

# BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE A  
29 NOVEMBER 2024**

## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON FRIDAY 29 NOVEMBER 2024 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Saddak Miah in the Chair.

Councillors Jilly Bermingham and Julien Pritchard.

### **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)

\*\*\*\*\*

### 1/291124 **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.

---

### 2/291124 **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

## Licensing Sub-Committee A – 29 November 2024

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

---

### APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/291124 There were no apologies received.

---

### LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW – NOX BAR, (FORMERLY TMRW), UNITS E1-E5, THE ARCADIAN, 70 HURST STREET, BIRMINGHAM, B5 4TD

4/291124 The report of the Director of Regulation and Enforcement was submitted:-

#### On Behalf of the Applicant

Alfred Ratcliffe – WMP (West Midlands Police)  
Mark Swallow - WMP

#### On Behalf of the Premises Licence Holder

Duncan Craig – Barrister  
Kerry Cox – Duncan Craig's Associate  
Darush Karchi – 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.

Alfred Ratcliffe, on behalf of WMP made a preliminary request that the meeting be held in private due to the on-going criminal investigation.

Duncan Craig 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. Bhopinder Nandhra, Licensing Section, outlined the report.

---

### EXCLUSION OF THE PUBLIC

5/291124 RESOLVED

## Licensing Sub-Committee A – 29 November 2024

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;

### 6/291124 **RESOLVED**

That having summarily reviewed the premises licence held under the Licensing Act 2003 by UK.BM.Power Entertainment Limited in respect of NOX Bar (Formerly TMRW of Units E1 – E5, The Arcadian, 70 Hurst Street, Birmingham B5 4TF, following an application for an expedited review made pursuant to section 53A of the Licensing Act 2003, on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines:

- To remove Mr Manoochehr Esmaili as the designated premises supervisor
- That in order to promote the prevention of crime and disorder directive(s) in the Act, the conditions of the premises licence be modified in that
  - all those conditions imposed by Licensing Sub-Committee A on the 18th of November 2024 at the interim steps hearing be maintained and permanently added to the licence
  - that the interim step relating to the former Designated Premises Supervisor be modified as follows, Mr Manoochehr Esmaili is not to remain on the premises whilst licensable activity is taking place

The License holder company namely UK.PM.Power.Entertainment Limited, was represented at the meeting by Counsel who was accompanied by the director of the company. West Midlands Police also attended the meeting.

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 they wished the meeting to be conducted in private due to the ongoing investigation. Counsel for the license holder did not object to this course of action. The Sub-Committee therefore conducted the meeting in private session.

Once the meeting went into private session:

West Midlands Police made detailed submissions as regards the facts that gave rise to the initial application for an expedited review pursuant to section 53A of the Act and outlined managerial failings that had been identified on the night in

## Licensing Sub-Committee A – 29 November 2024

question, which were described as catastrophic. There had been a large scale disorder in and around the venue during which 3 individuals had been stabbed. On the 22<sup>nd</sup> of November 2024, the venue re opened and there had been no further difficulties. However, on an inspection, the ex DPS was found to be in the rear office. He confirmed that he was there to assist in the transition from one DPS to another. There was a genuine concern that he may be influencing the way in which the venue was being managed, the risk being that the same problems that existed before, would reoccur, if a further condition as suggested were imposed. Consequently, WMP were asking for all interim conditions to be imposed as conditions of license save for paragraph one which should be amended so as to include a restriction prohibiting the ex DPS from remaining on the premises whilst a licensable activity was taking place.

All other interim conditions were recommended to the Sub-Committee including the paragraph 18 which set out that the premises should operate a last entry point of 1.30am.

Counsel of the licence holder made detailed submissions regarding and confirmed that a suite of stringent conditions had been agreed with the police save for the requested amendment to paragraph 1 that being the prohibition of the ex DPS being on the premises during a licensable activity and the imposition of a last entry point at 1.30am as set out in paragraph 18. He submitted that the venue had imposed the multitude of conditions as set out in the interim conditions and had worked hard to achieve them.

As regards paragraph 1, Counsel submitted that the ex DPS was an important member of the venue's team and whilst he was not DPS he had an alternative role within the business. It was unfair to exclude him during the hours when a licensable activity took place. The new DPS was in role, and he would not influence her in her role.

As regards the submissions that the last entry point should be at 1.30am and not 2.30am Counsel submitted that he had been instructed that this would bring on the closure of the business and this was unfair and disproportionate bearing in mind the conditions imposed on other venues in the area.

In determination the Committee considered submissions made by all parties present and took heed of the evidence of Kerry Cox. They took note of comments made of an image of the incident recorded on a telephone which was shared with the sub-Committee.

They had regard to the Guidance issued under section 182 of the Act and in particular that in relation to the imposition of conditions on a licence. They concluded that the risk associated with the continuation of the ex DPS remaining on site during licensable activity was too great. The risk of him being associated with the management and influencing decisions made in the management of the venue was real. By prohibiting him from being in the premises during licensable activities did not preclude him from being employed and bearing in mind the risk of that arose from his presence, the proposed condition was a proportionate way in dealing with this.

**Licensing Sub-Committee A – 29 November 2024**

The Sub-Committee in considering the imposition of a last entry time of 1.30 reflected on the submissions made by all parties, and determined that this too was a proportionate condition to impose. They had regards to the concerns raised by the WMP in that firstly they were the experts in the management of crime and disorder and took on board that the later the entry time, the greater risk of disorder. They noted that the licensing conditions allowed the licensing activity to continue to 4.00am at the week.

The Sub-Committee considers the agreed conditions together with the amendment to paragraph 1 and paragraph 18, imposed to be appropriate, reasonable and proportionate to address concerns raised in particular the likelihood of serious crime and or serious disorder.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will continue to form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council’s Statement of Licensing Policy, the Guidance issued under Section 182 of the 2003 Act, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, the application and certificate issued by West Midlands Police under Section 53A of the 2003 Act, the written representations, and the submissions made at the hearing by the police, and the premises licence holder and/or their (legal) representative [other persons/responsible authority].

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 the maintenance and modification of the interim steps detailed above, 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 disposed of.

---

**The Meeting ended at 1257 hours.**

*Chair.....*