the Birmingham Royal Ballet and the Hippodrome that the smoking area was visible from the street. The applicant provided photographs of the current level of screening as at the date of the hearing. It was felt that the level of screening was insufficient.

During the course of discussion with the applicant it emerged that the smoking area was used by patrons and staff. The committee were concerned that there was not a separate smoking area for performers. Members felt that a separate area, in which patrons were not allowed, should be provided for performers wishing to take a smoking break.

The Committee considers the conditions imposed to be necessary, reasonable and proportionate to address concerns raised.

In reaching this decision, the Committee has given due consideration to the City Council's Sexual Entertainment Venue Policy, the information contained in the application, the written representations received and the submission(s) made at the hearing by the applicant and their (legal) adviser and those who had made representations.

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**LICENSING AND PUBLIC PROTECTION BUDGET MONITORING**  
**2018/2019 – QUARTER 2**

The following report of the Acting Director of Regulation and Enforcement and Corporate Director Finance and Governance was submitted:-

(See Document No. 2)

Parmjit Phipps, Finance and Governance, provided a comprehensive breakdown of the report.

In response to the Chair's comment relating to PoCA expenditure detailed in Appendix 3 of the report, Chris Neville, Acting Director of Regulation and Enforcement while providing a more detailed financial breakdown highlighted that it all the spend had been used within the ring-fenced conditions.

Councillor Leddy congratulated officers for their excellent financial performance.

The Chair put the recommendations to the meeting and they were unanimously agreed.

1086

**RESOLVED:-**

- (i) That the latest Revenue budget position at the end of September 2018 (Quarter 2) and Forecast Outturn as detailed in Appendix 1 be noted;
- (ii) that the position for the Savings Programme for 2018/19 as detailed in Appendix 2 be noted;
- (iii) that the expenditure on grant funded programmes in Appendix 3 be noted;
- (iv) that the position on Capital projects, as detailed in Appendix 4 be noted;
- (v) that approval be given to the appropriation of £0.191m from PoCA reserves for PoCA expenditure; and
- (vi) that the position on reserves and balances, as detailed in Appendix 5 be noted.

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**PROPOSALS FOR A MEDIUM TO LONG-TERM EMISSION STANDARD AND AGE POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 3)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments and outlined the key points of the report. It was noted that a further report would be brought to Committee on 13 February 2019 containing the final version of the policy.

At this juncture, the Chair emphasised that this was only the consultation document.

In response to the comments from elected members' and trade representatives, the following points were captured:-



Chris reported that although it was the responsibility of hackney carriage and private hire drivers to acquire the tools of the trade in order to meet all legal obligations and policy decisions, it was very much hoped that they would receive funding from the Clean Air fund that had been set up specifically to assist businesses to transition and that drivers would fall into that category. He added that they had had earlier conversations with Government regarding this particular item.

The Chair referred to the bid which was being submitted prior to 11 December 2018, and confirmed that it honoured the commitment in trying to get as much resource as possible, in order to assist drivers in making the transition.

Chris made reference to the policy that had been implemented 12 months ago whereby vehicles would have to meet the clean air emissions standards by 1 Jan 2020, adding that at present there was no approved technology agreed by Government that would convert taxi vans to meet the necessary standards. He stated that they were hoping that Government will approve some of the technology and that it was up to industry to come with solutions and obtain approval.

He highlighted that the decision taken 12 months ago where vehicles would have to meet Euro 6 standard was there for reasons of health and to improve the air for the citizens of Birmingham that lived and worked in the city.

Chris confirmed that there was recognition that the consequences of deregulation had caused difficulties for the drivers, he stated that they were trying through lobbying the Government to request changes in order to stop the deregulation act impacting on the trade.

Following a discussion relating to the number of deaths occurring as a result of poor quality air, Chris and Chair explained that the information was based on public health data and that there was no reason to doubt the information provided.

Chris provided a brief explanation on the need to implement the age policy and the fact that they would need to meet air quality standards which might not be possible to achieve if vehicles were past a certain age.

Chris provided a brief explanation on the pilot project and the reason why the newest vehicles had been selected rather than converting very old vehicles due to the structural and associated issues.

Chris stated that although there were many hackney carriage and private hire trade working in the city and they were not the only cause to contributing to the air quality, however the city council was under the obligation to influence air quality wherever it had the opportunity to do so. The licensing policy was a clear opportunity for the city council to fashion its procedures and policies to support its overall and overarching objectives to improve air quality.

Chris referred to the proposals within the report and confirmed that they were proposals for policy and that Birmingham had to have a clean air zone and has to implement in how it sees fit locally.

Chris confirmed that engine conversions would have to be CVRS approved and they would have to take place at an approved garage under the Government scheme. He added that it was a specialist conversion and did not anticipate that there would be a waiting list for drivers wishing to take this course of action.

Chris briefly explained the LPG conversion and subsequently highlighted that all vehicles were subject to a thorough structural survey. He added that vehicles converted now at an approved garage would still have to meet the 14 year age criteria from 1 January 2020 which would determine whether they could continue working.

Chris made reference to the point that some drivers had very recently purchased vehicles in order to meet Euro 6 emissions standard and stated that if there were specific hardship issues, in those circumstances, they would be considered as part of this consultation.

Following a concern from the trade relating to drivers' computer literacy, Chris agreed to take on board and confirmed that they would be writing to all individuals in due course.

Following a brief discussion relating to the trade meetings, the Chair agreed to attend the next meeting.

The Chair concluded by thanking representatives from the trade for attending the meeting and providing their comments.

The Chair put the recommendations to the meeting and following a show of hands it was (5) in favour and one abstention and was therefore carried.

1087

**RESOLVED:-**

That subject to the views and comments of the Committee a consultation will be launched with the taxi and private hire trade and the general public to consider the principles for future licensing policy outlined in the paragraph 6 of the report; and

That the consultation will commence on 21 November 2018 and last for 8 weeks; and

That a further report be brought to this Committee on 13 February 2019 containing the final version of the policy; and

That outstanding minutes 916(iii) and 916 (iv) of 23 October 2018 be discharged.

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**PROSECUTIONS AND CAUTIONS – SEPTEMBER 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments relating to the report highlighting some of the cases.

The Chair put the recommendation to the meeting which was unanimously agreed:-

1088 **RESOLVED:-**

That the report be noted.

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**FIXED PENALTY NOTICES ISSUED SEPTEMBER 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report.

The Chair put the recommendation to the meeting which was unanimously agreed:-

1089 **RESOLVED:-**

That the report be noted.

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**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:  
SEPTEMBER 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Emma Rohomon, Acting Head of Licensing, made introductory comments to the report.

The Chair put the recommendation to the meeting which was unanimously agreed:-

1090 **RESOLVED:-**

That the report be noted.

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**SCHEDULE OF OUTSTANDING MINUTES**

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 7)

Chris Neville, Acting Director of Regulation and Enforcement, commented on various Outstanding Minutes.

1091 **RESOLVED:-**

That Outstanding Minute Nos. 916(iii) and 916(iv) be discharged and all other Outstanding Minutes be continued.

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**AUTHORITY TO CHAIR AND OFFICERS**

1092 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

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The meeting ended at 1445 hours.

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CHAIRMAN