

BIRMINGHAM CITY COUNCIL

| |
|--|
| LICENSING SUB-COMMITTEE C 27 MARCH 2024 |
|--|

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 27 MARCH 2024 AT 1200 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Phil Davis and Saddak Miah.

ALSO PRESENT

Shaid Yasser – Licensing Section
Andrew Evans – Legal Services
Katy Poole – Committee Services

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

7/270324

NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

8/270324

DECLARATION OF INTERESTS

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

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

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

9/270324 Apologies were submitted on behalf of Councillors Jilly Bermingham and Penny Wagg and Councillors Phil Davis and Saddak Miah were the nominated substitute Members.

**LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION
ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF A PREMISES
LICENCE: CONSIDERATION OF INTERIM STEPS – BELLE VIEW, 289
ICKNIELD PORT ROAD, BIRMINGHAM, B16 0AG**

On Behalf of the Applicant

Mark Swallow – West Midlands Police (WMP)

On Behalf of The Premises Licence Holder

Andrea Murray – Premises Licence Holder (PLH)

* * *

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

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. Shaid Yasser Licensing Section, outlined the report.

The chair invited the applicant to make their presentation and Mark Swallow, on behalf of WMP made the following points: -

- a) That the premises is licensed to sell alcohol for consumption on the premises from 1200 – 2300 hours daily.
- b) The CCTV should be made available to the police upon request.
- c) The sale of alcohol had to be ancillary to food and music played at background level only.
- d) The premises licence did not specify regulated entertainment.
- e) On Friday 22 March 2024 the premises was open and conducting licensable activity beyond their trading hours when an incident occurred, and a male was attacked in the smoking area by a group of 8 people with machetes. He sustained injuries to his hand and under his eye.

Licensing Sub-Committee C - 27 March 2024

- f) The premises should have stopped all licensable activity before the time the incident occurred, and the smoking area should not have been open. If this had been the case, then the incident would not have occurred.
- g) The premises was providing regulated entertainment in the form of a DJ.
- h) None of the staff intervened or called emergency services when the incident happened.
- i) The incident was a serious crime under Section 18 of the Police and Criminal Evidence Act 1984.
- j) WMP had serious concerns with the premises ability to promote the licensing objectives.
- k) A large scale disorder took place and the premises failed to intervene or call the emergency services, this gave WMP no confidence that the premises could uphold the licensing objectives. This was also compounded by them breaching the licence by trading beyond their licensable hours, the smoking area being open beyond operating times and regulated entertainment being provided.
- l) If the licence had been adhered to then the incident would not have occurred.
- m) The CCTV had been requested numerous times and had not been forthcoming – another breach of the licence conditions.
- n) An appointment had been made for officers to attend the premises to view the CCTV.
- o) Alcohol was not being sold with food and music was not at background level.
- p) That WMP were concerned about the incident and the breaches of the premises licence therefore they requested suspension of the licence and the removal of the designated premises supervisor (DPS).

The Chair then invited the PLH to make their presentation, Andrea Murray made the following statements: -

- a) That she held her hands up, she was not at the premises the night the incident occurred.
- b) She had confidence in the staff who were on duty that night and there had never previously been any problems.
- c) That music was limited to a certain level, therefore the only way it would have been above that level is if someone had tampered with it.
- d) That patrons must have food to be able to order drinks.
- e) There was a street food event including a BBQ.

Licensing Sub-Committee C - 27 March 2024

- f) Staff from the premises stated that a male was causing trouble; they intervened a few times and asked him to leave but he would not vacate the premises.
- g) The smoking area was closed but they allowed the male to go outside and have a smoke.
- h) She had confidence that the staff did everything they could.
- i) It was the first incident that had ever happened at the premises.
- j) What she had heard from WMP today was different to what she had been told.
- k) That she was not at the premises that night because her daughter was ill. She was usually at the premises 99% of the time.
- l) That the CCTV was working but the man who fixed it was not available yesterday to make it available to WMP. He was making a copy of it so the police could have it today.
- m) She was unaware of weapons being used.
- n) There was an incident inside, so the male went outside to cool off while everyone else went outside the front of the premises.
- o) That she protected her people and customers.
- p) It was the first incident at the premises.
- q) The business was her livelihood.

Members asked questions and Andrea Murray gave the following responses: -

- a) That a staff member called 'Christine' was in charge on that night and had worked for the premises for 5 years. She had been trained and knew the rules.
- b) That she had nothing to hide.
- c) That she only knew about the incident when the police told her on 25 March 2024.
- d) She had not seen the CCTV footage.
- e) She was relying on what the staff had told her.
- f) Staff told her they were not selling alcohol without food.

Licensing Sub-Committee C - 27 March 2024

- g) That she was not tech savvy therefore she had a 'guy' who downloaded the CCTV footage for her.
- h) That on the night the incident occurred there was a DJ who also helped manage the premises. He also did other things at the premises.
- i) He attends on Fridays and Saturdays.
- j) It was a birthday party event with street food and music.

The Chair then invited both parties to make a brief closing submission. Mark Swallow, WMP made the following closing statements: -

- a) That WMP had visited the premises last year (2023) after allegations that the premises was trading outside of the licensable hours and people drinking outside the front of the premises. Therefore, it is not the case that the premises has had no previous issues.
- b) The PLH was advised of the implications and reminded of the licence conditions on that occasion. A copy of the premises licence was also sent to her, and she was advised that any further breaches of the licence would result in action being taken.
- c) That WMP had spoken with the injured party from the incident who stated that he did not order food on that evening. He also told WMP about the DJ playing music at the premises.
- d) At 2344 hours the premises was conducting licensable activity and serving drinks to customers.
- e) CCTV had not been made available for WMP to check.
- f) WMP believed the only course of action was to suspend the licence and remove the DPS as there had been a serious breach of the licence which had led to the incident.

Andrea Murray was then invited to make her closing submission and she made the following closing statements: -

- a) That there had not been a serious offence before.
- b) She was not at the premises at the time of the incident so could not verify anything.
- c) She was not hiding anything.
- d) CCTV would be available for WMP about 1700 hours today.
- e) That she was sorry, she would usually be at the premises but her daughter was sick.

f) They had never had complaints before.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision was announced at the meeting. A full written decision of the Sub-Committee was sent to all parties as follows;

10/270324 **RESOLVED:-**

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 (As amended by the Violent Crime Reduction Act 2006) for an expedited review of the premises licence held by Ms Andrea Coleen Tracey-Ann Murray in respect of The Belle View, 289, Icknield Port Road, Birmingham, B16 0AG this Sub-Committee determines:

- The licence be suspended pending a review of the licence, such a review to be held within 28 days of receipt of the Chief Officer of Police's certificate and application for an expedited review.
- Ms Andrea Coleen Tracey-Ann Murray be removed as the Designated Premises Supervisor.

The Sub-Committee has listened carefully to the representation of the Police and Premises Licence Holder in writing and at the hearing today.

It is clear that a serious incident of crime and disorder occurred on the night of 22nd March 2024 in which violence occurred involving machetes on licensed premises. The Police state that at around 23.44hrs a person in the beer garden of the premises was attacked by around 8 persons three of whom were armed with machetes. This person received injuries including a cut to his left hand and bruising under his right eye. This occurred in the smoking area while this person was with the DJ from the premises. The licence requires licensable activities to cease at 23.00hrs, the smoking areas not to be used after 23,00 hrs, for alcohol supply to be ancillary to food, for music to be background only and for CCTV to be made immediately available to the Police.

The Premises Licence Holder and DPS made representations in response to the expedited review application today in person. It was emphasised that the premises had not had any serious problems before and that any complaints in the past had come from a residential neighbour.

The Premises Licence Holder explained that she was not present on the night in question due to family illness but had left a trusted member of staff in charge. She had not been told about the incident until the following Monday. She could only repeat what she had been told. She had understood the incident to have been less serious than the Police now say. She had not herself seen the CCTV because she lacked the technical skills to access it. To access the CCTV, she was reliant on the man who installed it and he had been unavailable then had

Licensing Sub-Committee C - 27 March 2024

family problems of his own. She was hoping he would be able to produce a copy of the CCTV today so that it could be given to the Police.

Having weighed up the representations given today the Sub-Committee prefers the position of the Police as to the events in question and accepts their concern that this incident occurred when breaches of the permissions and conditions on the premises licence were also occurring.

The Sub-Committee was also concerned that notwithstanding any technical difficulties with the CCTV, it is a condition on the licence that be produced immediately on request to the Police. It has still not been given to the Police five days after it was requested. The contents of that CCTV are likely to assist the Police in their investigation, help to promote the prevention of crime and disorder licensing objective, and may or may not assist the premises licence holder to confirm some of the assertions she has made today based on what she was told by her staff.

The Sub-Committee was concerned overall by what appeared to it to be a lax management style and resulting practices which were failing to promote the licensing objectives and had caused or contributed to a significant incident of crime and disorder on the premises.

Against the background of such a serious incident of crime and disorder the Sub-Committee is not satisfied that the premises licence holder can adequately promote the licensing objectives and at this time it is necessary and proportionate to suspend the licence and remove her as DPS in order to prevent crime and disorder occurring.

The Sub-Committee considered whether it could impose other interim steps including modification of licence conditions, exclusion of the sale of alcohol or other licensable activities, or removal of the Designated Premises Supervisor or a shorter suspension of a licence. The Sub-Committee 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 1302 hours.

Licensing Sub-Committee C - 27 March 2024

CHAIR.....