

# **BIRMINGHAM CITY COUNCIL**

## **LICENSING SUB-COMMITTEE C**

**WEDNESDAY, 26 JUNE 2019 AT 09:30 HOURS**  
**IN ELLEN PINSENT ROOM, COUNCIL HOUSE, VICTORIA**  
**SQUARE, BIRMINGHAM, B1 1BB**

*Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.*

## **A G E N D A**

### **1 NOTICE OF RECORDING**

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

### **2 DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant 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.

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

### **4 MINUTES**

To note the public part of the Minutes of the meeting held on 29 March 2019.

To confirm and sign the Minutes of the meeting held on 3 April 2019.

To confirm and sign the Minutes of the meeting held on 17 April 2019.

To note the public part of the Minutes of the meeting held on 1 May 2019.

To note the public part of the Minutes of the meeting held on 15 May 2019.

### **5 OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

**3 - 42**

6 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraphs 1 & 7

**PRIVATE AGENDA**

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 29 March 2019 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 1 May 2019 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 15 May 2019 and to confirm and sign the Minutes as a whole.

2 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENSES**

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

# BIRMINGHAM CITY COUNCIL

<p><b>LICENSING SUB – COMMITTEE C 29 MARCH 2019</b></p>
---

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD  
ON WEDNESDAY 29 MARCH 2019, AT 0930 HOURS, IN ELLEN PINSENT,  
COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Nicky Brennan and Mike Sharpe.

**ALSO PRESENT**

Bhapinder Nandhra – Licensing Section  
Parminder Bhomra – Legal Services  
Katy Townshend – Committee Services

---

**NOTICE OF RECORDING**

- 1/290319 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**

- 2/290319 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 to be recorded in the minutes of meeting.

---

**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/290319 No apologies were submitted.

---

**ETIQUETTE NIGHTCLUB, UNIT B202-204, ARCADIAN CENTRE, HURST  
STREET, BIRMINGHAM, B5 4TD – LICENSING ACT 2003 AS AMENDED BY  
THE VIOLENT CRIME REDUCTION ACT 2006 – CONSIDERATION OF  
REPRESENTATIONS IN RESPECT OF THE INTERIM STEPS IMPOSED ON  
MARCH 2019.**

The Premises Licence Holder made representations in respect of the interim steps imposed on 22<sup>nd</sup> March 2019 following the application of expedited review of the

premises licence in respect of Etiquette Nightclub, Unit B202-204, Arcadian Centre, Hurst Street, Birmingham, B5 4TD. A certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, an application for Review of Licence, a copy of Premises Licence, Decisions of the meeting held on 22<sup>nd</sup> March 2019, representations made by the premises licence holder and Location maps were submitted:-

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

**On behalf of the Premises Licence Holder**

Wayne Tracey – Proposed New Designated Premises Supervisor (DPS)  
Pourian Azarian – Previous Designated Premises Supervisor (DPS)  
Sarah Clover – Barrister - Kings Chambers  
Carl Moore – Agent

**On Behalf of West Midlands Police**

PC Ben Reader – West Midlands Police (WMP)  
PC Greenfield - WMP

\* \* \*

Following introductions by the Chairman all parties were asked if they had any preliminary matters.

At this stage PC Ben Reader advised that they would be asking for the CCTV/video footage to be heard in private due to the following:-

- There was an ongoing investigation
- There was still an injured party in hospital
- Arrests were yet to be made
- That not screening the CCTV in private could hinder the investigation.

At this juncture Mrs Sarah Clover asked for clarity regarding what PC Reader meant – who he wanted excluded.

The Chairman advised that the press and/or public would be excluded. The other parties would remain in the meeting, whilst the private CCTV footage was screened.

Bhapinder Nandhra, Licensing Section, made introductory comments relating to the report.

Mrs Sarah Clover, on behalf of the Premises Licence Holder, made the following points:-

- a) That Mr Tracey was the licence holder of Snobs and had been for 40 years.
- b) That Mr Tracey was in the process of buying Living Leisure. So Bar and Etiquette ran as two separate venues.
- c) Mr Tracey was in negotiations to take over the lease of the building and then the incident occurred, which had nothing to do with him, and did not involve any of his team.
- d) That what happened, happened and Mr Tracey had put in an application to transfer the licence with immediate effect.
- e) That Mr Tracey was currently the licensee pending any reaction from WMP as to whether they wished to react to the transfer.
- f) Mr Tracey had been liaising with police and therefore, did not anticipate an objection.
- g) That Mr Tracey was exemplary.
- h) That the door company had been at Snobs some 20 years.
- i) That similarly Mr Tracey had taken on the role of DPS, which was an unusual role for him but in the circumstances Mr Tracey felt it appropriate.
- j) That they weren't able to attend the previous hearing as the email that went to Mr Azarian went to an old email address that was no longer in use. This was "confusing" because Mr Azarian had received emails to his current email address. The other email was a very old one. Therefore, they were making representations for the first time.
- k) That Mr Tracey was asking the Committee to allow him to take control of the premises, as he was already operating So Bar.
- l) That as far as the fight was concerned – the ins and outs of that particular fight was nothing to do with Mr Tracey and therefore they had no issues with how the police were describing it – the fight sounded horrendous. However, they did not know anything about it and couldn't say anymore.
- m) That the fight appeared to have something to do with the door security company, or connections of the door company.
- n) That the fight was effectively a slice of history.
- o) They asked the Committee to look at any conditions going forward and to look at the new set up. Additionally, not to penalise Mr Tracey for things that occurred previously; with the previous people.
- p) That Mr Tracey wanted firm and complete control of both premises with immediate effect.

- q) That there was nothing defective on the licence, So Bar and Etiquette share conditions.
- r) That if the Committee wished to have reassurances between now and the review hearing they could put steps in place by confirming the change of DPS to Mr Tracey and could ensure the installment of Snobs security team.
- s) That further reassurances could be considered.
- t) That what WMP were about to show was disconnected from the man in front of the Committee (Mr Tracey).
- u) That they were happy to answer any questions. That Carl Moore was a consultant who worked closely with Mr Tracey on policies and procedures and was in attendance to show his commitment.

In response to Members questions Mr Tracey made the following points:-

- a) That he started purchase proceedings in February and So Bar was completed but Etiquette was still outstanding. He would be DPS and the licence holder, but the licence would be held in the company name.
- b) That PRP was a Wolverhampton based company that had been working with Snobs for about 30 years. He was not sure what other doors they worked on but they would be working at So Bar and Etiquette.

Cllr Leddy asked what sort of Club the premises was, Mr Tracey advised it was for Mr Azarian to explain.

Mr Azarian explained that it was mainly used for private events. So Bar was running downstairs and then Etiquette was upstairs and held exclusive private events for footballers, celebrities, and outside DJs from Essex. Etiquette had a completely different crowd to So Bar.

Mr Tracey advised that his vision was that So Bar would operate with two rooms and it would not be operating as VIP/exclusive. That the business before was a failed business – it was not working. This was how Mr Tracey came to buy it.

Mrs Sarah Clover, Barrister representing the premises advised that the fight was not a result of the style of the venue in fact it was a particular group of men from London who had been drinking in the city all day and then was allowed into Etiquette. There was a connection with the door staff and it all exploded. There was nothing to say it was a direct result of the style of the venue and nevertheless, the venue was changing its style and it should never happen again.

Mr Tracey continued to answer Members questions:-

- a) That he had not been DPS at Snobs, but he worked with DPS's and was always in attendance when the premises was operating which he intended to do at Etiquette.

- b) That the incident that occurred was extremely serious from what he had seen in the Evening Mail.
- c) That So Bar downstairs would be open during the day and then upstairs would be open Friday and Saturday evenings. That it would be exactly the same as downstairs – just another room.
- d) That he didn't do things without looking into it properly. Negotiations had been ongoing for 6 months.
- e) That it was a very lively area and he would be taking on new door staff, bar staff and a cleaner.

At this stage PC Reader was invited to make his representation. He advised that he would like to screen the CCTV first in private.

At this juncture, the Chairman advised that the public would now be excluded from the meeting.

**EXCLUSION OF THE PUBLIC**

4/290319

**RESOLVED:**

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.

---

At this stage in the meeting having viewed the CCTV footage in private the public were readmitted to the meeting.

PC Reader continued to make the following points, in answer to Members questions:-

- a) That it was a brutal attack; the injured party had a brain scan and had been transferred to a London hospital in order to be closer to his home.
- b) That it was not believe he had been doing drugs.
- c) That Mr Azarian had lost control of the venue and allowed people into the venue who were intoxicated, violent, using balloons containing Nitrous Oxide and subsequently a serious incident occurred.
- d) That he could not understand why Mr Azarian was at the hearing.

Mrs Sarah Clover explained to PC Reader that she thought she had made it clear but she was happy to do it again.

PC Reader stated that they were attending due to the challenge to the suspension, however, there was no detail – he asked “when would the venue open - Tonight?”

Mr Tracey responded by informing PC Reader that it was only So Bar that would be opening tonight as he was already running that premises.

PC Reader stated he was still confused and wanted to know when PRP (security company) were going to be involved. He further added that he felt they had rushed to challenge the suspension, but with little detail on how the premises would be operated. Furthermore, he raised his concerns over Mr Azarian attending the hearing and felt he should be excluded from all operation moving forwards.

In response to Cllr Beauchamp, PC Reader explained that they had not challenged to change of DPS and were confident that Mr Tracey was a good operator; however, they “needed to be able to work out how that operation was going to plan out”. He added that he didn’t think it needed working out before the full review, especially if they were going to do a refurbishment.

Mrs Clover advised she would like to address those concerns raised at which point Cllr Leddy informed her that she may address them in her summing up.

Cllr Leddy asked PC Reader about their prior dealings with Mr Tracey and for any background information.

PC Reader confirmed that both Mr Tracey and the PRP door company were good operators, however, he wanted clarification on how the premises would operate.

In Summing up PC Reader on behalf of WMP made the following points:-

- That they believed suspension should remain. However if the Committee were minded to lift the suspension then the premises needed to operate as a “completely clean broom”.

In summing up Mrs Sarah Clover, on behalf of the premises made the following points:-

- That PC Reader saying there was a lack of clarity was incorrect. Mr Tracey had been discussing the matters in length with PC Rohomon and they had explained in detail at the hearing today.
- That for PC Reader to say it was rushed meant that he did not really know what was going on.
- That discussions had already taken place with PC Rohomon over the details regarding the operation of the venue. Clearly that had not been relayed to PC Reader.



- That they were grateful to Mr Azarian for attending the hearing in order to comment on CCTV and answer Members questions. He received flack for doing so. He would not be running the company or be involved with the management.
- Mr Tracey was unable to assist with the CCTV; Mr Azarian had insight and awareness that he was available to assist the Committee with.
- That there was nothing to stop So Bar trading.
- That WMP could have reviewed So Bar as they were associated, but they chose not to.
- That PC Reader suggested that they were hazy with what was going on, but Mr Tracey had made it clear.
- The security company was operating at So Bar and there was nothing to stop So Bar operating.
- If WMP wanted clarity, what on? Now was the time and the place to go through issues.
- That it would be wrong to say “no rush, review is not far away, so let’s be on the safe side”.
- That a review was used to protect the public from risk, to use the review process in order not to rush things was wrong. If Mr Tracey could not reassure the Committee today, he would not be able to assure them at the review as nothing would change.
- That the same application would be before the Committee at the full review.
- That there was nothing to stop the suspension being lifted.
- That if the Committee wanted reassurances on Mr Azarian they could do that, if they wanted reassurances in relation to PRP (security company) they could do that also.
- That Mr Tracey was DPS as no objection had been made yet.
- They asked the Committee to allow Mr Tracey to operate Etiquette in line with So Bar.

At 1106 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1217 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

5/290319

**RESOLVED:-**

That, having considered the representations made on behalf of Snobs Management Limited the premises licence holder for Etiquette, Unit B 202 – B204, Arcadian Centre, Hurst Street, B5 4TD in respect of the interim steps imposed on the 22 March 2019, this Sub-Committee hereby determines that the licence will remain suspended until the following conditions are complied with by Wayne Tracey.

1. Mr Azarian has no involvement with the management and operation of the business owned by Wayne Tracey
2. An operating manual of the proposed business for Etiquette is submitted to WMP subject to their approval.

The Sub-Committee carefully considered the representations made by the police and on behalf of the new proposed DPS and premises licence holder, Mr Wayne Tracey.

In relation to the incident on 18 March 2019, the members identified that the blame lay with the security company hired by Mr Azarian, who attended the hearing in order to assist the Member's queries and concerns. It became clear to the Member's that Mr Azarian was fully responsible for the lack of control over the unfolding events of that night which led to the expedited review application by WMP.

Members carefully considered the new business proposal put forward by Mr Tracey and his barrister in respect of Etiquette, and accepted there was a clear separation in the legal ownership and management of the business between Mr Azarian to Mr Tracey which was seen as a positive step in overhauling the nature and style of Etiquette.

The Sub Committee also carefully considered WMP submissions regarding the lack of clarity around the proposed operation of the business and the need for the suspension to remain in place until the review hearing date. However, members took account of Mr Tracey's extensive track record of running a successful and well established licensed venue in the city, and that he had submitted a DPS transfer application with immediate effect that as yet not had been objected to by WMP.

In view of the above, members considered it would be appropriate to lift the suspension provided that Mr Tracey did not have Mr Azarian involved in any way with the business going forward, and that Mr Tracey supply a copy of his operation manual to the satisfaction of WMP as evidence of a new fresh start.

The Sub-Committee therefore considered that lifting the suspension of the premises licence in light of the new material changes in respect of Etiquette was an appropriate and proportionate measure subject to the two conditions being complied with for the promotion of the licensing objectives.

In reaching this decision, the Sub-Committee has given due consideration to the guidance issued by the Home Office in relation to expedited and summary licence reviews, the certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 and the application for review.

All parties are advised that there is no right of appeal to a magistrates' court against the decision of the Licensing Authority at this stage.

---

6/290319

**OTHER URGENT BUSINESS**

There were no matters of urgent business.

---

The meeting ended at 1225 hours.

.....  
CHAIRMAN



# BIRMINGHAM CITY COUNCIL

<p><b>LICENSING SUB – COMMITTEE C 3 APRIL 2019</b></p>
--

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD  
ON WEDNESDAY 3 APRIL 2019, AT 0930 HOURS, IN ELLEN PINSENT,  
COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Eustace and Brennan.

**ALSO PRESENT**

Shaid Yasser – Licensing Section  
Parminder Bhomra – Legal Services  
Katy Townshend – Committee Services

---

**NOTICE OF RECORDING**

1/030419 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**

2/030419 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 to be recorded in the minutes of meeting.

---

**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/030419 No apologies were submitted.

---

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – JAMARK, 5-9  
STATION ROAD, ERDINGTON, BIRMINGHAM, B23 6UB.**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

**On behalf of the Applicant**

Monica Duda – Applicant/Company Director  
Daniel Szkwarek – Company Director  
Piotr Mrchalik – Manager  
Adrian Curtis – Solicitor  
Trainee Solicitor – Observing.

**Those Making Representations**

PC Ben Reader – West Midlands Police (WMP)  
Martin Williams – Trading Standards  
Councillor Gareth Moore – Local Councillor

\* \* \*

Following introductions by the Chairman, Bhupinder Nandhra, Licensing Section, made introductory comments relating to the report.

Mr Adrian Curtis, on behalf of the applicant made the following points:-

- a) That the type of premises and business model was involving two directors, and senior managers for the business. It was a Polish shop, aimed at the Polish community.
- b) That there were currently 4 local premises, and 3 had alcohol licences.
- c) That they wanted to differentiate themselves from the other premises.
- d) That they were an Eastern European supermarket that would promote the licensing objectives.

Mr Szkwarek added that although he didn't speak good English he wanted to say that the business had been established some 12 years ago and was going along slowly. The premises would be operated under the same company with the same VAT number. They were paying all their taxes. That they had 6 other shops and a cash and carry, so they were trading and selling.

Mr Curtis interjected and explained about the new rules regarding cash and carries.

Mr Szkwarek continued by explaining how years ago people did not pay the duty on alcohol and were smuggling it into the country. Cheap alcohol was not duty paid; it's usually expensive when its duty paid. That on the High Street some Polish named premises weren't even Polish and were selling dodgy alcohol and cigarettes. They were not paying properly to the English Government. Moreover, there were issues with alcohol in Erdington and he had been victim to that a few times. However, they would not be selling alcohol to drunks or trouble makers, he would ask them to go away. They were not there to sell cheap alcohol.

At a previous Committee meeting, regarding one of the other shops, they were having similar conversations. There were too many Polish shops in Erdington yet one of them had a licence before them and yet there were no objections. There were three different names above that shop and the business owners were changing every quarter year, not paying VAT, taxes, yet they've had a licence twice already – Extra Supermarket. The owner came from West Bromwich and was banned from operating there, he's not on the documents but was the owner.

Mr Curtis continued to outline the case for the applicant:-

- a) That the company had been set up a long time and was good.
- b) That in 2016 there was an objection and it was the same directors on the application. During that hearing they went through and had a heated debate and they won that licence. There was a Cumulative Impact Policy in place back then.
- c) That the evidence was from three other shops selling alcohol and there were no issues of anti-social behaviour (ASB) from those shops.
- d) The Committee was minded last time to grant the licence with conditions.
- e) That alcohol could not be seen from the windows. There would be no outdoor advertisements of any kind regarding alcohol.
- f) They would comply with the conditions.
- g) They would not be allowing "those types of people" into the shop.
- h) That no more than 10% of sales were alcohol.
- i) That the crime statistics of the area only stated that alcohol had been linked to crime in the UK.
- j) That there was no evidence that the premises would add to cumulative impact.
- k) That the Trading Standard objection was historic, warning letters existed in the last objection but there had been no issues since then.
- l) That the allegation was in relation to cigarettes.

Mr Szkwarek advised that since the break in they had not stocked cigarettes.

Mr Curtis continued:-

- a) That the allegation was therefore false as they didn't sell cigarettes.
- b) That they couldn't have any issues with fake cigarettes because they didn't have them in the shop.

Mr Szkwarek explained that they had the shop as the owners wanted to get out. They wanted to make the shop good in the area like their other ones. They got the shop so they didn't have competition from doggy cigarettes and alcohol. When they took the shop over they found alcohol in the back that did not comply with UK regulations.

Mr Curtis added that everyone made mistakes and the unsupported allegation had been dealt with. That to deal with the representations they had offered some addition conditions:-

1. That a maximum area of 10% only for alcohol sales.
2. No single can sales – minimum sets of 4.
3. No alcohol promotions to be seen externally from the shop and alcohol not to be seen externally from the shop.
4. Not to sell alcohol in morning hours, start trading at Noon.

Mr Curtis advised that the product range they stocked was different; they didn't sell cider, mainly polish alcohol.

Mr Szkwarek added that they stocked Vodka as Polish people liked vodka. They did not stock Glen's or cheap Vodka. Street drinkers would not be buying their products as they were premium.

Mr Curtis added that they would also offer a condition:

5. No beer over 7%

Mr Szkwarek told Councillors how the shops were roughly 10-20 minutes apart.

Cllr Leddy advised the applicant that he was still not convinced that they would not add to the Cumulative Impact.

Mr Curtis advised the Cllr that they had put specific measures in place, along with offered conditions and changes to the hours of operating. The shop had already been trading without alcohol for 7 months with no issues. They were doing everything they could and no reason to suggest it was any different to the 3 other shops. That Monica would be DPS, and she wanted that role so she could be responsible, she was also a personal licence holder. If the Committee had concerns they could appoint another DPS.

Mr Szkwarek advised that he was always having meetings with staff to remind them about alcohol and expectations to make sure everyone was doing what they should be. They employ over 100 people.

PC Ben Reader, on behalf of WMP, made the following points:-

- a) That twice last week there was applications in Erdington, one had Mr Colvin QC representing them and still the Committee wasn't convinced.
- b) That there was a history of operator run ins with Trading Standards.



- c) That they had offered conditions but he was not sure how well they had been thought through.
- d) That he did not have confidence that the special policy had been taken seriously.
- e) That he did not have background on Station Road.
- f) That readily available Polish alcohol gave him concerns for street drinkers.
- g) That the offer of a different DPS was a last minute addition and concerned him.
- h) He had concerns over the stretched DPS anyway.
- i) That the place sounded successful, so did they really need alcohol?
- j) That it was a gentle way of granting, they reduced their hours, but if the application was granted they could come back in 6 months to extend the hours.
- k) That he couldn't say there were no logs on the premises, it just had not been serious enough to review the licence.

Mr Martin Williams, Trading Standards, made the following points:-

- a) That the DPS's supervise the sale of alcohol, yet she managed a number of premises, how could there be hands on control if she's not there.
- b) That there were issues with the shop before and illicit alcohol and cigarettes were seized. There were allegations of back door sales going on when the licence was reviewed. The licence was revoked and then a new application, supposedly a new business, but usually the same people. However, he asked for proof that this was a different company and he was satisfied that it was.
- c) That his biggest objection was that the DPS could not control that many premises.
- d) That the "bluey" was issued due to a complaint regarding illicit tobacco, they wouldn't issue a "bluey" unless they felt it was a legitimate complaint. Additionally, in some circumstances staff were selling things from the shop when managers weren't around.
- e) That it was an English complaint.

Cllr Gareth Moore, local Councillor, made the following comments:-

- a) That he was aware the Committee were probably already familiar with the issues, but he was going to do a quick crash course on them.

- b) That Erdington Ward had the second highest licensing applications.
- c) That there were lots of street drinking issues people congregating by the train station, St Georges Avenue, and by Ladbroke's in order to drink cans.
- d) That the premises was licensed previously and already had a bad history.
- e) That they had to be satisfied that the premises wouldn't engage in illegal activities again.
- f) That he was concerned when he saw the application.
- g) That there was not enough separation with the new company and did not resolve the issues of previous serious illegal activity.
- h) That there was a pattern of underage sales, yet there were no conditions regarding any of the above illegal issues.
- i) That further objections had been brought forward, however they did not want their details lodged.
- j) That prevention of crime and disorder and public safety were his biggest concerns.
- k) That conditions had been offered but why were they offered now and not published with the application.
- l) That the conditions were different on all of their licenses, no consistency with the premises.
- m) That they didn't contact them to disclose the conditions.
- n) That cigarettes were important, but it was not licensable.
- o) That they said they wouldn't sell cigarettes, but there was nothing the council could do if they did.
- p) That illegal and illicit cigarette sales were a concern.
- q) That he was concerned regarding the DPS and yet she had said nothing at the hearing.
- r) That there was no information regarding the staff; were they new or the old staff that were selling stuff illicitly through the back door.
- s) That he was not satisfied that the application was robust enough to address the licensing objectives for the anti-social behaviour that had taken place.

In answer to Members questions, Cllr Moore made the following points:-

- a) That he had received complaints about other off licences and had told them to report them, he did not know whether they did report them or not.
- b) That there was no evidence to say the shop was not well run.
- c) That next door to the premises was a Hungarian market, with a Cost Cutter also close by. There was a huge concentration of licensed premises and lots in close proximity.

In summing up Cllr Moore made the following points:-

- That he was not satisfied that the conditions put forward were robust enough.
- That the DPS had enough on her plate and the premises needed her full attention.
- That there was a Cumulative Impact Zone in operation in the area and yet nothing had been addressed. Therefore the application should be refused.

In summing up Mr Martin Williams, on behalf of Trading Standards made the following points:-

- That the DPS could not have control over 5/6 premises.
- That originally there was 1 DPS for every premises - that's what the role was created for
- That she had not spoken to argue the point regarding the control of the premises.

In summing up, PC Reader, on behalf of WMP, made the following points:-

- That he had not heard enough to be confident that they would not contribute to crime and disorder.
- That it was a Cumulative Impact Zone and should not be granted.
- That another application a week ago offered much more stringent conditions and was still refused.
- That the lack of consistency around conditions on each of their licenses was concerning.
- That there were DPS issues.

In summing up, Mr Curtis made the following points:-

- That Mr Colvin, QC submitted 27 conditions with an application recently and every application was on its own merits.

- That there was a demonstrated history of the same people operating in the local area with no issues.
- That there was consistency in their licensing conditions, they didn't write hundreds of conditions as they knew they would be sitting discussing the application in front of a Committee, so it was not a surprise to them.
- That it did not matter when conditions were added to the licence, the key factor was whether the licence promoted the licensing objectives.
- That in addressing Cllr Moore's concerns the applicant's themselves had not been involved with the premises previous criminal activity.
- That they didn't have to prove that the premises had been taken over, they had taken a new lease and the previous business was closed. It was a completely different situation. It had closed and re-opened.
- That Cllr Moore wanted to see robust management, but they had already gone over that and discussed how they were awarded to be wholesalers.
- That they were a very tight rein senior management team and they were not the sort of team that let staff go ahead and buy stuff from people in the shop. There was no evidence of that.
- That there had to be room to grant the application.
- That his client had stated that the shops were between 10-20 minutes walk.
- That any changes to the operation of the business would be subject to the same policy.
- That they had already addressed the DPS issue.
- That if there was an issue, the licence could be granted and they would not sell alcohol until a new DPS was appointed.
- That the reason the Committee had not heard from Monica was due to her not liking speaking.

Mrs Monica Duda made the following points:-

- That she was the proposed DPS as she was going to be dealing with the shop, it was their business.
- That employees received alcohol training and were familiar with the policies.
- That Piotr would be the manager.
- That supervisors had to do a course in order to sell alcohol.

- That not everyone would be behind the till.
- That staff behind the till would be trained to sell alcohol.
- That she would not be in the shop all of the time, as that was impossible.
- That Piotr was good and was a manager.
- That in summary it was three businesses trading with the same structure.
- That they had added conditions due to concerns put forward.
- That the application should be granted based on the amended times.
- That they had offered a list of conditions.

Mr Daniel Szkwarek added the following comments:-

- That there were other shops on Station Road.
- That the Hungarian Shop didn't have a licence.

Mr Curtis interjected explaining to Mr Daniel Szkwarek that it was not relevant to the application.

At 1130 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1214 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

4/030419

**RESOLVED:-**

That the application submitted by Jarmark Erdington Limited for the grant of a premises licence in respect of Jarmark, 5 – 9 Station Road, Erdington, Birmingham, B23 6UB be refused.

The Sub-Committee's reasons for the refusal are due to concerns by other persons and Responsible Authorities regarding the impact of the proposed operation in the particular locality of the premises which is associated with street drinkers.

The other reason is due to the questionable ability of the Designated Premises Supervisor (DPS) to manage a portfolio of premises managed by the company, having heard her comments in response to the previous incidents highlighted by Trading Standards authority.

Members were therefore concerned irrespective of the volunteered conditions, including the reduction of trading hours that the overall management style of the DPS did not give them conclusive confidence that the licensing objectives would be promoted and not add to the identified problems in the Cumulative Impact Zone area.

The Sub Committee gave weight to the general view held in respect of a DPS at alcohol licensed premises as someone who is normally in charge of the day to day running of the business, and control of the licensed premises. Thus the expectation being, a DPS is onsite at the licensed premises for the majority of time when alcohol is being sold to ensure good management of the premises and the licensable activities.

Members gave consideration to the DPS and her legal representative's explanation for the need for the DPS to keep a tight rein on all the businesses but noted with some concern, the DPS showed some indifference towards managing the conduct of staff members in relation to the sales of alcohol. In view of previous warnings issued by Trading Standards to the DPS, and the number of businesses supervised by the designated person, Members could not be satisfied as to whether the DPS could ensure adequate supervision of the sale of alcohol.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the four licensing objectives were adequately promoted and that therefore the licence be granted; however Members considered that neither modifying conditions of the licence, refusing the proposed Designated Premises Supervisor nor excluding any of the licensable activities from the scope of the licence would mitigate the concerns raised by those making representations.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information contained in the application, the written representations received and the submissions made at the hearing by the applicant, \*their (legal) adviser/and those making representations.

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.

---

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – SACRED HEART, 28 GRANGE ROAD, ASTON, BIRMINGHAM, B6 6LA**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

**On behalf of the Applicant**

Terance Kelly – Applicant

Patrick Burke – Agent

**Those Making Representations**

No one attended

\* \* \*

Following introductions by the Chairman, Bhapinder Nandhra, Licensing Section, made introductory comments relating to the report.

Mr Patrick Burke, on behalf of the applicant made the following points:-

- a) That the reason for the application was that the previous licence was surrendered in 2018 by the previous tenant.
- b) That the Sacred Heart was owned by the church for many years; it had been licensed a long time.
- c) That Terrance had ran businesses for years without issues.
- d) That the premises had been refurbished to a very high standard.
- e) That the premises would serve the local community.
- f) That the premises was licensed for 12 years until 3am – however, they have not applied for those hours and had received no objections from Responsible Authorities.
- g) That they had contacted the objector by email but had received no response.
- h) That Mr Khan stated he had lived there for many years and had issues with people urinating in his garden, racial abuse, bottles found in his garden. However, Terrance could not be held accountable on how the premises was previously managed.
- i) That there were no issues with the TENs.
- j) That they had put measures in place with local Taxi's to reduce noise.
- k) That they accepted the concerns of local residents.

- l) Mr Burke drew particular attention to Thwaites v Wirral – case in high court 6<sup>th</sup> May 2008 – guidance that there should be a “light touch bureaucracy”. That decisions on applications should only be made on evidence and not based on speculation.
- m) That the objection was based on speculation and therefore, the Committee should not add any weight to it.
- n) That there were no objections from WMP.

Mr Burke used a story from his own experience of being a pub manager in order to demonstrate how it was better for premises to be occupied and operated responsibly, than closed up and used as “drug dens” by homeless or “squatters”. He concluded by explaining that the DPS was a responsible operator and had never had issues previously therefore, the licence should be granted.

In response to Members question Mr Burke made the following points:-

- a) That in terms of adult entertainment, it was all on the application. It was standard and would not be including strippers.

Mr Terrance Kelly made the following points:-

- a) That he would personally search the perimeters.
- b) That they had an agreement with the local taxi company.
- c) That they had a big car park.
- d) That the outside bar was plastic glasses only and had been open previously on TENs with no issues.
- e) That they had notices up about being mindful to neighbours.
- f) That he had been running pubs for 18 years.
- g) That all of the outside area would be plastic glasses only.

In summing up Mr Burke made the following points:-

- That he did not have much else to say other than there were no objections from responsible authorities.
- That the premises would be run professionally.

At 1314 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1331 hours all parties were recalled to the meeting in order for the Chair to gain clarification on a concern that the Members had raised.



The Chairman asked the applicant if they would consider a curfew time on the outside bar area.

Mr Burke advised that the area would only be used for football matches and private parties and therefore a restriction of 2200 hours would be satisfactory.

The Chairman then asked the applicant if they would consider a restriction on the number of people allowed in the smoking area at any one time.

Mr Burke responded that 6 after 2300 hours would be satisfactory.

At 1337 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1355 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

5/030419 **RESOLVED:-**

That the application submitted by Terence Kelly for a premises licence in respect of Sacred Heart, 28 Grange Road, Aston, Birmingham, B6 6LA be granted subject to the agreed conditions with West Midlands Police, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003, together with the following conditions:-

- No drinking in the outside bar area after 2200 hours
- The smoking area is limited to 6 people at any one time after 2300 hours.

The Sub Committee heard oral representations from the agent for the premises licence holder in respect of the venue's location, history and proposed operation. In the absence of the local resident who objected to the application, Members carefully considered the one written representation submitted, made by other person and were concerned to note that there was a strong possibility of an evidential and causal link between the issues raised, that could arise again.

Members gave regard to the character of the area in light of the proposed operation, and were acutely aware of the very real prospect of late night noise emanating from patrons smoking and or drinking outside in the premises car park, causing disturbance to nearby residents, particularly during the football season, and summer months.

The Sub Committee took on board the agent's contention that the premises had operated well during the last 3 weekends under TENS without complaint, and there were no representations from other responsible authorities, but nonetheless remained concerned with the capacity of the outside bar and smoking shelter.

Members considered the agent's submission regarding the Daniel Thwaites PLC case which seems to say that decisions must be based on actual evidence not

speculation and that a 'light touch bureaucracy' is required, however the statute suggests that speculative evidence can be taken into account; if the effect is more likely than not.

The Sub Committee determined the effect of granting a premises licence with outside smoking and drinking is more likely than not to disturb residents and, this could be overcome by way of additional conditions as discussed during the hearing.

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, and concluded that by granting this application with the agreed and additional conditions, the four Licensing Objectives contained in the Act will be properly promoted.

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

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 Licensing Act 2003 by the Secretary of State, the information in the application, the written representations received and the submissions made at the hearing by the applicant and their agent.

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.

6/030419

---

**OTHER URGENT BUSINESS**

There were no matters of urgent business.

---

The meeting ended at 1400 hours.

.....  
CHAIRMAN

**BIRMINGHAM CITY COUNCIL**

<b>LICENSING SUB COMMITTEE C 17 APRIL 2019</b>
--

**MINUTES OF A MEETING OF  
LICENSING SUB COMMITTEE C  
HELD ON WEDNESDAY 17 APRIL 2019  
AT 0930 HOURS IN COMMITTEE ROOM A,  
COUNCIL HOUSE EXTENSION, MARGARET  
STREET, BIRMINGHAM**

**PRESENT:** - Councillor Mike Leddy in the Chair

Councillors Olly Armstrong and Neil Eustace

**ALSO PRESENT**

Bhapinder Nandhra, Licensing Officer  
Joe Millington, Committee Lawyer  
Errol Wilson, Committee Manager

---

**NOTICE OF RECORDING**

- 1/170419 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**

- 2/170419 Members were reminded that they must declare all relevant and 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 to be recorded in the minutes of meeting.

---

**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/170419 There were no Nominee members.
-

**LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW**  
**ETIQUETTE, UNIT B202 – B204 ARCADIAN CENTRE, HURST STREET,**  
**BIRMINGHAM, B5 4TD**

The review of the premises licence was required following an application for expedited review on 21<sup>st</sup> March 2019, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006):-

(See document No. 1)

The following persons attended the meeting.

**On behalf of the Premises Licence Holder**

Wayne Tracey – New Premises Licence Holder  
Mr Duncan Craig – Barrister for the Premises Licence Holder  
Ms Jo Kinsella and Harriet Moloney – Landlord Support  
Piers Warne – Landlord's Solicitor

**On behalf of West Midlands Police**

PC Abdool Rohomon – West Midlands Police

\* \* \*

The Chairman made introductions and outlined the procedure to be followed and enquired whether there were any preliminary matters.

Mr Bhapinder Nandhra, Licensing Section, made introductory comments relating to the documents submitted.

PC Rohomon on behalf of West Midlands Police (WMP), made the following points:-

1. Since this serious incident, there has been a change in the holder of the premises licence and designated premises supervisor.
2. The transfer of the business to Mr Wayne Tracey was a positive step in overhauling the nature and style of the premises.
3. That it would not be necessary to show the CCTV footage to the Sub-Committee again as it would be of no benefit. The licence was held by another company and not Mr Tracey.
4. That he had formal discussions with Mr Tracey (he was not the premises licence holder at this point).
5. The management plan was not submitted until Mr Tracey spoke with WMP. The management plan was then submitted by Mr Tracey and WMP was satisfied with it.

6. That he had known Mr Tracey for a long time on a professional level and that they had mutual respect for each other.
7. That he was proposing to the Sub-Committee (with a few minor tweaks) that the conditions offered and agreed and submitted to the Sub-Committee could be signed.
8. That the company had not traded since the interim steps hearing. WMP was happy with the management plan and WMP felt that it was fit and proper for the suspension of the licence to be lifted.
9. That the Sub-Committee could take reassurance in what the company was planning to do. That documentations and all legal paperwork was shown to WMP and WMP was happy with what was progressed and presented going forward.
10. WMP was had confidence in what had been proposed going forward. The previous managers of the premises had now left and the premises were under new ownership.

There were no questions from the Sub-Committee members

PC Rohomon stated that the interim steps suspension could be lifted and could include the new conditions and that WMP had no reason to believe they would not.

On behalf of the premises, Mr Duncan Craig, made the following points:-

- a) That Mr Tracey did all the ground work and based on his observation it was a good partnership working with the authorities.
- b) That he echoed PC Rohomon's comments that Mr Tracey was one of the best operators in the city. Mr Tracey had an amazing track record and that it was clear from the decision to lift the interim steps that he had a good track record.
- c) That Mr Tracey had been proactive and co-operated fully with West Midlands Police to address concerns relating to the crime and disorder objective and had developed a constructive professional relationship with WMP.
- d) That it was highly unfortunate that the disorder took place in the premises at the time when he was not the premises licence holder.
- e) That Mr Tracey had put himself forward as the Designated Premises Supervisor (DPS) and WMP was happy with the progress and the process.
- f) That a comprehensive management plan was in place covering various matters including door staff, policies, undertakings etc. Section 20 steps taken – conditions agreed to in the premises.

## Licensing Sub Committee C – 17 April 2019

- g) That the last condition in his email of the 16<sup>th</sup> April 2019 to licensing should read the previous DPS would not be involved in the management **or** control of the licensed premise.
- h) That the management plan be submitted to WMP on the 18<sup>th</sup> April and that no licensing activities to be undertaken until the management plan was submitted
- i) That the landlord was present at the hearing today and it was not often that a landlord would support the PLH.

At this juncture, Mr Craig invited Piers Warne, Landlord for the premises to address the Sub-Committee.

Mr Warne stated that he was in attendance at the hearing to respond to any questions regarding the change in operation going forward. He added that he had an interest in promoting the licensing objectives and that everything will operate as set out by the new PLH

Mr Craig continued

- j) That the interim steps clarified that this had been lifted and supplanted with the conditions they had agreed and no other measures were appropriate. Mr Tracey thanked WMP and the landlord for their support.
- k) Mr Craig commented that this was a good example of the trade and authorities working together in the interest of the licensing objectives and public safety.

In response to questions, Mr Tracey made the following statements: -

- That the rebadging of SNOBS management had already been put into practice and that they would be operating upstairs on Sunday and from this weekend.
- All operations would be put in place.
- That the management plan dated 17 April 2019 will be submitted to WMP on the 18<sup>th</sup> April 2019.

In summing up, PC Rohomon of West Midlands Police stated that there was nothing else to add.

In summing up Mr Craig, on behalf of the premises, stated that there was nothing else to add.

At 1008 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1035 hours, the meeting was reconvened and all parties were invited to rejoin the hearing. The decision of the Licensing Sub-Committee C was announced as follows:-

4/170419

**RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by **Living Leisure Limited** in respect of **Etiquette, Unit B202 – B204, Arcadian Centre, Hurst Street, Birmingham, B5 4TD** following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines

*The interim step of suspension is lifted and the conditions of the Licence are hereby modified in accordance with the agreement between the parties, in order to promote the prevention of crime and disorder and public safety objectives in the Act*

**MODIFY CONDITIONS**

That the conditions of the premises licence be modified as follows, in order to promote the prevention of crime and disorder and public safety objectives in the Act:

1. The use of the premises will be subject to the management plan, dated 17<sup>th</sup> April 2019, and signed by West Midlands Police (Birmingham Licensing Department) and premises licence holder.
2. Any amendments to this plan, to be subject to notification (via email or in writing) to West Midlands Police (Birmingham Licensing Department). Amendments will require authorisation from West Midlands Police to become part of the plan.
3. Door staff at the stairs separating the two rooms to be wearing body worn CCTV cameras, to be operational at all times the premises is open for licensable activity.
4. Mr Pouria Azarian not to be involved in the management or control of the licensed premises.

The Sub-Committee's reasons for imposing these agreed conditions relate to submissions by West Midlands Police concerning matters which came to light at the premises on 18<sup>th</sup> March 2019 as outlined in the Chief of Police's certificate and application.

On this date, an extremely serious incident of disorder occurred at the premises, during which violence was used. The Sub-Committee has previously determined the cause of the serious crime and serious disorder originated from various patrons of the premises, exacerbated by poor security measures in place. Two injured patients required urgent medical assistance as a result of the disorder.

The Sub-Committee has previously expressed its concern at the lack of care and assistance shown towards victims, in particular one male who lay unconscious next to the stairwell in front of security staff for a considerable period of time. The incident revealed a lack of control by security staff and the DPS at the time. Nothing was done to control and contain the serious disorder or alert the emergency services.

On 29<sup>th</sup> March 2019, the Sub-Committee determined that the Licence should remain suspended until such time as the previous DPS ceased to have any involvement with the premises and West Midlands Police had approved a revised operating manual. On that date, the Sub-Committee recognised that the transfer of the business to Mr Wayne Tracey was a positive step in overhauling the nature and style of the premises. The Sub-Committee recognised Mr Tracey's extensive track record of running a successful and well-established licensed venue in the city.

Since this serious incident, there has been a change in the holder of the premises licence and designated premises supervisor. The previous DPS, whom the Sub-Committee found to have been fully responsible for the lack of control over the incident on 18<sup>th</sup> March 2019, has no further involvement in the management or control of the licensed premises.

The Sub-Committee considered carefully submissions on behalf of West Midlands Police, which were positive about Mr Tracey's knowledge and experience in this sector. The Sub-Committee noted that Mr Tracey had been proactive and co-operated fully with West Midlands Police to address concerns relating to the crime and disorder objective and had developed a constructive professional relationship with West Midlands Police.

The Sub-Committee also carefully considered representations made on behalf of Mr Tracey, which described a well-regarded operator consistent with the representations of West Midlands Police. The operational plan, developed through discussion with West Midlands Police and put forward with their approval, was described as comprehensive. In addition, the Sub-Committee carefully considered representations on behalf of the landlord of the premises, which were supportive of Mr Tracey's intentions for the future trading.

Since the imposition of interim steps at the previous hearing, the Sub-Committee noted the efforts made by the premises licence holder to comply with the conditions of suspension, and to improve the operating conditions at the premises as above. The agreed conditions ensure that the previous DPS will continue to have no involvement in the management or control of the licensed premises. The management plan has been approved by West Midlands Police, who have confidence in the new licence holder and DPS. The management plan, subject to which the premises must operate, was drafted with input from West Midlands Police.

The Sub-Committee considers the agreed conditions 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 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 their legal representative and other persons, namely the representatives of the landlord.

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 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.

---

**LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW THE  
SUTTON TAP, 67 SOUTH PARADE, SUTTON COLDFIELD, BIRMINGHAM, B72  
1QU**

The review of the premises licence was required following an application for expedited review on 21<sup>st</sup> March 2019, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006):-

(See document No. 2)

The following persons attended the meeting.

**On behalf of West Midlands Police**

PC Deano Walker – West Midlands Police

**On behalf of the Premises Licence Holder**

The holder of the premises licence did not attend and did not make any representations. The proposed transferee of the premises licence did not attend or make any representations.

\* \* \*

The Chairman made introductions and outlined the procedure to be followed and enquired whether there were any preliminary matters.

PC Deano Walker on behalf of West Midlands Police explained to the Sub-Committee that it would be necessary to show CCTV in Private. This was due to the following:-

- ❖ That there was an on-going criminal investigation.
- ❖ That the CCTV was sensitive material and not in the public domain.

Mr Bhapinder Nandhra, Licensing Section, made introductory comments relating to the documents submitted.

PC Deano Walker on behalf of West Midlands Police, made the following points:-

- a) That on Saturday 16 March 2019 at 0326 hours a call was received from the Designated Premises Supervisor (DPS) advising that a disorder was taking place.
- b) Police arrived at 0336 hours and saw a lot of people, but no issues were reported when WMP arrived. The police left without making any arrest.
- c) On the 23<sup>rd</sup> March 2019 another disturbance took place at the premises and WMP recovered CCTV from the premises and Grace Church Shopping Centre.
- d) Police reviewed the CCTV and noted that there was a large disturbance taking place and the footage was sent to WMP. There was a lot going on during the CCTV recording.
- e) The incident started at 0318 hours, but WMP did not receive the call from the DPS until 0326 hours.
- f) There were periodic fights between customers resulting in a huge fight between 20 persons which had spilled out onto the road. The fighting and disorder occurred around the main entrance to the pub as well as in the road.
- g) Customers were thrown to the floor and kicked in the head whilst others were jumping over the security barriers and attempting to get back into the pub. It was clear that the incident had begun in the pub.
- h) A group of males were seen punching and kicking another male to the head, he made an attempt to get away, but was chased into the road where he was again knocked to the ground with a punch and was repeatedly kicked in the head. He was unconscious.
- i) At 0321 hours the barriers were pulled away from the smoking area and were used as missiles and thrown at the pub.
- j) At 0323 hours two males were seen attacking a car that was parked on the road in front of the pub, whilst at the same time fighting had again broken out near the entrance of the pub.
- k) A hooded male picked up one of the barriers and launched it at the parked car whilst another kicked the car before it sped off. The car involved was seen to turn around and speeding erratically back along South Parade and customers began to attack it again.
- l) At the previous hearing, CCTV footage showed door staff allowing customers to inhale nitrous oxide from balloons inside the venue and it showed the same door staff bursting them as they left the venue. These same door staff was still employed at the premises.

At this juncture, the Chairman advised that the public would now be excluded from the meeting.

**EXCLUSION OF THE PUBLIC**

5/170419

**RESOLVED:**

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.

At this stage in the meeting having viewed the CCTV footage in private the public were readmitted to the meeting.

PC Walker continued:-

- a) That WMP had requested an expedited review. On Wednesday 10<sup>th</sup> April 2019, WMP was made aware of another incident that occurred at the premises after the Sub-Committee had suspended its licence.
- b) Officers attend the premises at 0301 hours following a report of disorder and found 6 to 7 people stood outside and one male with a bloody nose.
- c) Officers entered the premises and found the brother of the DPS/licence holder. Officers observed signs that a disorder had taken place, there was blood stained tissues on the floor and a strong smell of cannabis in the room.
- d) Nitrous Oxide canisters along with balloons were found on the floor and officers had observed cash in the till and customers had confirmed that alcohol was being sold.
- e) PC Walker then drew the attention of the Sub-Committee to WMP incident log on pages 21 – 22 of the evidence bundle.
- f) WMP was astonished that with the licence being revoked, that another incident had occurred as the premises had customer attacked and injured and the emergency services were not called.
- g) Member of staff was supplying nitrous oxide which was the same door staff from a previous incident. The DPS called WMP 8 minutes after the incident had started.
- h) The door supervisor duty log on pages 14 -16 of WMP evidence bundle stated that *'group of males kicked off outside ... police called all okay'*, which was not the case.
- i) The PLH had offered to undertake various improvements which had not being done – no CCTV, no dress code and no new drugs search policy. The licence was revoked by the Sub-Committee.
- j) As per an email to Licensing from Capita on the 3<sup>rd</sup> April 2019 it was noted that Santander UK PLC owned the freehold interest in the premises.
- k) It was further noted that neither the Sutton Tap nor the licensee had any legal right to occupy the premises and action was being commenced to recover possession of the premises.
- l) That the PLH/DPS still had no control and that the venue was synonymous for drunken crime, disorder, drug use and anti-social behaviour. That he had never seen such disregard for the licensing objectives in his 10 years of service.
- m) WMP was requesting that the licence be revoked for a second time.

Mr Joe Millington, Committee Lawyer, stated that the facts were relatively clear.

WMP was aware of the application for a transfer of the premises licence and had served evidence on the old and potential new PLH.

The Chair enquired whether the PLH had any legal right to occupy the premises given the email from Capita.

Mr Millington advised that the licensing officer had received information albeit out of time, but that the Sub-Committee need not be troubled by this today. This was a relevant factor to be taken into account.

The Chairman stated that the licence was previously revoked, but that the PLH had made an appeal to the Magistrate's Court. Since awaiting the review of the licence another incident had occurred at the premises regarding the summary review and last week another incident involving 6-7 individuals on the 10<sup>th</sup> April 2019. Three serious incidents had taken place between the first and today's hearing.

The first incident took place in January 2019 and the licence was revoked in February 2019. The PLH appealed the decision to revoke the licence. Since the appeal was lodged a serious disorder had taken place.

In summing up PC Walker, on behalf of WMP, stated that the CCTV footage that was shown in private for WMP. They had not worked with the PLH/DSP and there had been no dialogue with them at all.

Mr Millington enquired whether WMP was asking for revocation and for interim steps to remain in force. PC Walker confirmed that this was the request.

At 1440 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1444 hours, the meeting was reconvened and all parties were invited to rejoin the hearing. The decision of the Licensing Sub-Committee C was announced as follows:-

6/170419 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by **DG Entertainment Ltd** in respect of **The Sutton Tap, 67 South Parade, Sutton Coldfield, Birmingham, B72 1QU** following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines:

***The Licence is REVOKED, with the interim step of suspension to remain in place until the end of the period for appealing against this decision, or the determination of any appeal made***

*In order to promote the prevention of crime and disorder, public safety, and the prevention of public nuisance objectives in the Act.*

#### **REVOKE LICENCE**

The Sub-Committee's reasons for revoking the licence are due to concerns by West Midlands Police in relation to an incident of serious crime and disorder, involving the use of violence by a large number of people, on 16<sup>th</sup> March 2019.

This premises licence was previously revoked following an application for review. The premises licence holder pursued an appeal against that decision to revoke and was permitted thereby to continue to operate pending appeal against that earlier decision to revoke.

The incident forming the subject of the instant review of the premises licence under section 53A of the Licensing Act 2003 occurred with that appeal pending. The Sub-Committee has heard representations on behalf of West Midlands Police and has viewed CCTV footage of the incident. The footage depicts violence and public disorder involving a large number of individuals, originating from within the licensed premises, and spreading across the street.

The Sub-Committee observes with concern that this disturbance, which involved the use of violent punches and kicks against members of the public, continued for 8 minutes before a call was made to West Midlands Police. This is despite the presence of door staff at the time. The Sub-Committee also considered carefully the representations made on behalf of West Midlands Police that these same door staff were employed at the premises prior to the first decision to revoke the licence and remain employed despite assurances from the licence holder. The door staff failed to co-operate adequately with police on the night or assist in identifying any offender. No CCTV footage was made available from within the premises.

The Sub-Committee accepts the representations of the experienced officer of West Midlands Police that the operation of these premises demonstrates a total disregard for any of the licensing objectives. At a hearing on 22<sup>nd</sup> March 2019, this licence was made subject to interim suspension. Despite this, West Midlands Police (licensing) report a further incident of crime and disorder on around 6<sup>th</sup>/7<sup>th</sup> April 2019, which came to their attention on 10<sup>th</sup> April 2019. Officers attended the premises and found 6 to 7 people stood outside and one male with a bloody nose, blood stained tissues were observed on the premises floor, a strong smell of cannabis was present in the premises, and nitrous oxide cannisters and balloons lay on the floor. There was cash in the till and customers confirmed payment for alcohol, despite the suspension in force. The premises licence holder was not present, but his brother was on the premises.

The holder of the premises licence did not attend and did not make any representations. The proposed transferee of the premises licence did not attend or make any representations.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence, remove the Designated Premises Supervisor or suspend the licence for a specified period of not more than 3 months, but was not satisfied given the evidence submitted, part of which was heard with the public excluded from the hearing following a request from West Midlands Police, in accordance with regulation 14 of the Licensing Act 2003 (Hearings Regulations 2005), that the licensing objectives would be properly promoted following any such determination.

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 Licensing Act 2003 by the Secretary of State, the application and

certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 and the written representations and the submissions made at the hearing by the police.

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 does not have effect save for the interim step of suspension 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.

---

**OTHER URGENT BUSINESS**

7/170419      There was no urgent business.

---

Meeting ended 1446 hours.

Chairman .....

# BIRMINGHAM CITY COUNCIL

## LICENSING SUB-COMMITTEE C 1 MAY 2019

### MINUTES OF A MEETING OF LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 1 MAY 2019 AT 0930 HOURS IN ELLEN PINSENT ROOM, COUNCIL HOUSE, BIRMINGHAM

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Barbara Dring and Neil Eustace

### **ALSO PRESENT:**

Chris Arundel – Licensing Section  
Parminder Bhomra – Legal Services  
David Smith – Committee Services.

---

### **NOTICE OF RECORDING**

- 1/010519 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**

- 2/010519 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 are declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

---

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

- 3/010519 An apology was submitted by Councillor Nicky Brennan and Councillor Barbara Dring was notified as being the nominee Member.

---

### **OTHER URGENT BUSINESS**

Members noted that the report on the Licensing Act 2003 – Temporary Event Notice – The Mill, 29 Lower Trinity Street, Digbeth, Birmingham B9 4AG had been withdrawn, as the applicant had withdrawn the Temporary Event Notice application. There were no other matters of urgent business.

---

**EXCLUSION OF THE PUBLIC**

5/010519 **RESOLVED:**

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-

(Paragraphs 1 & 7)

---



# BIRMINGHAM CITY COUNCIL

<p><b>LICENSING SUB - COMMITTEE C - 15 MAY 2019</b></p>
---

**MINUTES OF A MEETING OF  
LICENSING SUB-COMMITTEE C HELD  
ON WEDNESDAY 15 MAY 2019  
AT 0930 HOURS IN ELLEN PINSENT ROOM,  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Neil Eustace and Nicky Brennan

**ALSO PRESENT:**

Emma Rohomon – Licensing Section  
Parminder Bhomra – Legal Services  
Katy Townshend – Committee Services.

---

**NOTICE OF RECORDING**

- 1/150519 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**

- 2/150519 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 are declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

---

**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/150519 No apologies were submitted.

---

**ANY OTHER URGENT BUSINESS**

There were no matters of urgent business.

---

**EXCLUSION OF THE PUBLIC**

5/150519

**RESOLVED:**

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-  
(Paragraphs 3 & 4)

---