



## **BIRMINGHAM CITY COUNCIL**

### **LICENSING SUB COMMITTEE - B**

**16 January 2024**

#### **HNDRX, 89 HOLLOWAY HEAD, BIRMINGHAM B1 1QP**

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That, having considered the representations made under section 53B of the Licensing Act 2003 on behalf of Mao Wah Ltd, the premises licence holder for HNDRX, 89 Holloway Head, Birmingham B1 1QP, in respect of the interim steps which were imposed at the Sub-Committee meeting of 12<sup>th</sup> January 2024, this Sub-Committee hereby determines that, in order to address the risk of further serious crime:

- the interim step of suspension of the licence, which was imposed on the last occasion, is lifted
- the licence conditions are modified by the adoption of a new condition (which was agreed between the parties at today's meeting) as an interim step, namely that the premises shall not trade without the permission of West Midlands Police
- the interim step of the removal of Parmjit Singh as the designated premises supervisor, which was imposed on the last occasion, will remain in place

pending the review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reasons for the decision regarding the interim steps which were originally imposed at the meeting of 12<sup>th</sup> January 2024, were due to the representations made by both the licence holder company and by West Midlands Police during the meeting.

The licence holder company was represented by a manager at the meeting. The local Ward Councillor attended to support her local constituent (ie the manager). West Midlands Police also attended.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that there had been no change in the criminal investigation. The matter remained a live police enquiry regarding a serious crime incident. The Police asked for the proceedings to be conducted in private.

The Sub-Committee asked for clarification as to whether the Police required the local Ward Councillor to leave, as well as the public. The manager had said that she would like the Ward Councillor to remain. The Police said they did not look to remove persons unnecessarily, but asked the Sub-Committee to seek advice from

the Committee Lawyer in this regard. The Committee Lawyer asked the nature of the evidence which the Police did not wish the Ward Councillor to see. The Police said that the evidence would relate to the same issues as last time and stated that the evidence could not be in the public domain.

The Sub-Committee noted that the Ward Councillor had attended to support a constituent, and not as a representative or to act for the company in any capacity. The Sub-Committee therefore excluded the public, including the Ward Councillor, and conducted the meeting in private session with only the Police and the company manager in attendance.

The licence holder, via the manager who had attended, then addressed the Sub-Committee to explain the background of the ongoing issues relating to the lease arrangements at the site. She stated that the licence holder company was not involved with the activities which had been described in the Superintendent's certificate and application; instead, it was simply the landlord, and had no adverse history.

The HNDRX licence was not trading. Trading had been conducted at the 89 Holloway Head site under a licence which was entirely separate from the HNDRX licence. This other licence was held by another person, not Mao Wah Ltd. The Sub-Committee was aware of this.

The unsatisfactory activities which had formed the subject of the Superintendent's certificate and application were therefore entirely the responsibility of a separate licence holder. The manager informed the Sub-Committee that the Police now understood that the two licence holders were not linked. The Sub-Committee noted this.

The manager confirmed that she agreed with the Police that the designated premises supervisor should be removed, and said that she had tried to do this herself, but Parmjit Singh had not been available to sign the relevant document.

However, regarding the suspension, she asked that this should be lifted, as she agreed that a condition not to trade without the permission of the Police should be adopted. The Sub-Committee noted this.

In response to Member questions, the manager confirmed that the licence holder company did not intend trading to start under its licence any time soon. The manager remarked, "it will be at least two years".

The Chairman then asked the manager if she was in agreement with the Police now regarding the adoption of a suitable condition, as this had not been the case at the last meeting. The manager confirmed that she was.

The Sub-Committee then heard from West Midlands Police, who said that the manager's submissions regarding the licence holder's failed attempt to remove designated premises supervisor had not been correct. The Police remarked that it had been the manager's own error in submitting an incorrect form, and moreover the company had had ample opportunity to remove Parmjit Singh years ago in any event, but had not in fact done so. The Sub-Committee noted this.

The Police advised that they supported the course which had been adopted by the Sub-Committee at the last meeting, and expressed surprise that the manager had decided to make representations against the interim steps without speaking to the Police first. The Police were particularly dissatisfied that whilst the manager had stated that the licence holder would not trade under the lease for two years, the holder of the other premises licence for the 89 Holloway Head site held a set of keys.

The Police stated that they did not want the premises to trade, and advanced a suggestion that the representations had been made by the licence holder company for reputational reasons, but then left the decision entirely to the discretion of the Sub-Committee.

The Members asked for clarification as to what the Police recommendation was, and whether, if the suspension were to be lifted, the Police recommended the adoption of the same condition as had been proposed at the last Sub-Committee meeting.

The Police replied that they did not want the premises to trade and were concerned that the other licence holder could become involved. They reminded the Members that on the last occasion the Sub-Committee had considered that the proposed condition was not sufficient.

At this point the Committee Lawyer asked for clarification of the Police position. In response to this, the Police advised that under the current interim suspension of the licence, the premises could not trade; if that position were to change, the Police would want some safeguards, particularly in view of the fact that the other licence holder held keys to the site. The Police felt that the company's motivation for the representations had been image and reputational risk.

The Police had understood the Sub-Committee's decision on the last occasion and the rationale for it. However, their view was that if the manager wished to discuss the issues with them, they would do so. The Sub-Committee noted this.

In summing up, the manager stated that she felt that the issuing of the Superintendent's certificate and application regarding HNDRX had been "a mistake because they did not know that two licences were in force; they thought that the landlord [i.e. HNDRX] was trading". She was confident that the Police now understood that the landlord and tenant were totally separate, and that HNDRX "had been nothing to do with it".

She confirmed that those at the company were upset and felt that the suspension would damage the company's reputation. She felt that the company as landlord was being punished for the actions of its tenant. The tenant had been trading under his own licence, and could not use the landlord's licence. She confirmed that the company was keen to work with the Police to ensure that no-one could trade from the site.

Having heard all of the evidence, the Members were mindful that the manager had now accepted the condition proposed by the Police at the last meeting. This was a significant change from the position at the last meeting. The manager had also accepted that the interim step of removal of the designated premises supervisor,

imposed on the last occasion, should be maintained pending the full Summary Review hearing.

The Sub-Committee was of course primarily concerned with the likelihood of a further serious crime incident, pending the full Summary Review hearing. The original incident which had given rise to the Expedited Review application had been a very serious criminal matter, in which there were suspicions of some type of drug supply operation being conducted at the site of licensed premises; public protection was therefore the first priority.

However, having heard all of the representations at the instant meeting, the Sub-Committee was satisfied that to lift the suspension, and instead to substitute an agreed condition requiring Police permission before trading, was an appropriate course which would not create any increased risk of any further serious crime incident pending the full Summary Review hearing.

The Sub-Committee was therefore satisfied that the interim step of suspension could be lifted, as it was accepted that there was no increased risk of further serious crime. The Members resolved to adopt the condition which had been proposed by the Police at the previous meeting, as the licence holder company now agreed that the condition should be adopted. The removal of the designated premises supervisor was also the subject of agreement between the parties, and therefore remained in place.

The Members considered that the correct way forward in the interim period, before the Summary Review hearing, was for the licence holder to cooperate with the Police, and to take whatever course was guided by the Police.

In reaching this decision, the Sub-Committee has given due consideration to the application made under s53B by the licence holder, the certificate issued earlier by a Superintendent of West Midlands Police, the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office under s182 of the Act, the written submissions made, and the submissions made at the hearing by the manager representing the licence holder company, and by West Midlands Police.

All parties are advised that the premises licence holder may make further representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours excluding non-working days.

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