

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE 16 DECEMBER 2015

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 16 DECEMBER 2015 AT 1000
HOURS IN COMMITTEE ROOMS 3&4, COUNCIL
HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp, Alex Buchanan, Lynda Clinton,
Basharat Dad, Mahmood Hussain, Tony Kennedy, Mike Leddy,
Gareth Moore and Anita Ward.

NOTICE OF RECORDING

579 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs. The whole of the meeting would be filmed except where there were confidential or exempt items.

It was noted there were no confidential or exempt items.

APOLOGIES

580 Apologies for absence were submitted on behalf of Councillors Ali, Eustace, Kauser, Lines and Sealey.

An apology for lateness was submitted on behalf of Councillor Kennedy.

DECLARATIONS OF INTEREST

581 There were no declarations of interest submitted by Members

MINUTES

582

It was noted that the Minutes of the Meeting held on 18 November 2015 were not available. Members were advised the Minutes would be submitted at the next meeting.

**CONTROL OF SEX ESTABLISHMENT – SEXUAL ENTERTAINMENT
VENUE, MEDUSA LODGE GENTLEMENS CLUB, 139 – 147 HURST
STREET, SOUTHSIDE, BIRMINGHAM B5 6SD**

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

(See document No.1)

The following people attended the meeting:-

On behalf of the Application:-

Sarah Clover – Legal Representative
Caroline Carrington – Starwhite Limited
Julia Chance – Director, Southside BID
Stephen Donegal – Designated Premises Supervisor & Manager
Carl Moore – C.N.A Risk Management Limited
Terry Runcorn - Manager, Nightingale Club
Luke Warwood - Director, Starwhite Limited
Robert Yue Opher – Director, Starwhite Limited

Presenting Officer:-

David Kennedy – Principal Licensing Officer, Licensing Section

Following introductions from the Chairman, David Kennedy, Licensing Section presented the report. Mr Kennedy further advised that a Licensing Enforcement Officer was also in attendance to answer any relevant questions.

Following a request from the Chairman, Sarah Clover, Legal Representative made the following points, and specifically in relation to Section 5.3 in the report :-

- A premises license was recently granted by Licensing Sub Committee; the application had been fully scrutinised by Members prior to the decision being made.
- There had been no objections to the application by the Responsible Authorities or neighbouring businesses; representatives from the latter were present and supported the application.
- The applicant and their supporting team had an excellent track record and experience in this type of entertainment and operated a number of venues

across the country, including Reading, Stratford upon Avon, Oxford and Birmingham City Centre. All were successful businesses, very well run and managed, and worked very well with local businesses and the respective Responsible Authorities.

- A bespoke Designated Premises Supervisor would be appointed to the club once a decision regarding the application had been made.
- The premises had been vacant since 2000; the proposed refurbishment had been warmly welcomed by Southside Business Improvement District, and there had been no objections from the BID or neighbouring businesses regarding the proposals for its use.
- The premises was situated in the middle of a vibrant night-time economy, and was very close to the Gay Village, a number of bars and restaurants. There were no commercial shops in the immediate area used by families or Children, and was sufficiently far enough away from Grand Central, the Bull Ring Shopping Centre and religious institutions.
- The refurbishment of the premises would be undertaken to a specific 1920's theme and concept; the exterior discreet and in-keeping with its surroundings. The entertainment offer would be 1920's burlesque style cabaret and jazz; fine wines and champagne and a very different style and class to that of current sexual entertainment venues in the city.
- Several visits had recently been made by Licensing Enforcement Officers to the sister premises in the city operated by the applicant; no concerns or issues had been identified.
- The applicant and associated partners had not been identified as unsuitable to hold this type of licence.
- Should the licence be granted, it would not exceed the number of sex establishments of a particular kind in the relevant locality at the time the application was made.

In response to questions from the Chairman, Ms Chance confirmed that the location and operation of the premises would not have an adverse impact on the Big City Plan. The premises would help to enhance and support the vision and aims of the Plan as security measures including CCTV cameras and enhanced street lighting were included in the refurbishment of the premises – all of which were consistent with the security and community safety aspects of the Plan.

Ms Chance further explained that the entertainment offer would be approximately 50% lap dancing and 50% burlesque specific, with a very strong emphasis on the club's Code of Conduct and the safety and security of the female employees.

The door security staff would be fully trained to SIA Standards to ensure that the ethics of the club and the security of the staff were maintained at all times and to the highest possible standard.

In response to questions from Councillor Moore regarding the conduct and operations between the two sister premises in the city and the impact on the local night-time economy, Mr Runcorn explained that both premises were supportive of the local businesses and night-time economy, and took immense pride in working with and supporting local businesses.

Partnership working was essential to ensure the safety of visitors and customers particularly within the Gay Village, which attracted a very diverse range of visitors from all walks of life. In addition, several local businesses had expressed a number of concerns regarding the issues at the nearby Gatecrashers and the Electric Club, which they felt, could have a detrimental impact on the local entertainment scene and visitors to the area if they were not appropriately addressed.

In response to further questions from Councillor Moore, Ms Carrington advised there were no intentions to target any particular customer group/audience or operate promotion events/evenings. The management team would also be working closely with the organisers of major events like Birmingham Pride to ensure their operating schedule did not have an impact on the event(s) taking place.

Councillors Leddy and Hussain sought further clarity regarding the running of both premises, as they felt the information in the report could be misleading, and the general public may not be aware that this was a new application and not a transfer of premises.

Ms Carrington confirmed that the sister premises in Suffolk Street would continue to operate alongside the premises in Hurst Street should the application for the latter be granted.

In response to the Councillors further concerns regarding the contents of the report, Doug Wright, Licensing Enforcement Officer advised that the application was for new premises in Hurst Street and not a transfer of the current premises in Suffolk Street. References had been to the establishment in Suffolk Street as both would share the same management team to start with until the staffing arrangements were in place for the new premises.

In summing up, Ms Clover confirmed that a Challenge 25 Policy with the appropriate proof of identity checks would be in operation at the premises, along with very strict rules/code/dress conduct, which were expected to be adhered to at all times. In addition, West Midlands Police Licensing Section had been made fully aware that the application was for an additional venue and not a transfer of premises.

At 1102 hours the Committee adjourned and the Chairman requested that all present, with the exception of the Members and the Committee Lawyer withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1114 hours and the decision of the Committee was announced.

That the application by Starwhite Limited for a Sexual Entertainment Venue licence under the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect of Medusa Lodge Gentlemen's Club, 139 – 147 Hurst Street, Southside, Birmingham, B5 6SD be granted.

Members carefully considered the representation on behalf of the applicant via their Counsel, Miss Clover who explained the nature and style of the proposed operation was based on a specific theme of the 1920's. Grand cabaret and burlesque shows, and jazz were planned to be the main source of entertainment at the front of the premises with relevant sexual entertainment taking place in private booths to the rear of the premises.

Miss Clover indicated the proposed sexual entertainment venue (SEV) subject of the application was in need of money and refurbishment as it had been empty since 2000 and was run down. It was located on the gateway corner to the Nightingale Club that was at the heart of night time economy of the Gay Village. The proposed operation was driven by market forces, intended for the middle market which would be complimentary to night time economy of Southside but not directed to the gay community.

It was made clear by Miss Clover when addressing Members on the discretionary grounds for refusal, and whether parts of the Council's SEV policy were engaged, that the application did not fall within any of categories of concern. The proposed SEV did not engage the policy at a high level in relation to the use of premises in the vicinity and the character of the locality, or cast doubt on the applicant's character or proposed use of the premises. Miss Clover further mentioned that if granted any licence would in any event require annual renewal which would take into account the character of the locality at the relevant time.

Additionally, Members noted that neither West Midlands Police nor the Licensing Enforcement Officer had any issues with the existing sister premises located at Suffolk Street, or with the current application that was before them. Further, nearby residents had not lodged any complaints or objections.

In response to questions from Members concerning the Big City Plan in respect of Southside, and various security issues, it was made clear that proposals planned for the SEV were much welcomed and supported by the Southside BID Manager, Julie Chance and the Director of the Nightingale Club, Terry Runcorn. This body of feeling in the locality viewed the proposed SEV as compactable with the present and future development of Southside's character in that it would attract all communities who would want to enjoy an alternative type of entertainment that was on offer in a distinct yet sensitive environment run by well-known operators, and Security Company.

In reaching their determination, Members welcomed the proposed change in style of entertainment to burlesque which was a move away from lap-dancing, and gave weight to the track record and experience of the various representatives of the proposed licence holder who ran similar operations elsewhere in country without complaint. Members were satisfied that the applicants had demonstrated the proposed operation was right for the location

and the intended market audience as supported by the Southside businesses. The applicant appeared willing and able to operate premises discreetly, anonymously and with no external indication as to the nature of entertainment taking place. Moreover, security issues had been addressed satisfactorily which in the opinion of the Members would in turn improve the local economy.

In reaching this decision, the Sub-Committee gave due consideration to the City Council's SEV Policy, the information contained in the application, and the submissions made at the hearing by the applicant's representatives and their Counsel.

The time for appeal was contained in Schedule 3, paragraph 27 of The Local Government (Miscellaneous Provisions) Act 1982, and should be made within 21 days of the decision to the Magistrates Court.

PRIVATE HIRE VEHICLE SAFETY – TOYOTA HIACE

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

(See Document No. 2)

Shawn Woodcock, Acting Licensing Operations Manager drew Members attention to the key points at sections 3.4; 3.5; 4.2 and 4.3 in the report.

Councillor Clinton sought confirmation that guidance would be given to private hire drivers who were considering the use of this type of vehicle for their work. Mr Woodcock confirmed that drivers would be advised beforehand, and that the opportunity to attend Committee would still continue.

Councillor Leddy expressed concerns that a number of garages had not identified these issues during the MOT testing procedures, and felt that the testing of the seatbelt anchor points and fixings should be part of the testing procedures. Mr Woodcock advised that work was currently being carried out with the MOT testing stations to address these issues as well as the general standards, quality and practices. He added that random checks were carried out approximately eight times in the year.

Chris Neville, Head of Licensing further advised of the penalty point system in place with MOT testing stations following concerns raised as a result of the proactive work by officers.

Members welcomed the report and commended the proactive approach taken by Officers.

584

RESOLVED:-

That the contents of the report and Members comments be noted.

PROSECUTIONS AND CAUTIONS – OCTOBER 2015

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

(See Document No.3)

Alison Harwood, Acting Director of Regulation and Enforcement presented her report, and drew Member attention to Appendix 1 which provided details of the cases to date.

In response to questions from Councillor Ward regarding the time taken from the initial fine to the court hearing, Mark Croxford, Head of Environmental Health advised that Fixed Penalty Notices were required to be paid within 14 days. Where there were exceptional circumstances and evidence of hardship, an extension could be granted over an agreed period of time. A statutory report to court was prepared within 6 months; however the hearing date was determined by the court.

Councillor Beauchamp commented on the custodial sentence given in the case brought by Trading Standards and welcomed the action taken by officers.

Members welcomed the report.

585

RESOLVED:-

That the contents of the report be noted.

FIXED PENALTY NOTICES ISSUED OCTOBER 2015

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

(See Document No.4)

Mark Croxford, Head of Environmental Health presented the report and advised that discussions were ongoing with Service Birmingham to provide a more detailed breakdown of the data.

Members welcomed the report.

586

RESOLVED:-

That the contents of the report be noted.

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
SEPTEMBER AND OCTOBER 2015**

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

(See Document No. 5)

Chris Neville, Head of Licensing presented the report and drew Members attention to the schedule of cases listed at Appendix 1.

Councillor Moore welcomed the successful outcome and the court costs awarded in respect of the Vauxhall Social Club, adding that it was an excellent result for the Officers and the city as a whole.

587

RESOLVED:-

That the report be noted.

**ACTIONS TAKEN BY THE CHIEF OFFICER IN CONSULTATION WITH THE
CHAIR OF LICENSING AND PUBLIC PROTECTION COMMITTEE DURING
NOVEMBER 2015**

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

(See Document No. 6)

588

RESOLVED:-

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:

(See Document No.7)

Chris Neville, Head of Licensing presented the schedule, and in response to questions from Councillor Clinton regarding recovery costs, advised that a further report would be submitted to Committee providing details of costs awarded and the percentage paid.

589

RESOLVED:-

That the schedule of Outstanding Minutes be noted and continued.

590 **OTHER URGENT BUSINESS**

None raised.

The Chair thanked the Committee for their continued support and wished Members and Officers a Merry Christmas and Happy New Year.

AUTHORITY TO CHAIRMAN AND OFFICERS

591 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1150 hours.

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CHAIRMAN