

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE A,
MONDAY 8 JULY, 2024**

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY, 8 JULY, 2024 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Ziaul Islam and Penny Wagg.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole - Committee Services

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

1/080723

NOTICE OF RECORDING/WEBCAST

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/080723

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.

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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

3/080723 Apologies were submitted on behalf of Councillor Maureen Cornish and Councillor Penny Wagg was the nominated substitute Member.

MINUTES

4/080723 The Minutes of the meeting held on 17 June 2024 at 1000 hours were circulated and confirmed and signed by the Chair.

LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW – THE LADBROOKE HOTEL, 28 – 35 BORDESLEY STREET, BIRMINGHAM, B5 5BL

5/080723 The following report of the Director of Regulation and Enforcement was submitted:-

(See document no. 1)

On behalf of the Applicant

PC Alfred Ratcliffe – WMP (West Midlands Police)

Mark Swallow - WMP

On Behalf of the Premises Licence Holder

Dr Malik – PLH (Premises Licence Holder), Metro Bailiffs Limited

Zeeshan Mian – Employee and Head of Finance

* * *

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

PC Alfred Ratcliffe requested that the hearing be held in private due to the on-going criminal investigation and in order not to prejudice that investigation.

The Chair asked the PLH for comment on the proposal made by WMP for the hearing to be held in private.

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Dr Malik began to address the Committee on the agreed position between the PLH and WMP, the Chair requested that Dr Malik address the preliminary matter raised by WMP and his submissions would be held at a later stage.

Dr Malik had no objection to the meeting being held in private.

The Chair announced that the meeting would be held in private in order not to prejudice any criminal investigation.

The Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present the report. David Kennedy, Licensing Section, outlined the report.

EXCLUSION OF THE PUBLIC

6/080724

RESOLVED:-

That in view of the information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime, the public be now excluded from the meeting: -

Exempt Paragraph 7

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and, following the announcement of a short decision, a full written decision was sent to all parties as follows;

7/080723

RESOLVED:-

That, having reviewed the premises licence held under the Licensing Act 2003 by Metro Bailiffs Limited in respect of The Ladbrooke Hotel, 28-35 Bordesley Street, Birmingham B5 5BL, following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that:

1. the Licence be revoked, and
2. Surjit Singh be removed as the designated premises supervisor, and
3. the interim steps imposed at the Sub-Committee meeting of 13th June 2024 shall remain in place until the determination of any Appeal

The licence holder company was represented at the meeting by its director and by another person who said that he worked for the licence holder.

The Sub-Committee's reasons for imposing the revocation and the other sanctions were due to overwhelming concerns regarding the risks of further serious crime. West Midlands Police had brought an expedited review of the licence before the Sub-Committee on 13th June 2024 following a violent incident,

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the details of which were in the Superintendent's certificate and application (in the Committee Report).

At the previous meeting, the Sub-Committee had determined that the cause of the serious crime originated from a style of management which had been incapable of upholding the licensing objectives. The style of management had been the responsibility of the company, as premises licence holder for the premises.

During the instant meeting, the Sub-Committee heard that an agreed position had been reached between the licence holder company and the Police, such that the licence could remain in force provided some additional conditions were adopted.

However, the Sub-Committee was not persuaded that this would be sufficient for the premises to be able to uphold the licensing objectives, particularly in relation to the prevention of crime and disorder, given the recent serious crime incident.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that the matter was a live police enquiry regarding a serious crime incident. A Police investigation was ongoing regarding the incident. The Police asked for the proceedings to be conducted in private; those from the premises supported this application. The Sub-Committee therefore conducted the meeting in private session.

Members heard the submissions of West Midlands Police, namely that the certificate related to an allegation of serious crime which had originated at the premises, as detailed in the Report. The background to the incident had been that an event had been planned at The Ladbrooke Hotel, and a risk assessment completed for the event, but the Police had required some aspects to be rectified before the event went ahead. However, on the night, the event had gone ahead without those issues being rectified.

There had then been a serious crime incident during the event, in which a firearm and a knife had found their way into the premises. Staff at the premises on the night had failed to report the matter, and moreover did not acknowledge that an incident had even occurred.

Following the interim steps hearing of 13th June 2024, in which the licence was suspended and the designated premises supervisor removed, the Police had found that there was initially no contact with anyone from the licence holder company. Later the Police met the director, who was apologetic and stated that staff at the premises had downplayed the incident to him.

The Police recommendation to the Sub-Committee was that the designated premises supervisor should be replaced, and a suite of new conditions should be adopted. The Police view was that, other than revocation, the agreed conditions were "the only solution" in terms of the way forward. The Sub-Committee noted that these were the recommended options. The Police were confident that the

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adoption of the conditions would be sufficient to ensure that there was no risk of further serious crime, and that the licensing objectives could be promoted. They asked that the Sub-Committee lift the interim steps imposed on the last occasion, and replace them with the new conditions. They confirmed that Licensing Enforcement of Birmingham City Council had approved of this course.

The Police read out the proposed conditions to the Sub-Committee. The Members were not satisfied that the proposed conditions were suitable, given the seriousness of the recent incident. The Chairman asked whether the first condition, regarding the previous management team, was enforceable; the Police considered that it was, as the main problem had been the previous designated premises supervisor, and a different member of staff had control of event bookings. The Sub-Committee remained unsure if the condition was appropriate and suggested that it ought to be amended to ensure that nobody involved in the previous management team should continue to be part of it. The Police agreed with this.

Similarly, a condition relating to third party risk assessments appeared to the Sub-Committee to be rather vague. The Chairman asked what was meant by a “qualified person” in terms of carrying out such assessments. The Police replied that it meant “a person suitable to undertake risk assessments”. Given the recent serious crime incident, the Members were not altogether sure that this style of wording was sufficient to give them confidence.

The Police assured the Sub-Committee that, provided the previous management were no longer involved, the agreed conditions were the correct way forward. There would be a new designated premises supervisor and a new management team. The licence holder company would remain the same, and would be sent a copy of the risk assessments.

On the matter of the company director, the Police noted that there had not been much involvement in the premises by him. He lived in London and visited approximately once a week. He relied on the management team to keep him informed. Regarding the clientele of The Ladbrooke Hotel, the Police confirmed that it was currently government-funded accommodation for the vulnerable, such as “asylum seekers with children”, but added that this could change in the future. The Sub-Committee noted this.

One of the Members asked whether the Police believed that the licence holder company could meet the conditions; the Police answer was that with a fresh management team, and “taking the conditions as written”, they did believe that it could. The Sub-Committee felt that the issue was whether the new management team would, in fact, “take the conditions as written” and trade in a responsible manner which would ensure there would be no further trouble.

The Sub-Committee then heard from the two persons representing the premises. They explained that they themselves had proposed much of the suite of new conditions; thereafter, they had gladly accepted the further conditions suggested by the Police. They had notified the name of the new proposed designated premises supervisor, and this person would also have an event management

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team, in order that that part of the operation would be completely separate from the hotel.

The previous management staff had been dismissed, and would no longer play any part in the operation. There would be an entirely new team, including the new designated premises supervisor, who would also be the event manager. She had previous experience as an event manager.

They disagreed that the clientele of the premises was asylum seekers, describing the persons as “people in need of housing”. Hosting these people, particularly students, had started during the Covid-19 times, and thereafter had continued.

Regarding the director’s plans, he had been coming to the premises on a weekly basis, but now planned to stay for two nights per week. The intention was to be more vigilant, and to employ more staff. The premises had not had any problems before the recent incident, and those at the premises were confident about the abilities of the new management team.

The new designated premises supervisor would attend at the premises every day. There would also be SIA-badged security personnel. The reception desk would be open 24 hours a day. The premises would use modern methods of management, such as remote access of CCTV. The Sub Committee noted that one of the reasons given for the management failings by the licence holder’s representative at the initial interim steps meeting was that they were due to the “inexperience of hotel management”; the proposal to appoint an inexperienced designated premises supervisor did not therefore inspire confidence.

The Police then summarised their views. The hotel had a 24-hour premises licence and was currently being used as government-funded accommodation, but could revert to a normal hotel-style operation in future. The previous management style had completely failed, and a more hands-on approach was needed. The Police found the proposed designated premises supervisor satisfactory as she had been “recently trained and was untainted by malpractice elsewhere”.

Those from the premises then made closing submissions. They acknowledged that there had been a serious crime incident, but asked the Sub-Committee to note that it had been the only instance of trouble in twelve years. The proposed designated premises supervisor was a new person, but she had been found to be suitable by the Police, and she would ensure that any risks to the licensing objectives, including the risk of further serious crime, were addressed.

They asked the Members to consider the impact of the lost revenue of the past few weeks, which had been created by the suspension of the licence imposed on 13th June 2024. They assured the Members that they would be happy to implement all of the agreed conditions.

In deliberating, the Sub-Committee determined that there had been an allegation of serious crime, which was being investigated by Police. It was abundantly clear that on the night in question the operation had not been properly managed. A suite of new conditions had been agreed between the parties. The Police had

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confirmed that they found the new conditions and new management team to be satisfactory.

Ordinarily, the Sub-Committee would take the advice of the Police on any matter relating to the crime prevention objective. However, in this instance, the severity of the serious crime incident created grave concerns in the minds of the Members. They were appalled that a firearm and a knife had found their way into a hotel. This was not at all the standard expected of premises licence holders in Birmingham.

The Sub-Committee also noted the role played by staff members, including managers, on the night in question, and also in the aftermath. The premises had not reported the incident, and had at first refused to acknowledge that any incident had taken place. Thereafter, following the interim steps meeting of 13th June 2024, the director had initially not made contact with the Police. None of this inspired confidence.

The serious crime incident had been a catastrophic failure. It was only within the past week that the director had engaged with the Police; the Sub-Committee looked askance at this. The explanation given, namely that the staff at the premises had downplayed the incident to the director, did not inspire any confidence whatsoever. It was the director's responsibility to ensure that he had suitable staff who kept him informed of all issues. The company had held the licence for twelve years, but it was apparent that the director had not been readily available when a serious incident happened.

The Sub-Committee was happy that people came from elsewhere to establish businesses in Birmingham, but given the circumstances of what had happened, the Members wanted to see a robust and responsible style of management. It had been said that the director would increase his two days at the premises to three days, but the Members were unsure what difference this would make.

It had also been said that the new designated premises supervisor would be at the premises every day, but the Sub-Committee noted that she was inexperienced. Moreover, all of the management level staff had been dismissed; this suggested that a period of instability might follow. The use of remote access to the CCTV for a premises which had a history of safe trading was one thing, but the Ladbrooke Hotel had had a recent serious crime incident, and it was noted that staff on duty on the night had initially failed to acknowledge that anything had happened. All of these matters were a risk to the upholding of the licensing objectives.

When describing the clientele, the Police had mentioned children; this was a particular worry to the Members, who were mindful of the mention of a firearm and a knife in the Police documents in the Committee Report. The Members were not persuaded that the licensing objectives could be upheld with such a new team in place.

Regarding the arrangements for a fresh management team and a new designated premises supervisor, the Sub-Committee was not convinced that the approach taken covered all the risks. Whilst it was perhaps true that the new

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person was not “tainted by malpractice elsewhere”, this was because she was inexperienced; given the recent serious crime incident, this did not inspire confidence. The Sub-Committee accepted that she had undergone the required training, but had doubts over whether a person without experience was the correct choice, given the premises’ recent history.

The Sub-Committee wanted reassurance that staff could operate safely and that the conditions were robust – but the new management arrangements were worrying, and the conditions were rather woolly. The Members had doubts that some of them would be enforceable. All in all, the Members were unconvinced that the new management arrangements were sufficient, given the recent serious crime incident; the same applied to the proposed conditions.

The comments made during the meeting by those from the premises did not demonstrate sufficient understanding of the seriousness of the matter. The Sub-Committee was particularly worried that initially the director had not engaged with the Police, despite the premises having had a violent incident.

Whilst the Sub-Committee would usually take the advice of the Police on any matter relating to serious crime, in this instance the proposal did not take proper account of the recent serious crime incident, and the risks to the upholding of the licensing objectives. This was of particular concern as children had been mentioned as staying at the hotel.

The Sub-Committee determined that it had no confidence in the operation, and noted that a criminal investigation was ongoing. The Members resolved that revocation of the licence and removal of the designated premises supervisor was the proper course, as it was both necessary and reasonable to impose these sanctions to address the immediate problems with the premises, namely the potential for further serious crime, and in order to ensure that the licensing objectives were no longer at risk.

The Members had significant concerns regarding the management style and the approach taken by the licence holder in the aftermath of the incident; this had only changed within the last week. The Police also noted that the proposed designated premises supervisor had not yet been approved by the licensing authority.

The Sub-Committee considered that adopting the proposed conditions would offer little to address the real issue, which was the management failings which had led to an allegation of serious crime; these failings were too significant a risk to the upholding of the licensing objectives. The Members were not in any way persuaded that the risks could be addressed satisfactorily by the use of conditions. The incident had shown a complete breakdown in management control, and a complete disregard for the licensing objectives.

It was therefore for these reasons that the Sub-Committee resolved to revoke the licence. Members determined that the removal of the designated premises supervisor was a very important safety feature, given that it was this individual who was responsible for the day to day running of the premises. All in all, the Sub-Committee considered that in an allegation of serious crime, public safety

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was paramount, and determined that it was both necessary and reasonable to revoke the licence and remove the designated premises supervisor to address the potential for further serious crime. The interim steps would remain in place pending any Appeal, to ensure the upholding of the licensing objectives.

In reaching this decision, the Sub-Committee has given due consideration to the City Council’s Statement of Licensing Policy, the latest version of the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State, the application and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, the written representations, and the submissions made at the hearing by West Midlands Police, and by the licence holder company via the two persons representing it.

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, save for maintaining the interim steps decision of the 13th June 2024, 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 determined.

The meeting ended at 1222 hours.

Chair.....