

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE C 3 MAY 2019

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE C
HELD ON THURSDAY 3 MAY 2019
AT 0930 HOURS IN ELLEN PINSENT
ROOM, COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Mike Leddy in the Chair;

Councillors Nicky Brennan and Mike Sharpe.

ALSO PRESENT

Shaid Yasser, Licensing Section
Parminder Bhomra, Committee Lawyer
Sarah Stride, Committee Manager

NOTICE OF RECORDING

- 1/030519 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

- 2/030519 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item.

Any declarations will be recorded in the Minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/030519 No apologies were submitted.
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STORIES, 30 LADYWELL WALK, BIRMINGHAM B5 4ST - LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS

The following persons attended the meeting:

On behalf of the Applicant

PC Reader – West Midlands Police.

Those making Representations

Carl Moore – Agent
Sarah Clover – Barrister
Jerome Goode – Premises Licence Holder
Obidiah Miller – Premises Licence Holder
Olu Amundipe – Security Company: RGH
Ryan Gough – Designated Premises Supervisor (DPS)
Michelle Ray – Observer
Martin Hardman – Observer.

Following introductions by the Chair, Shaid Yasser, Licensing Section, introduced the report and advised that West Midlands Police have applied for an expedited review of the premises licence in respect of Stories, 30 Ladywell Walk, Birmingham B5 4ST. The application has been made under Section 53A of the Licensing Act 2003 (as amended) and has been accompanied by a certificate signed by a senior member of the force, stating that in their opinion the licensed premises have been associated with serious crime and disorder.

In accordance with the regulations, the licensing authority has given the premises holder and responsible authorities a copy of the application for review.

The interim steps that must be considered at the hearing are:

- Modification of the conditions of the premises licence;
- Exclusion of the sale of alcohol by retail from the scope of the licence;
- Removal of the designated premises supervisor from the licence;
- Suspension of the licence.

On behalf of the Applicant

On behalf of West Midlands Police PC Reader advised that the previous review hearing was to ascertain whether or not the premises were selling Nitrous Oxide and a variation condition was imposed upon the licence.

In referring to the current review he stated that at 0245 hours on 2 April 2019 WMP officers witnessed two males fighting outside the Stories premises in Ladywell Road. Staff at the premises approached the officers and asked for assistance. The two WMP officers advised that they utilise their own in house security staff whilst they call for back up. A man then came out of the venue with

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a head wound and his clothes were covered in blood. Back up arrived and officers had to use Parvo and police dogs to deal with the hostile crowd that had congregated outside the premises.

PC Reader advised that the violence was the worst disorder recorded for 14 months and Police officers were also assaulted in the affray. Premises CCTV, Arcadian CCTV and also body cams from the officers involved on the night in question had been viewed.

He made reference to a number of statements from officers but the Chairman advised that the Committee could not consider this evidence as it had not been distributed previously to all present.

PC Reader advised that the police were not aware of the event that had taken place because no risk assessment had been taken. He confirmed that approximately 200 people had spilled out of the venue onto the street and were fighting amongst themselves. The current risk assessment stated that the Stories Nightclub had a maximum capacity of 550. The event that had taken place was a private party and although a guest list had been provided to the police a tally of the number of guests that was actually in attendance was not provided.

Those making Representations

Sarah Clover on behalf of the premises licence holder confirmed that the reason why Stories was previously in front of Committee was totally unrelated to the current incident and that the previous incident was not to be considered at this current hearing.

The incident in question took place on Sunday 28 April 2019 at 0245 hours. The premises had a 24 hour 7 days a week licence to operate as a club. The Police did not close the premises on the night that the violence occurred. The premises were in the process of closing down for the night and guests were leaving as the party event had come to an end. She stated that in the night time economy sometimes things can and will go wrong and what the Committee needed to assess in these circumstances is what did the licence holder do wrong?

She briefly went through the background information and stated that on 8 April 2019 a variation to the licence was offered and approval was given on 1 May 2019. However, the premises were not notified by the licensing section that their minor variation had been given approval and were only aware of it when reading the papers submitted at today's hearing. Risk assessments had not been undertaken because the condition was pending and had not yet been agreed.

She stated that voluntarily the premises were working to their variation conditions. However, the venue did carry out a risk assessment which was submitted to the Police on the Monday prior to the event taking place. It was stated that the event was a private birthday party and that it was considered a medium risk in the assessment. 14 door staff was deployed on the night and security was tight. Bag searches were undertaken and only guests on the guest list were admitted. All guests had to provide proof of identity before admittance. She reiterated her previous statement of 'what did the premises do wrong – if anything?' The Police had stated that they had failed to provide a risk assessment but as far as the

licence holder was aware there was no need to do so. The venue itself operated on a series of good judgement calls and avoided artists that were known to cause trouble. When the venue had requested police intervention in the past the police had responded that it was the venues reasoning to decide and as such the venue had previously cancelled artists that had been known to cause trouble. If the police had seen the risk assessment they would not have identified any wrong doing.

The venue had looked at the risk assessment and had determined that the event should go ahead as planned. The event was to end at 0400 hours and the violent incident in question took place at 0245 hours. The police were already in situ at the door when Mr Gough approached and did not state that the situation was chaotic but merely asked for a police presence as tensions were rising in the venue. The police refused Mr Gough's request and stated that he would have to deal with the issue himself using his own security staff. The venue invited the police into the venue before the violence occurred. Events escalated and then at that point the police then requested back-up. She reiterated that the venue did try to engage with the police before the violence occurred. Premises CCTV confirmed that no-one was unconscious or was carried out of the venue. 3 other venues within the vicinity of Stories were also open that evening and there were a lot of people milling around. She stated that not all of the violence was created by customers leaving Stories. She stated that the police claim that the incident occurred because the risk assessment was not provided was a false claim. The police had CCTV coverage and had decided not to show it at the hearing. The police have had sufficient time to put together their evidence and at this point in time it would be wrong for the Committee to decide upon the evidence provided by the police as also no statements from officers, as previously referred to by PC Reader, had not been provided to all prior to the meeting. The Committee cannot place weight if not given the correct supportive evidence.

She stated that it was important to understand what will now happen prior to the full review and that there was a balance to be struck. The evidence is that the event occurred but not because the venue failed in any way. Stories wished to retain their regular club nights with their own DJ and door staff. If the premises closed as of today it would have a massive impact not just on the financial impact of the club but also the financial impact upon staff that worked there. Sarah Clover stated that the venue had 7 occasions of trading before the full review was to take place and she requested that the 7 events be granted with a proposal to add an additional 13 door staff and a further 5 with dog support if required pending the full review. A metal detector will be in use at the entrance of the venue. She felt that the licence should not be suspended as this would be considered disproportionate as no major incident had occurred since August 2018. There was a need to keep the reputation of the clients and closure would jeopardize the business until the date of the full review.

Mr Gough advised that a new metal knife cage detector has been fitted to the entrance of the venue.

In response to questions raised by Members the following responses were given:

- Venue staff did not telephone the police as the police were in situ opposite the venue outside. Mr Gough approached the officers and asked for

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assistance as tensions were rising in the venue and a police presence was required.

- Mr Gough stated that 3 police officers came to the door and asked if everything inside was okay. He replied that everything was okay because at that time it was. However, minutes later he noticed that 'pockets of tension' was occurring and he then approached the police officers to ask for police presence in the venue. The police refused and stated that he should use his own door staff to quell the situation. Customers then started to exit the venue and congregate in the car park. It was then that the police called for back-up. No 999 call was made from the venue.
- Sarah Clover confirmed that it was when customers were leaving the venue and when the officer was assaulted when back-up was then requested by the officers at the scene.
- Sarah Clover confirmed that the minor variation proposed by the licence holder had not received confirmation that it had been agreed from the Licensing Department. Shaid Yasser, Licensing Section confirmed that it was an online process and if the applicant did not hear from the Licensing Department by 20 April 2018 then it had been agreed. The minor variation was effective as from 20 April 2019. An email would have been automatically sent to the applicant stating this course of action and the deadline.
- Mr Goode confirmed that if the Police were not already outside the venue he would have dialed 999 and requested police presence without hesitation. He confirmed that at 0230 hours the venue music was turned off and all lights were turned on to help dispel the tension that was rising in the room.

Summary

Sarah Clover, barrister requested the Committee not to close the venue premises prior to the full review as this would ruin the reputation of the club. She made reference to the lack of police evidence at the hearing.

PC Reader stated that there was a disagreement with the time line in asking for police back-up and there was no clarity on what had actually happened inside the venue before it spilled out into the street. He confirmed that CCTV and police body cams needed to be reviewed and shown at the full review. He disagreed that back-up was called for after the police officer had been assaulted.

At 1052 hours the meeting was adjourned to discuss the decision. All parties with the exception of Members, the Committee Lawyer and the Committee Manager left the meeting.

At 1216 hours the meeting reconvened and all parties were invited back and the decision of the Sub-Committee was announced as follows:-

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RESOLVED

That having considered the application made and certificate issued by West Midlands Police (WMP) under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by New Era Birmingham Ltd in

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respect of Stories, 30 Ladywell Walk, Birmingham B5 4ST this Sub-Committee determines:

The following conditions are imposed on the premise licence as an interim step, 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 premises are allowed to trade for the next 7 scheduled events.
- The licensable activity regarding the sale of alcohol shall cease at 2:30 am for each scheduled event, and that the premises shall close at 3am.

The Sub-Committee's reasons for imposing these interim steps are in response to the representations submitted by the barrister acting for the premises licence holders.

The members heard that the premises had been operating since August 2018 with- out incident and that the matters which came to light at the premises on 28 April 2019 as outlined in the Chief Officer of Police's certificate and application were not as a result of the failure of management to notify the police, or for non-compliance of the conditions of their licence, or lack of security measures at the venue.

The Sub Committee was informed that the premises were hosting an external birthday event which had been risked assessed at a medium risk level that required deployment of additional door staff. However, despite the deployment of door staff on the night of the event, the Designated Premises Supervisor (DPS) requested assistance from the police officers who were in situ of the premises due to heightened tensions occurring within the venue.

Having heard the Barrister's submissions, members were satisfied that the DPS had taken appropriate action to deal with an unfolding situation within the premises, and felt confident that going forward, the DPS could be trusted to continue trading the scheduled in-house events as alluded to by their barrister, particularly as extra security measures had been adopted since the night of incident to supplement the existing conditions to promote the prevention of crime and disorder, and public safety.

The Sub Committee determined that the cause of the serious disorder appeared to originate from the patrons of the private external birthday event and not from the non-compliance of the risk assessment condition as inferred from the WMP's application and certificate.

Members were concerned to note there appeared to be insufficient evidence to support the WMP application and certificate concerning the large scale disorder, given the time elapsed since the night of incident. The Sub Committee could not explore or examine some of the evidential material that was being relied upon by the WMP during the hearing, as it had not been submitted in advance to the members and the premise licence holders.

The Sub- committee therefore considered as a holding position between now and the full review it would necessary and reasonable to impose the interim steps

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volunteered by the premises licence holder rather than a suspension given the responsibility demonstrated by the venue's management to limit the operation of the premises over the forthcoming weeks with their own additional security measures in place.

The Sub-Committee considered whether it could impose other interim steps including exclusion of the sale of alcohol or other licensable activities, or removal of the Designated Premises Supervisor, however did not believe however that any of these would address the totality of issues albeit limited in detail 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 barrister representing the premises licence holders 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.

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ANY OTHER URGENT BUSINESS

There were no matters of any other urgent business.

The meeting ended at 1225 hours.

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CHAIRMAN