

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 2 DECEMBER 2024
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 2 DECEMBER 2024 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair.

Councillors Penny Wagg and Ray Goodwin.

ALSO PRESENT

Bhupinder Nandhra– Licensing Section
Jane Sarginson – Legal Services
Katy Poole – Committee Services

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

1/021224

NOTICE OF RECORDING/WEBCAST

The Chair advised the meeting that the meeting would 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.

2/021224

DECLARATION OF INTERESTS

Members were reminded that they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at the meeting.

If a disclosable pecuniary interest was declared, a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they had been granted a dispensation.

If other registerable interests were declared, a Member may speak on the matter only if members of the public were 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 was a 'sensitive interest', Members did 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 was set out via <http://bit.ly/3WtGQnN>. This included, at Appendix 1, an

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interests flowchart which provided a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/021224 There were no apologies received.

LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERM STEPS – O & K T/A THE BLUE TICK, 80 MOSELEY STREET, BIRMINGHAM, B12 0HG.

4/021224 The report of the Director of Regulation and Enforcement was submitted:-

On Behalf of the Applicant

Mark Swallow - WMP

On Behalf of the Premises Licence Holder

Omar Smith – PLH (Premises Licence Holder)

* * *

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

Mark Swallow, on behalf of WMP made a preliminary request that the meeting be held in private due to the on-going criminal investigation and in order not to jeopardise the criminal enquiry.

Omar Smith confirmed that they had no objections to the preliminary request submitted by West Midlands Police.

Following a short adjournment to allow the Committee to consider the request, the Chair announced that the meeting would be held in private given the sensitive nature of the incident and in order to not prejudice the criminal investigation.

The Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. Bhapinder Nandhra, Licensing Section, outlined the report.

EXCLUSION OF THE PUBLIC

5/021224 RESOLVED

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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.

The public were re-admitted to the meeting and the summary decision of the Sub-Committee was announced and the full written decision was sent to all parties as follows: -

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and a summary decision was ready out in the public session, the full written decision was sent to all parties as follows;

6/021224 **RESOLVED**

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by **Omar Smith** in respect of **O and K Café, 80-81 Moseley Street, Birmingham, B12 0RT** this Sub-Committee determines:

- That the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application
- That Leslie Lloyd Winter be removed as the Designated Premises Supervisor.

pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reasons for imposing these interim steps are due to concerns by West Midlands Police in relation to matters which came to light at the premises on the 27th November 2024 as outlined in the Chief Officer of Police's certificate and application.

The Sub Committee determined the cause(s) of the serious crime and or serious disorder appeared to originate from deficient security measures;

West Midlands Police and the Premises Licence Holder Mr Omar Smith attended the meeting.

The meeting was conducted in private session following the Sub Committee's consideration of an application made by West Midlands Police under Regulation 14(2) of the Licensing Act 2003 (hearing) regulations 2005. The Police explained that there was an ongoing police investigation regarding and incident of serious crime and/or serious disorder. The Police asked for the proceedings to be conducted in private because if the evidence were to be heard in public, it could prejudice the investigation. Mr Omar Smith had no objection to the application. The

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Sub-Committee considered the application in private and determined to accede to the Police application.

Members heard the submissions of the West Midlands Police (WMP) namely that the certificate which had been issued by the Superintendent under section 53A of the Act, related to an allegation of serious crime and/or serious disorder which had originated at the premises. The incident warranted the use of section 53A power, and the matter had been brought before the Sub-Committee for and Expedited Review hearing.

WMP submitted that incident was very serious and set out the reasons why. They were of the view that interim steps were required in order to deal with the causes of serious crime/serious disorder, to ensure the safety of the public and to promote the four licensing objectives. They submitted that there was a need to remove the DPS and to suspend the premises licence pending the full summary review in 28 days time.

In response, the License Holder Mr Omar Smith opposed the application and explained why.

In reaching its decision, the Sub Committee considered both WMP's and Mr Omar's submissions in full and considered whether the submissions made by the premises licence holder as regards the issues/shortcomings identified. They were not satisfied that he properly understood his duties as a premises licence holder in that he had failed to comply with his operating conditions, and he had failed to promote the licensing objectives as required.

The Sub-Committee considered whether it could impose other interim steps including than those suggested by WMP, but they did not believe however that any of these would address the totality of issues brought to their attention by the police.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, and the submissions made by the police (and the premises licence holder) at the hearing.

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.

The Meeting ended at 1140 hours.

Chair.....