



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B

WEDNESDAY 19 AUGUST 2020

PB'S, 54-57 KEY HILL, HOCKLEY, BIRMINGHAM B18 5NX

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 Nickeshia Reid-Davidson in respect of PB's, 54-57 Key Hill, Hockley, Birmingham B18 5NX, 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
- and
- that Nickeshia Reid-Davidson be removed as the Designated Premises Supervisor

Before the meeting began the Sub-Committee was aware of the amended Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, the updated Guidance entitled '*Closing Certain Businesses and Venues in England*' issued by HM Government on 3rd July 2020, and the Guidance entitled '*Keeping Workers and Customers Safe in Covid-19 in Restaurants, Pubs, Bars and Takeaway Services*' issued originally by HM Government on 12th May 2020 and updated regularly thereafter.

Members heard the submissions of West Midlands Police, namely that on at least seven occasions from the start of August 2020, when the new arrangements for reopening were being publicised and the lockdown was being eased for licensed premises such as pubs and bars, the Police had observed a general failure by PB's to follow the Government Guidance. Upon visiting the premises, Police found that loud music was playing at a volume which made conversation difficult, and also observed that patrons were not seated but were standing (some were in fact dancing). The Police ascribed these failures to unsatisfactory management by the premises licence holder, who is also the designated premises supervisor.

The Police spoke directly to the premises licence holder to advise, to offer guidance and to explain what is expected of a licensed premises to trade safely in the ongoing Covid-19 pandemic. These numerous attempts to advise had little effect. It was observed that the premises licence holder was even in breach of some of the existing conditions on the licence, for example by placing large speakers outside the premises. Police had requested that she supply the Covid-19 risk assessment which is a mandatory requirement under the Government Guidance; this had not been forthcoming.

Finally on 15th August 2020 a Police Sergeant served the premises with an ASB Closure Notice at 01.30 hours, as it was trading whilst not adhering to the Government Guidelines. The Police Sergeant was concerned that the premises licence holder was being reckless in the way that she was operating, and was endangering public health by risking the spread of Covid-19. The Closure Notice was rescinded the following day.

The Police explained that the premises' decision to trade in this unsafe manner, which was not compliant with the Government Guidance, was an overt risk to the health of individuals, families and local communities, at a time when the country is experiencing a national emergency. The Covid-19 virus is a pandemic which has required all licensed premises to act responsibly and in accordance with both the law and the Government Guidance when trading, in order to save lives. It was therefore a flagrant public nuisance for any licensed premises to breach the Government Guidance by trading in an unsafe manner.

The premises licence holder then addressed the Sub-Committee. Having heard her submissions, the Sub-Committee agreed with the Police that the causes of the serious crime appeared to originate from unsatisfactory internal management procedures at the premises. The Sub-Committee was not impressed with the licence holder's representations, or her answers to questions. All in all, the Sub-Committee considered her to have failed to take her responsibilities seriously.

The Sub-Committee therefore determined that it was both necessary and reasonable to impose the interim step of suspension to address the immediate problems with the premises, namely the likelihood of further serious crime.

The Sub-Committee considered whether it could impose other interim steps, including modification of licence conditions, but considered that this would offer little to address the real issues, which were the unsatisfactory practices and the irresponsible attitude shown by the licence holder.

However, the Sub-Committee 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, ie the decision to defy the Government Guidance in order to trade as usual. Therefore the risks could only be properly addressed by the suspension of the Licence but also removal of the DPS, pending the full Review hearing.

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 by 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.