

Licensing Sub-Committee A – 26 October 2021

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE A
TUESDAY 26 OCTOBER 2021**

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE
A HELD ON TUESDAY 26 OCTOBER 2021 AT 1000
HOURS AS AN ON-LINE MEETING.**

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Rob Beauchamp and Martin Straker Welds.

ALSO PRESENT

David Kennedy – Licensing Section
Sarah Lavender – Licensing Enforcement
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)

1/261021 **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) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/261021 **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

Licensing Sub-Committee A – 26 October 2021

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

3/261021 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

Apologies were submitted by Councillor Davis. Councillor Donaldson attended as a substitute.

4/2612/21 MINUTES

That the public section of the Minutes of the meeting held on 28 June 2021 at 1200 hours were noted and the minutes as a whole were confirmed and signed by the Chair.

5/261021 LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW THE ROCKET CLUB, 258 BROAD STREET, BIRMINGHAM, B1 2HF

On Behalf of the Applicant

PC Ben Reader – WMP (West Midlands Police)

Chris Jones - WMP

On Behalf of the Premises Licence Holder

Heath Thomas – Solicitor, HCR Law.

Lawrence Reddy – representing the premises.

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

PC Ben Reader requested that the hearing be held in private due to ongoing criminal investigations and the request was repeated by Heath Thomas.

The Chair then explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy, to outline the report.

Licensing Sub-Committee A – 26 October 2021

At 1025 the Chair advised that the rest of the meeting would be held in private in light of the requests made by PC Ben Reader and Heath Thomas.

6/261021 **EXCLUSION OF THE PUBLIC**

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.

The public were readmitted into the meeting.

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;

10/261021 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by Balevents Ltd in respect of The Rocket Club, 258 Broad Street, Birmingham B1 2HF, following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police under section 53A of the Act, this Sub-Committee hereby determines that no action is necessary with regard to the licence. Accordingly, the interim steps, including the step which was imposed at the meeting of 12th October, are withdrawn.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The solicitor representing the premises supported this course, as the investigation had not yet concluded. The Sub-Committee therefore agreed to hold the meeting in private.

The imposition of an interim step at the previous hearing had been an agreed position between the parties, whilst all awaited further evidence. At the start of the instant meeting however, the Sub-Committee noted that the said evidence had still not arrived. The Police investigation was therefore not finalised.

It was for that reason that the Police recommended that the interim step imposed at the last meeting should remain in place - namely that the role of designated premises supervisor be taken over by another member of staff, until Mr Ramseir received confirmation from Police that he could

Licensing Sub-Committee A – 26 October 2021

resume his normal duties. The Police remarked that they understood the frustration that this request would cause to those at The Rocket Club, but that they were doing all that they could to resolve the outstanding issues. They apologised for the delay. The Members observed that the situation was unfortunate.

The solicitor acting for The Rocket Club stated that it was an understatement to describe the matter as unfortunate. The allegation had been made on 26th September; one month on, the designated premises supervisor's livelihood had been impacted enormously, yet the investigation was no further forward.

The solicitor went on to observe that the Police, as a responsible authority, were under a duty to support their application with evidence; however, it appeared that there was not in fact any evidence to offer. The picture painted in the Certificate had ceased to exist at the last hearing but, in his view, the Police were not progressing the investigation. He had requested disclosure on numerous occasions, but no witness statement from the complainant had been forthcoming; nor had any CCTV evidence. The premises was fully monitored by CCTV cameras, but the Police had not viewed all of it. The names of the staff at the premises, including performers and security staff, had been passed to Police three weeks ago, but none of them had been questioned, or even contacted.

Conversely, the designated premises supervisor had agreed at the very start of the investigation to be interviewed, had voluntarily given an intimate sample, and had assisted the investigation exactly as required, yet his livelihood continued to be at risk.

The solicitor reminded the Sub-Committee of the need for robust evidence in decision making. Two separate Police Officers had confirmed in writing, on the 5th October and the 22nd October respectively, that there was nothing to implicate the designated premises supervisor in the allegation, and that they were awaiting the arrival of the forensic evidence as a formality. However, the impact on the business had been significant. This was unfair when they had been trading for 20 years with an excellent history, and the designated premises supervisor had twelve years' experience and an unblemished record.

The solicitor went on to observe that the Police recommendation to maintain the interim step was not supported by the evidence. He reminded the Sub-Committee of paragraph 9.12 of the Guidance issued under s182 of the Act; it was incumbent on the Police to ensure that their representations could withstand scrutiny, yet all that had been produced so far was the initial Certificate which had brought the premises before the Sub-Committee for an Expedited Review.

The Sub-Committee was mindful of the fact that the allegations were very serious. However, the Members saw the importance of following the

Licensing Sub-Committee A – 26 October 2021

course set out in paragraph 9.12, and considered whether the Police evidence, or lack thereof, could withstand scrutiny. The Members found that it could not. West Midlands Police themselves had agreed that The Rocket Club was not any kind of 'problem' premises. There was therefore no need to take any action at all; it was not necessary for the promotion of the licensing objectives.

There was also no need to maintain the interim step; to do so would place an entirely unfair restriction on the designated premises supervisor, who had cooperated fully with Police from the start, notwithstanding the fact that he did not accept that the incident had actually occurred. The solicitor for the premises had remarked that to maintain the interim step would almost amount to attaching bail conditions in an alternative form; the Sub-Committee agreed that to do this would be entirely unreasonable.

All in all, the Sub-Committee is satisfied that the Review does not require the licensing authority to take any action to promote the four licensing objectives contained in the Act. As such, the interim step imposed at the last meeting expires, as requested by the solicitor acting for the premises.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, the Certificate and application submitted by West Midlands Police under section 53A of the Licensing Act 2003, the written representations and submissions made at the hearing by the Police, and by the premises licence holder company via its solicitor.

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.