

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 8 OCTOBER 2021</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON FRIDAY 8 OCTOBER 2021 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Nicky Brennan in the Chair;

Councillors Diane Donaldson and Alex Aitken.

### **ALSO PRESENT**

Bhapinder Nandhra – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Townshend – Committee Services

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

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#### 1/081021 **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 Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

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#### 2/081021 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this 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 the meeting.

There were no interests declared.

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#### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/081021 Apologies were submitted on behalf of Councillors Mary Locke and Mike Ward and Councillors Diane Donaldson and Alex Aitken were the nominated substitute Members.

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**LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW – BAMBU,  
1<sup>ST</sup> FLOOR KOTWALL HOUSE, WROTTESLEY STREET, BIRMINGHAM, B5  
4RT.**

**On Behalf of the Applicant**

Mark Swallow – WMP (West Midlands Police)

Those Making Representations

Shaid Ali – LEO (Licensing Enforcement Officer, Licensing Section)

**On Behalf of the Premises Licence Holder**

Duncan Craig – Barrister, Citadel Chambers

Kadir Ahmed – PLH (Premises Licence Holder).

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The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider. There were not preliminary points for the Sub-Committee to consider.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhapinder Nandhra, to outline the report.

The applicant was then invited to make their case and Mark Swallow, on behalf of WMP made the following statements: -

- a) That the premises was licensed until 0400 hours.
- b) The premises was open on the evening of 10 September 2021 until the early hours of 11 September 2021 when a Section 18 wounding was reported. A male was reported to have injuries to his right shoulder, hand and his right hip. The enquiries were still on-going.
- c) One of the officers tried to gain entry to the premises and then found a disorder happening on the staircase; this disorder broke out onto the street and was particularly ferocious.
- d) One male was arrested, and they had to use spray.
- e) After this a male was found with stab injuries to his right hip which they believed to have happened inside the premises. Both injured persons were at the Queen Elizabeth Hospital being treated, but they had been informed that the injuries were not life threatening.
- f) The did find a knife and a wallet which were subject to further examination.

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- g) Large amounts of blood were found inside the premises, as well as an open first aid kit.
- h) The CCTV system had been seized.
- i) The security at the premises made officers aware of the stabbing incident.
- j) The DPS (Designated Premises Supervisor) was identified as 'Jasdeep', who stated he was not present at the time of the incident.
- k) The DPS stated that the event was a private party and the list of those who attended was seized.
- l) In 2019 further licensing conditions were imposed, namely that all events should be risk assessed 28 days prior to the event and WMP should be consulted; a search policy to be adopted and bodycams to be worn by security.
- m) Further enquiries found that the DPS had not completed an adequate risk assessment and it had only been submitted to WMP on the day of the event. Therefore, no comprehensive checks could be done.
- n) The DPS acted negligently and there was no reason to believe he acted other than alone in that.
- o) Knives were allowed into the premises despite a search policy.
- p) He had worked closely with the premises and agreed conditions at the appeal against the Interim Steps. He had read the new conditions and further agreed that the hours should be modified, the terminal hour was to be reduced and the DPS had been dismissed and replaced by a new one. It was WMP's belief that those changes provided a fail-safe double check and ensured the Licensing Objectives were being met.

At this stage the Chairman invited those making representations to outline their case, and Shaïd Ali, LEO made the following points: -

- a) That he first became aware of the incident at the premises on 15 September 2021 when he was tasked to go to the premises and erect the review notices. The application for review indicated that there was an incident involving knives and two persons getting stabbed.
- b) At the time of the incident the DPS Jasdeep Kaur was not at the premises. The licence was transferred in 2014 and then dissolved in 2021. Jasdeep Kaur had significant control of the business until 21 May, and it was now in the control of Kadir Ahmed.
- c) In August 2021 the then DPS left, and Jasdeep Kaur took over again.
- d) Clearly the conditions were not complied with as knives should not have been allowed inside the premises.

- e) Jasdeep Kaur should not have been the DPS.
- f) The reasons for the review given by WMP were justified, there was no call to emergency services, they had not been forthcoming with information, and they had no regard for the prevention of crime and disorder/public safety objectives. This was the reason he had made an objection.

The Chairman then invited the PLH to make their case and Duncan Craig, representing the licence holder made the following statements: -

- a) That he was surprised at Shaid Ali's representation because he'd had discussions with him where he acknowledged that there were errors in his original submission, so Mr Craig was questioning why Mr Ali had read out stuff that wasn't correct.
- b) The last email exchange Mr Craig had with Shaid Ali indicated that he was content and that he would remove his representation if WMP and the PLH reached an agreed position, of which they had. The oral representation Mr Ali had given was not in accordance with Mr Craig's understanding. Therefore he requested some clarity from him regarding that.
- c) The PLH did not oppose the suspension initially, however there were inaccuracies in the review application.
- d) Following on from that, Mr Craig entered discussions with WMP, and they had been fair and professional in considering his representation. Accordingly they had reached an agreed position.
- e) They invited the Sub-Committee to impose those conditions at the appeal against interim steps meeting, and the Committee agreed to that.
- f) They were now further inviting the Committee to impose them as permanent conditions and also maintain those interim steps so they would take effect immediately.
- g) The PLH had purchased an ID Scanner which cost £5,500 and they had used it at the event they held last weekend with no issues. It provided a double layer of security.
- h) They had also added metal detectors so everyone who wanted to enter the premises was searched twice by two different officers.
- i) He invited the Committee to remove the previous security conditions and adopt the new one which was more onerous on the premises.
- j) They had also modified the hours and added last entry conditions.
- k) The premises needed to consult with WMP if they intended to vary the DPS. The previous DPS had let the premises down; he would not be returning.

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- l) They'd engaged in discussions with WMP regarding the security company, but it was evident they had handled the incident well and a new door company was not being sought. However, if a change in door company was to happen, WMP would have to be consulted.
- m) The DPS variation had been made and WMP were happy with the proposal.
- n) The new proposed DPS had applied for a personal licence and having spoken to Solihull Licensing Department it was expected that would go through next week without issue.
- o) Mr Craig had been involved with the risk assessments and he would work closely with the premises on that going forward.
- p) He also suggested meeting with WMP in a month's time to have a debrief to see how things were going.
- q) There was an on-going criminal investigation, and his client was happy to assist WMP with that.
- r) This was a good example of a premises acknowledging their mistakes and making positive steps to address the issues.
- s) His client invested a lot of money in the premises and had got a lot at stake personally. He wanted a viable business.
- t) That his client had not ran a licensed premises before, however he'd been a door supervisor in Mayfair. Therefore, he was not inexperienced.

Kadir Ahmed made the following points: -

- a) That the premises opened nearly 20 years ago and was at the forefront of hospitality in Birmingham. He was happy and proud to have acquired at a precarious time due to Covid-19.
- b) He considered the venue to add value to the city.
- c) He had the priveledge to work in the countries capital city and would hear people talking about going to Birmingham to visit Bambu.
- d) He understood that the safety of patrons was a priority and that he had a duty of case to his customers.
- e) He had sought advice from industry professionals and made changes.
- f) That he took his role very seriously.
- g) That he had worked as a door supervisor between 2005-2012 and had been in the licensing industry for over 15 years.

The Chair invited questions from Members and Duncan Craig gave the following responses: -

- a) That the ID Scanner would be used on all patrons.
- b) The search policy would apply to both male and female patrons, but they would have male and female search officers.

At this stage Shaid Ali wrote a comment in the chat facility in MS Teams and Duncan Craig advised that when the injured person left the premises, they were not aware he had been injured. It was not until he took his shirt off in the street that the female doorman immediately noticed, and the head doorman went over to police who were on the street at the time. They were informed and dealt with it immediately. It would have been absurd for them to then call the police when the police were already notified.

Mark Swallow added that at the initial hearing he wasn't aware the police had been notified and he did look into it. It was witnessed on CCTV that the male did come out of the premises, remove his shirt and staff attended to him whilst the doorman went and alerted police officers on the street.

Following on from this, the Chairman invited all parties to make a brief closing submission.

In summing up Shaid Ali, LEO made the following points: -

- That he had listened to the proposals from Duncan Craig and if WMP were happy with the extra conditions and proposals then he would be happy with withdraw his representation.

Mark Swallow, on behalf of WMP made the following closing statements: -

- That it was a terrible incident and he wanted to thank the Committee for allowing him to go away and get a more rounded view. The interim steps allowed the premises to prove they could work with the new conditions without issue.
- The investigation was on going.
- In his belief the conditions put forward were appropriate and targeted.
- The PLH had acknowledged the issues and accepted he needed to take on greater control of the premises.
- He believed the measures put in place would ensure the issues didn't reoccur.
- That the agreed position was a good way of moving forward and he invited the Committee to extend that into permanent order.

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Finally, Duncan Craig, on behalf of the PLH made the following closing statements: -

- There was an agreed position.
- Maintain the conditions as interim steps and then also make them permanent.
- They would meet with WMP in a month's time to have a debrief.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the decision of the Sub-Committee was announced and a copy of that decision was sent to all parties as follows;

4/081021

### **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by Arcadian Wrotesley Entertainment Ltd in respect of Bambu, 1<sup>st</sup> Floor Kotwall House, Wrotesley Street, Birmingham B5 4RT, 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. Jasdeep Kaul be removed as the Designated Premises Supervisor
2. The conditions of the Licence be modified [as detailed below]
3. The interim step of the modification of the licence, by way of conditions agreed between the premises licence holder and West Midlands Police, shall be maintained pending the determination of any Appeal

The conditions of the Licence shall be modified as follows:

- The licence holder shall maintain and operate an ID Scan to all persons entering the premises whenever licensable activities are being carried on. The premises is to adopt and display a clear notice to the effect that there is a strict policy of "NO ID, NO ENTRY"
- All persons (including staff, DJs and entertainers) entering the premises whenever licensable activities are being carried on will be subject to a search. This search will include a full body search AND metal detection. Each of those activities will be undertaken by a separate door supervisor
- The licence holder will have available for use a working bleed kit whenever licensable activities are carried on from the premises
- No person will be allowed entry to the premises after 03:00, save for re-entry for persons who were on the premises before 03:00. Every person re-entering the premises will be strictly subject to the body and metal detection search
- The licence holder will consult with WMP when they intend to vary the DPS on the premises licence
- The licence holder will consult with WMP before changing the company that provides door security at the premises

It is further agreed that the authorised hours on the premises licence will be modified by reducing the terminal hour for licensable activities on a Friday and Saturday as follows:

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- the sale of alcohol by retail to 04:00, and
- regulated entertainment and late night refreshment to 04:30

The certificate which had been issued by Superintendent Fox under s53A(1)(b) of the Act had related to two instances of wounding under section 18 of the Offences Against the Person Act 1861 which had happened at the premises. There had also been an outbreak of disorder, and an arrest for affray had been made. Whilst a suspension of the licence had initially been imposed, it had been lifted at the last meeting.

Members heard the submissions of West Midlands Police, who confirmed that they had been advising the licence holder since the incident, and were satisfied that the new conditions would ensure a robust regime, particularly regarding search procedures. The Police observed that the conditions would ensure that it was unlikely that there would be any recurrence of the issues described in the certificate. The licence holder confirmed via his counsel that he intended to adhere rigidly to the conditions. He was an experienced individual who had held managerial positions, and who had made proper efforts to address the shortcomings identified in the certificate. All in all the Police considered him a suitable operator.

The Sub-Committee considered the modified conditions to be reasonable, proportionate and targeted to address the concerns which had been raised by the Police in the certificate, 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 by the Home Office under s182 of the Act, the application and certificate issued by West Midlands Police under Section 53A of the 2003 Act, and the submissions made by the licence holder via his counsel, and by West Midlands Police, at the hearing.

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 of the interim step as 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 determined.

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**The meeting ended at 1057 hours.**