

BIRMINGHAM CITY COUNCIL

**LICENSING AND
PUBLIC PROTECTION
COMMITTEE
9 APRIL, 2019**

**MINUTES OF A MEETING OF THE LICENSING AND
PUBLIC PROTECTION COMMITTEE HELD ON
WEDNESDAY 9 APRIL 2019 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, Nagina Kauser, Mike Leddy, Mary Locke, Simon Morrall,
Mike Sharpe and Martin Straker-Welds.

ALSO PRESENT:-

Freddie Humphries – Committee Lawyer
David Kennedy – Licensing Officer
Louisa Nisbett – Committee Manager

NOTICE OF RECORDING/WEBCAST

1148A The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

1149A 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.

APOLOGIES

1150A Apologies were received from Councillor Bruce Lines for non-attendance.

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,
PARADISE CITY, 193-194, BROAD STREET, BIRMINGHAM B15 1AY**

The Chairman welcomed all parties 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 following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 1)

On behalf of the Applicant for the SEV Licence

Philip Kolvin QC
Mr Daniel Parma - Director (Minority Shareholder)
Mr Gary Brown – Director (Majority Shareholder)
Mr Andrew Bamber – AB Conformitas Limited
Ms Roxandra Niculescu – Deputy Manager
Mr Adkins - Solicitor
Mr Zvaid Tsiklauri – Head Door Supervisor
Anna Lloyd - Notes
Interpreter for Mr Parma

Those Making Representations

Ms Christina McCulloch – Licensing Enforcement
PC A Rohomon – West Midlands Police
James Rankin – Counsel for WMP Representations
Jennifer Downing – Solicitor WMP
Francis Taylor - WMP
Mike Olley – Westside BID
Heath Thomas – Legal Representative for Westside BID

Preliminary Matter

The Chairman asked whether anyone wished to make any preliminary points. James Rankin, Counsel requested that CCTV footage be shown in private so as not to disclose the identity of individuals in the footage and this was agreed by the Committee.

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Philip Kolvin, QC was assured that although the Chairman had indicated that submissions should be 20 minutes, sufficient time will be given for all parties to make their presentations.

David Kennedy, Licensing Section outlined the main points of the report.

Phillip Kolvin QC together with those present in support of the application, made the following comments on behalf of the application and in response to questions:-

1. Although the application was originally for 24 hours, the intention was that the hours of operating should be from 1900 hours to 0700 hours. They did not wish to vary the standard conditions.
2. With regards to the locality, the application sits within an area with an upper limit guide on the number of SEV's, the appropriate upper limit being 8. There were 6 SEV's at present.
3. The main issues of concern were the involvement of Mr Parma himself. Mr Palma is the former owner of Legs 11. Mr Parma would not have any involvement or influence in the day to day management of the Premises as he was simply an investor. The premises would be in the hands of Mr Brown who would also be the DPS, assisted by Ms Niculescu who was an exemplary individual of good character.
4. The application was for standard conditions with no variations. Further conditions were proposed to ensure the public interest and law was upheld, as historically a further level of conditions was needed for these type of premises. In addition an independent audit will be carried out to ensure the venue was run in a proper manner. This would include covert visits by Mr Bamber.
5. One of the main issues is that there are a series of unwarranted allegations made by West Midlands Police that Mr Parma was a murderer, involved in organised crime, was guilty of trafficking women and had committed fraud on customers. The WMP allegations were sad and allegations need to be substantiated on the balance of probabilities. Mr Parma had not been charged or convicted of any of the matters. The property ceased as part of the operation had been returned by the police. After 2 years WMP had not provided any evidential material and matters had not been pursued any further.
6. It was clear from the CCTV footage that there had been a flagrant breach of the licensing conditions in Broad Street in 2017 particularly with regard to the non touching rule. It was accepted by the applicant that there had been very serious breaches and that supervision was lacking in the SEV premises at Legs 11. The premises were being managed by other persons. Mr McLean left in 2016 and there were problems when Mr Haxia was DPS.
7. Mr Parma was aware of his responsibilities as owner of the premises. He had been hospitalised owing to being seriously unwell for part of that period and had been unaware there were issues. As a result of this he had lost both clubs and was anxious to re-establish the business. Mr Parma had accepted advice from a Legal Team and Mr Bamber that it was better that he stepped back and relinquished control of the premises.

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8. He had handed Directorship of the premises to Mr Brown and his team together with a large number of conditions. Mr Brown was happy to operate the business with no interference from Mr Parma. Mr Parma had been frank regarding his intentions and his past. He asked that the licence be granted subject to conditions. If there were still concerns, the licence could be granted for less than 12 months or for a probationary period at the discretion of the Committee.
9. In reply to questions from Philip Kolvin QC, Mr Brown was a person of good character holding a DPS certificate and had no convictions. He held a personal licence. Mr Brown's CV was referenced at page 203. He was a Valuations Manager at a well-known estate agent. He was required to comply with various regulations and was trained in various fields, holding NVQ's including in Team Leadership.
10. Mr Brown was experienced in the night time economy. He had worked as a DJ in venues both in the UK and across Europe for 20 years. He had worked as a DJ at Legs 11 Ladywell Walk and was acquainted with Mr Tsiklauri and Mr Parma.
11. Over the period he had worked at Legs 11 he was not aware of any criticism about the premises or seen anything illegal. He had worked with the DPS who was professional, respectful of the staff and was knowledgeable of the business and conditions. It was a safe place for staff to work and customers to have a good night out. Mr Brown confirmed that the statement was true.
12. Mr Brown confirmed he was a 51% shareholder in the company and also a Director. Mr Parma would have no involvement in running the premises. He had been involved in the last 12 months and wrote the majority of the conditions and policies etc. Mr Brown referred to and explained how financial transactions were made in advance ensuring transparency. No payments were made in dance areas. There will be a payment point. A form was filled out for some payments.
13. CCTV was in place to ensure everything was transparent and voluntary and no one was fleeced.
14. There was zero tolerance to drugs. Posters in the toilets would enforce this.
15. Reference was made to a series of measures on page 126, for example with regard to sexual contact and services, all booths covered by CCTV, a permanent security presence in the areas of the booths, door supervisors carrying out continuous monitoring of CCTV on hand held tablets, intervention records. With these measures in place they were completely confident there would be no breach of conditions.
16. He was shocked at the CCTV footage and the blatant breaches of conditions. He gave the Committee assurance that this was not the order of the day.
17. Mr Zvaid Tsiklauri had been the senior door supervisor at Spearmint Rhino, Leicester and was not present. He was an SIA door supervisor. He had a law degree. Mr Brown had the opportunity to observe him at Ladywell Walk. He had acted professionally, he was aware of the rules, he was alert, friendly and reliable. When there were breaches at Broad Street Mr Parma was not there at the time.

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18. Miss Roxandra Niculesu had a personal licence from BCC. She was a Mortgage Adviser and held a diploma in restaurant management. She was also a SIA Licensed door supervisor also trained in finance and estate agency, data protection and annual accounts the same as Mr Brown. Miss Niculescu confirmed the statement on page 136 was true. She had no criminal convictions here or in Romania. She was the house mum and looked after the dancers.
19. With regard to allegations by customers who could not remember making payments, customers were required to provide ID and sign a form. The records of ID were kept on record in the office which was covered by surveillance. There was no proven case that customers did not know what they had done.
20. The importance of the education of dancers was explained and the rules were displayed on the door eg. No touching, pictures etc. If there was a problem, dancers were told to walk away and ask the customer to leave if necessary. Staff would step in if needed. Mr Parma will leave Mr Brown to run the premises. Mr Brown would never agree to take part in an illegal operation.
21. Mr Bamber had worked in London at a regulated SEV. He had been a Borough Commander in the Metropolitan Police. He had a MBA and was a member of the Institute of Licensing and held a Personal Licence.
22. Mr Bamber had helped put together the conditions. He had dealt with a number of cases where premises were in difficulties, had management changes and where they were in conflict with the Licensing Authority or the police. He had looked at the policies and procedures in order to eliminate the risks. It was imperative to get the management right.
23. Mr Bamber gave examples of his experience in carrying out Audits. He was a former senior investigative officer in the police corruption unit. The Committee could order an audit as it was a condition on a licence.
24. With reference to allegations that the applicant was putting up a smoke screen and being evasive in respect of Mr Bamba's involvement in the premises. The information from the applicant included in their submission stated that Mr Parma had been involved in the past, referencing the certificate of public liability insurance and companies house records for Dansid Limited, Legs 11 and Take it Back Limited that included Mr Parma's name. There were also cheques in Mr Parma's name and he was still paying the rates. Mr Parma was not disguising his involvement in the past.
25. Mr Parma held a Personal Licence from BCC, a SIA Licence. The DBS Certificate showed he had no police records or cautions. There were a number of allegations regarding Legs 11 however no one had been arrested or charged and no further action was taken.
26. Mr Parma had not been involved in organised crime, drugs and had not defrauded or killed anyone. He had not asked Legs 11 to break the law. Mr Parma had been manager there for 5 years. He had become ill for 6 or 7 months before the premises had closed and had been in hospital over the Christmas period. The premises had operated under Mr McLean. Mr Parma had not been aware of the breaches of

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licence or that the premises were out of control as he was sick at the time. He was happy to invest in the club but leave the running of the club to Mr Brown.

27. When the police raided the premises they did not find any drugs. Mr Parma was anti-drugs and did not sanction anything of this nature. There was no evidence of the allegations made against him.
28. A solid structure was being presented. Mr Parma was familiar with the conditions. The system would be run by a good team with checks and balances. Mr Parma had temporarily lost control in the past but could be trusted not to interfere.
29. The allegations made were hearsay, could not be relied on and needed to be supported by evidence. All of the items seized by WMP had been returned.
30. Some of the conditions were read out. There was a good system to run the premises with a team of good characters.
31. The application took into consideration the change of location to Broad Street and the impact of the premises in Birmingham's main night time area. The signage would be small. 2 premises nearby traded at ground floor level without objections. The location of the club was where you would expect to find this type of establishment. There was provision for up to 8 SEV premises in the location therefore it would be unfair to refuse the licence on locality grounds.
32. In reply to a question the 51% shares were gifted to Mr Brown in reward for his labour. Broad Street was a world class centre with substantial visitation and a night time economy. All big cities had SEV's. Mr Brown had researched the area and was impressed with the co-existence between premises and diversity on offer. The premises would not have a negative impact on the area. The doorway and window would be blocked out similar to the Rocket Club.
33. In reply to reports of touting by staff this should not happen and also it was a condition on the licence. Mr Tsiklauri was not there at the time when the breaches took place. The team of good characters understood and would comply with the rules. If the licence was granted a considerable amount of money would be spent to bring the premises up to standard.

The meeting adjourned at 1145 hours and reconvened at 1157 hours.

Mr Rankin, WMP Counsel made the following points whilst making representations against the application and in response to questions from Members:-

1. The first area of disagreement was that Mr Parma was a man of good character. It was the view of the police that he was undesirable. With regard to there being no criminal prosecutions from enforcement visits or alleged fraud, there was plenty of case law about what could be taken into account when considering a licence. Guidance in McCool v Rushcliffe Borough Council [1998]3 All ER 889, QBD gives guidance on how evidence should be considered in a licensing case. There had been previous cases where although the convictions against a person had been quashed, the licence had still been revoked.

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2. There was intelligence that Mr Parma had been involved in murder, trafficking and organised crime. When Mr Parma arrived in Albania he pretended to be Kosovan. The intelligence about his involvement in crime related to evidence in Albania. All the intelligence and evidence was graded at Level B – mostly reliable. The applicant's representative say that this evidence cannot be relied upon, however WMP maintain that it can be relied upon.
3. Mr Parma was in charge of the premises at the time of the offences however he states that he was sick at the time and someone else was there. He should not be allowed to profit from a licence.
4. The reasons given by the Committee for revoking the licence on page 265 to 267 of the papers were read. Page 268 said that Committee did not have any confidence that the SEV Licence Holder was suitable to hold any licence in the City.
5. WMP believed that Mr Parma was involved in both premises as early as 2012. The statement made by Abdool Rohomon, page 312 and the intel logs were highlighted. The sole reason of the company was to take money. WMP believed Mr Parma had been in the background for a considerable amount of time.
6. The 17 complaints for fraud amounted to £93,424. Customers complained they had been defrauded of £200 upwards. Transactions from 4 customers in 2017 amounted to £23,963. Mr Parma was not in hospital at that time.
7. The allegations related to fraud had a familiar pattern, after the victims were plied with drink so this was not a one off. There was CCTV cameras at various positions, however Mr Parma said he was not aware what was taking place.
8. Page 289 of the report showed the instances where defrauding had taken place and the frequency and closeness of the allegations. The customers were pressured to put their PIN into the card machine. The ladies crowded around one customer whilst he put in his PIN number then used it at a later date.
9. One man on the CCTV was nearly unconscious on the floor and his hand was held up whilst he entered his PIN again. Money was stolen over 2 transactions to a total of £4,600. Many of the victims had small amounts of drink then found themselves unable to walk. The inference was that their drinks had been spiked. P C Rohoman suggested that it was commonplace as a method of operation to defraud victims after spiking their drink.
10. There was evidence of fraud on pages 297 and 298 of the report and assaults were frequently taking place at the premises whilst Mr Tsiklauri was head doorman.

EXCLUSION OF THE PUBLIC

1151A **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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CCTV footage – Legs 11, 193-194, Broad Street, Birmingham, B15 1AY.

At 1220 hours the the Chair requested that all present, with the exception of the Members, the Committee Lawyer and Committee Manager, the applicant and objectors withdraw from the meeting to enable the CCTV footage to be viewed.

At this stage in the meeting and at 1233 hours having viewed the CCTV footage in private the public were readmitted to the meeting.

11. Mr Rankin continued that intelligence from WMP showed that £1.6M had been paid to the Take It Back Limited account over a period of 6 months. It was clear that Mr Parma wanted to regain his position for financial reasons.
12. There would be no clear water between the old and new regime. Mr Parma had given Mr Brown 51% of the shares. Someone of Mr Parma's demeanour and has a reputation for carrying firearms would not leave Mr Brown to run the club. Mr Parma is a man who will exert his will over Mr Brown and Mr Tsiklauri.
13. The applicants first point of call was to blame the door team. The incidents on the CCTV happened under Mr Tsiklauri's management. There were 10 assaults in a 4 month period and a significant total of 223 incidents.
14. The responsibility for the licence lies with the licence holder. The suggested list of conditions would not make a difference.
15. Mr Brown will carry out Mr Parma's wishes. If a SEV is granted the licence will be on behalf of a person who would be refused a licence if they had applied themselves. The suitability of the applicant was questioned. The Licensing Committee could take preventative measures. Mr Brown only became a co-director on 2 January 2019 and he was now the majority shareholder.
16. The licence should be refused. In reply to comments from Councillor Simon Morrall questioning why a licence had been granted in the first place, the applicant had no alternative but to put forward plan B that he held 49% of the shares.
17. The email from Peter Adkins to Abdool Rohomon, dated 10 October, 2019 made it clear that he had been instructed by Mr Parma who was applying for the licence.
18. It was not known if the women in the CCTV were trafficked or not. Investigations into fraud took a long time and proof was needed however CCTV was only required to be kept for 28 days which was not long enough and it was too late. The behaviour of the women were in breach of the licence.

In objecting to the licence and in response to questions from Members, Christine McCulloch, Licensing Enforcement made the following points:-

1. She had had numerous dealings with Legs 11 both at Ladywell Walk and Broad Street. There was a yearly visit to ensure compliance and it was clear that the person in control was Mr Parma.

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2. Christine McCulloch had been involved in the test purchase of services when officers had been pestered to pay for more services. As a result CCTV evidence was collected. It was obvious that the behaviour was normal.
3. Parma Midlands Incorporated had been created for the purpose of obtaining a SEV licence for Broad Street. Mr Parma had gifted shares to Mr Brown which showed the control he had.
4. Take It Back Limited took a significant amount of money over a short period of time. The premises in Broad Street was in disrepair and needed a significant amount of funds spent on it
5. With regard to the request for a variation for a locked room, the previous room 11 had a lock on the door and Bar Staff had a key. The fees proposed were £500 per dancer per half an hour. Customers were already signing forms and giving their ID so nothing put forward was new.
6. It had been stated that the reason for the locks on doors was to store the alcohol. The alcohol was included in the £500 charge. Any alcohol would need to be monitored. There had been complaints about the pricing at Ladywell Walk but a lot of men were reluctant to complain. All payments were made to Parma Midlands.
7. Previous staff had been blamed for the problems however whenever she visited the premises Mr Parma was present. The drugs policy said there was a zero tolerance policy but there were allegations that customers had been drugged.
8. Mr Bamber was paid by the applicant to carry out Audits but he was not impartial. At no point during the yearly visits had she been told that the business had been handed over. Mr Parma ran the business and should have put measures in place. She had always been given the name Clear Blue Skies.
9. The test purchase was agreed because it was difficult to get evidence.
10. In light of this she asked that the Committee refuse the licence.

In objecting to the licence and in response to questions from Members the following points were made by Heath Thomas on behalf of Westside BID:-

1. They were formerly known as Broad Street BID but were now Westside BID. The Body appointed Elected Members to serve for 5 years.
2. Concerns over the locality of the premises were raised however the concerns were there to support the main and principal objections.
3. Westside BID had concerns that the applicant was unsuitable to hold a licence. They noted that Mr Parma had gifted 51% of the shares to Mr Brown.
4. It was clear Mr Parma was involved. He was in control back in 2012 and each time a renewal was lodged. There had been no transparency regarding the application.

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5. There were concerns about the financial integrity of the transactions totalling £1.6M in 6 months of which £93,000 had been identified as fraudulent action. There does not need to be a conviction before matters are considered.
6. There had been breaches of licensing conditions that the applicant could not challenge and there was footage to prove it. These were not isolated incidents.
7. The applicant was not suitable to hold a licence. In light of the breaches of conditions they were looking for a strong manager however it was clear from Mr Brown's CV that he was not experienced to manage the premises. He had previously been a DJ in several premises.
8. Westside Bid called into doubt the Management structure and proposed Manager Ruxandra Niculesu who had been involved previously with the premises and must have been aware what was going on.
9. There had been no enforcement of the rules, on the CCTV some of the staff came into the room and witnessed what was taking place but had taken no action. They were not satisfied that the rules would be enforced.
10. There was evidence from the test purchase that staff were offering other services for payments. There was other evidence from witness statements in the report.
11. Westside had been asked to make representations. There was 2 of the Directors who were from Pubwatch.
12. They had visited the other SEV's in the area and they were exemplarily run.

In summing up Heath Thomas had nothing more to add on behalf of Westside BID. They had considered the comments made by the applicant and felt that they should not be approved to hold a licence.

In summing up Christine McCulloch, Licensing Enforcement said that in light of the breaches by Legs 11 put before the Committee, Legs 11 was not fit to hold a licence. The same person would be in charge of the premises and there would not be a significant change. The proposed conditions would not stop the breaches from happening. If the standard conditions could not be met then the premises should not hold a licence.

In summing up on behalf of West Midlands Police, P C Rohomon said that transparency was required when renewing a licence. If new people were involved with a business they needed to be identified. Mr Parma had not had not admitted his involvement.

Philip Kolvin QC made the point that Mr Parma had been involved in the premises since 2012 as can be seen in pages 126 and 132 paragraph 29 of the report. He took over the business for 6 years. Mr Parma had been transparent about the investigation by the police. He had been paying tax and insurance and was a trustworthy owner. All records of the dancers were on file. If they were being trafficked, it would only take a police visit for them to find out. There had been no issues with Ladywell Walk for 6 years and there were no problems until Mr Parma was hospitalised.

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Assertions had been made about wrongdoings by Mr Parma, that he was involved in drugs, trafficking and murder however there was no evidence. Mr Parma had been inspected on 6 occasions by Birmingham City Council. The Managers had years of experience in the night time industry. The Committee should be reminded of the guidance in McCool v Rushcliffe Borough Council {1998} 3 All ER 889, QBD on how evidence should be considered in a licensing case. There was no evidence 2 years later that Mr Parma had been trafficking women. There was no evidence just hearsay and the Committee were asked to focus on the facts. Mr Parma was a local family man who had made a home in the West Midlands and was being treated in an unacceptable way.

There will be checks and balances put into place. There will be direct surveillance security in the area of the private dances. All the security staff will wear bibs whilst on duty and will permanently engage with dancers. There will be CCTV monitors in reception available for inspection. None of the 10 assaults had been pursued. The sign at room 11 now says £500 per half hour in the VIP room. Most of the money goes to the dancers. Mr Brown had not paid for his shares however he brought his experience and good character. He helped to create a venue plan and would walk away from his career as an established agent. Mr Brown will control the company and his seniority would be respected. The locks for the room was to stop people wondering in. The door will be replaced with glass. The drug policy had been included. No one had made an objection on the grounds of locality.

As a point of clarification the date the premises were last open was 23 June, 2017. They were asking for the list of conditions to be added to the licence and they were happy for the independent Audit to be tweaked. The Committee could be reassured that Mr Parma will leave Mr Brown to manage the premises.

At 1403 hours the Committee adjourned and the Chair requested that all present with the exception of the Members, the Committee Lawyer and Committee Manager withdraw from the meeting.

After an adjournment all parties were recalled to the meeting at 1446 hours and the decision of the Committee was announced with the Applicant being advised of the full decision and reasons as set out below in due course:-

1152A **RESOLVED:-**

That the application by Parma (Midlands) Limited for a Sexual Entertainment Venue licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect of Paradise City, 193-194 Broad Street, Birmingham, B15 1AY (“the Premises”).

BE REFUSED on the following grounds:

- a) that the applicant is unsuitable to hold the licence;
- b) that if the licence were to be granted the business to which it relates would be managed by, or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;

Reasons

This is an application for the grant of an SEV licence made by Parma (Midlands) Limited for a Sexual Entertainment Venue (“the Applicant”). The grant of the application is opposed by the West Midlands Police, Licensing Enforcement and Westside Business Improvement District (“the BID”). The case presented by the Police is that the Applicant is unsuitable to hold a licence and that if the licence were granted it would be held for the benefit of someone who is similarly unsuitable to hold a licence. Those concerns are shared by Licensing Enforcement and by the BiD, both of whom also raise the argument that the grant of the licence should also be refused on the grounds that it is not appropriate having regard to the locality in which the Premises is based.

The Applicant does not accept the arguments advanced by those opposed to the grant of the licence. The Applicant submits that the Applicant is suitable to hold a licence and that in reality the arguments in relation to the locality are nothing more than make weight points.

The Committee acknowledges that each application for an SEV licence should be dealt with on its own merits, this is required by both law and the Council’s own policy. It is right, however, to acknowledge that the Premises has previously held an SEV licence and that that licence was revoked by the Council on 14 July 2017. This is relevant because all of those making representations point to the previous mismanagement of the Premises as part of the reasons for the Applicant being unsuitable.

The Applicant is a company of which there are two directors. Mr Gary Brown has a 51% share in the business and Mr Daniel Parma holds the remaining 49%. Mr Parma founded the company and was initially the sole director before Mr Brown became a director. The shares owned by Mr Brown were not purchased by him and instead were gifted to him by Mr Parma. It is Mr Parma who is funding the application and who will fund the redevelopment of the Premises to bring it up to the requisite standard to be run as an SEV.

It was submitted on behalf of the Applicant that Mr Parma will have no involvement in the management of the Premises. This will be left to Mr Brown assisted by Ms Niculescu. The Committee do not accept this submission. It is simply not plausible to suggest that Mr Parma will not exert any influence in the running of the Premises when he is the financial backer of the project and he has brought Mr Brown into the business rather than it being an endeavour of their co-creation.

It was accepted on behalf of the Applicant that when the Premises was last open there were gross breaches of the licence and the SEV regulatory regime. The Committee agree with that assessment, the breaches at the Premises were both severe and flagrant. It is clear that at that time Mr Parma was ultimately responsible for the Premises and in the Committee’s view that he bore responsibility for the problems at the Premises. Indeed, at the hearing the Applicant’s representatives did not shy away from this.

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The Committee do not accept that Mr Parma's illness explains or mitigates the failures at the Premises. It is clear on the face of the material provided to the Committee that the breaches of the conditions and SEV regime were regular, persistent and ongoing for some time. In light of this it is the Committee's firm opinion that Mr Parma is unsuitable to hold a licence. Had Mr Parma applied in his own right he would have been refused a licence on this basis. As a director of the Applicant if the licence were to be granted the business would be carried on for his benefit and so the application for the licence is refused pursuant to Paragraph 12 (3)(b) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

The Committee's concerns about the suitability of the Applicant are not assuaged by the involvement of Mr Brown. The Council's policy at 8.1 provides a non-exhaustive list of characteristics that are relevant to consider when assessing whether someone is suitable to run an SEV. These include:

"that the operator is qualified by experience to run the type of sex establishment in question...

that the operator can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record."

Mr Brown's previous involvement with SEV's is as a DJ at Legs 11 Ladywell Walk. He was unable to demonstrate that he had relevant experience to run the Premises or that he had a track record of running similar premises. Whilst, this does not automatically bar Mr Brown from being "suitable", the case advanced in his favour by the Applicant's representative did not satisfy the Council that he would be able to properly run the Premises.

This therefore led the Committee to the conclusion that the applicant's company is unsuitable to hold an SEV licence. Accordingly, the application falls to be refused pursuant to Paragraph 12 (3)(a) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

A wide range of other issues regarding suitability were raised by those making representations, notably that: there was evidence of fraud taking place at the Premises when it was last open; there were regular incidents of violence associated with the Premises previously; and that Mr Parma was involved in organised crime, human trafficking and was a murderer. Mr Kolvin QC strongly opposed these allegations and submitted that the Police had not provided the Committee with any evidence that substantiated them even on the balance of probabilities. Mr Rankin for the Police reminded the Committee of the guidance in McCool v Rushcliffe Borough Council [1998] 3 All ER 889, QBD on how evidence should be considered in a licensing case such as this.

Ultimately it was not necessary for the Committee to come to a definitive view on these matters given the findings made above. However, the Committee has serious concerns about the evidence of fraud having taken place at the Premises. The Committee also noted that the allegations that patrons were pressured into making transactions or were plied with alcohol and then made to undertake high value transactions was to a large extent supported by the CCTV footage that was shown to the Committee.

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Given that the Application falls to be refused on suitability grounds, and that these were the main focus of the representations made before the Committee, the Committee did not feel it necessary for the purposes of this application to come to a conclusion as to whether or not the operation of the Premises is appropriate to this locality.

In reaching this decision, the Sub-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 submissions made at the hearing by the Applicant, their legal adviser and those making representations. For the reasons set out above the Application is refused.

Under the provisions contained within Schedule 3, paragraph 27 of The Local Government (Miscellaneous Provisions) Act 1982, 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.

OTHER URGENT BUSINESS

1153A There was no other urgent business.

AUTHORITY TO CHAIR AND OFFICERS

1154A **RESOLVED:-**

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

The meeting ended at 1450 hours.

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CHAIRMAN