

BIRMINGHAM CITY COUNCIL

LICENSING SUB- COMMITTEE A, 13 FEBRUARY 2020
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**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE A HELD
ON THURSDAY, 13 FEBRUARY 2020 AT
0930 HOURS, IN COMMITTEE ROOM A,
COUNCIL HOUSE EXTENSION,
MARGARET STREET, BIRMINGHAM, B3
3BU**

PRESENT: - Councillor Davis in the Chair;
Councillors Leddy and Locke.

ALSO PRESENT

Catherine Ravenscroft – Committee Lawyer
Bhapinder Nandra – Licensing Section
Errol Wilson – Committee Manager
Mandeep Marwaha – Committee Manager

NOTICE OF RECORDING

1/130220 The Chairman advised, and the meeting noted that members of the press/public could record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

2/130220 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting. No interests were declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/130220 It was noted that Councillor Leddy was in attendance in the absence of Councillor Beauchamp

SUBSIDE 57 HIGH STREET, DIGBETH, BIRMINGHAM B5 6DA- LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: REPRESENTATIONS IN RESPECT OF THE INTERIM STEPS IMPOSED ON 3 FEBRUARY 2020.

Representations made by the premises licence holder, the decision of the meeting held on 3 February 2020, a certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, an application for an expedited Review of Premises Licence, a copy of Premises Licence and Location maps were submitted.

(See document No. 1)

The following persons attended the meeting: -

Those making representations: On behalf of West Midlands Police

PC Abdool Rohomon – West Midlands Police
PC Chris Jones – West Midlands Police

On behalf of the Premises Licence Holder

Melissa Toney – Gregg Latchams Solicitors
David Longmate – Premises Owner and Premises License Holder (PLH)
Benjamin Mortiboy – Designated Premises Supervisor (DPS)

The Chairman welcomed all present and explained the hearing procedure to consider representations against the interim steps imposed at the expedited review in respect of the licence.

Bhupinder Nandra, Licensing Section, made introductory comments to the documentation and gave a brief overview to the case.

Melissa Toney, PLH and DPS made the following points in respect of the interim steps imposed on 3 February, 2020 and in response to members questions:-

1. The representations were seeking the withdrawal of the interim steps imposed by the Sub-Committee and for the premises to be

re-opened pending a full review following an expedited/ summary licence review under Section 53(a) of the Licensing Act 2003 as amended by the Violent Crime Reduction Act 2006. The PLH and DPS had considered the points made when the licence was suspended.

2. The PLH had immediately and successfully implemented the measures requested by PC Rohomon both as discussed after the hearing, on the phone the next day and in a meeting on the 7 February 2020, to promote the Licensing Objectives.
3. The reasons for imposing the interim step; namely due to the concerns which were expressed by Police in relation to matters pertaining to serious crime were no longer present.
4. Following the improvements made by the PLH the Sub Committee could be satisfied that the new style management can properly uphold the licensing objectives.
5. The decision taken by the Sub Committee to suspend the Premises Licence was no longer necessary to promote the Licensing Objectives and had a serious effect on the viability of the business.
6. The management as well as staff were now trained by 'All In Security' on policies and procedures indicated by PC Rohomon. Training was delivered on 5 February 2020.
7. A refresher on the policies and procedures would be delivered to management and staff every 6 months.
8. Random searches on customers would take place on entry to the premises on the weekends and evenings.
9. The PLH understood the security that had to be implemented and measures were now in place.
10. It was noted, Nationwide Security would provide security for the next 3 months. During this period, both the PLH and the DPS would undertake training to obtain a SIA badge. Once completed the security would revert to in-house.
11. An outline was given as to what measures had been put in place.
12. Actions had now been implemented however, it was noted the absent landlord was required to take responsibility initially. Members felt confidence had to be gained in order to ensure the right decision for people of Birmingham was made at the Committee.

It was clarified that the police raid was related to the Assistant Manager. The standard of the initial policies and procedures were not good. Therefore, these had not been implemented thoroughly by management. Though checks and processes were in place, these had not routinely monitored at regular intervals. The police raid was as a direct result of surveillance on the Assistant Manager. The Assistant Manager was under surveillance and led to the raid onto the premises. The drugs were locked in the safe however the safe was not checked regularly by PLH and DPS. Regular and feasible checks would occur going forward to ensure those accountable are monitoring accordingly. The person subject of the surveillance was no longer employed.

At 0945 hours the Committee was adjourned as there was a knock at the door to which officers had to attend to.

At 0946 hours, the Committee reconvened.

Training had been undertaken therefore improvements were in place. Policies had procedures had been implemented.

13. Independent trainers in place and proof of policies and procedures were shared with Members.
14. The CCTV would be installed in March by Clear Sound Security Ltd.
15. The absentee PLH had now been actively involved in the regeneration of the training delivered to all staff and would like the situation resolved.
16. The business had been running for 12 years (since 2007) from the current location to which there had been no issues.
17. It was noted to be an isolated incident to which the process had not been well documented. Therefore, this situation would be avoided in future.
18. PLH added he had been the licence holder since 2007 and ensured all checks were in place, however a contract has now been implemented with a firm to ensure there was a check on management to ensure all was compliant.
19. Both the PLH and DPS confirmed the training took place Wednesday 5 February between 08:00 – 22:30.
20. It was further queried if all 13 policies, procedures training in the submissions were covered during the whole day. Both the PLH and DPS confirmed 'Yes' all 13 areas were covered.

21. The DPS explained to the Committee the policy and procedures for seizure of drugs if found on the premises.
- Drugs confiscated.
 - Details of customer taken, if safe and appropriate to do so
 - Drugs passed to duty manager.
 - Drugs secured in sealed evidence bag and placed in drugs safe by Duty Manager
 - Incident recorded and signed by duty manager and person who found the drugs (2 people).
 - Record made in handover book for next day (or next duty manager changeover).
 - Details of incident passed to DPS as soon as possible (if DPS is not duty manager).
 - Incident discussed at monthly meeting and arrangements for transfer to police made.
22. It was noted that members felt they would classify the DPS as an experienced supervisor. He had been in post since 2015. Reference to guidance, policies and manuals should have been in place.
23. The PLH responded this was aimed to catch customers dealing drugs rather than staff, however now a robust system would be in place aimed at staff and management too. Members highlighted the policies and procedures were not embedded properly and should be aimed for both staff and customers. Both the PHL and DPS agreed with this point made by Members.
24. Emphasis was made by Ms Toney that both the PLH and DPS had engaged with the police and appropriate agencies in a short space of time. Therefore, they requested for the business to be re-opened.
25. It was confirmed the drug policy circulated was the final version approved by the Police.
26. The Chair referred to the Assistant Manager and access to the safe. The question was raised as to what had been done to secure containment of any drugs seized. In response, Ms Toney referred to page 3 of the document to which an outline on the 'Drugs Seizure Policy' facilitation was outlined.
27. Drugs would be completely seized and removed off the property. A new drug safe had been purchased and placed inside the main safe located in the Managers office. Only management had access to the safe. 2 people (i.e. Management/DPS with the

person who seized the drugs) would secure the drugs in a sealable evidence bag and log in the incident book that had been purchased. Once a week the PLH would check the incidents logged (if any) and ensure the evidence bag matched the incidents recorded. First Thursday of every month, a meeting would take place to monitor this.

28. The PLH explained that there were currently 30 staff altogether working at the premises.
29. PLH and DPS were awaiting confirmation via email from the police as to the process of removing the evidence/ drugs off the premises. To be confirmed by the police.
30. It was confirmed the training was aimed at all members of staff joining the organisation. A refresher training would be delivered every 6 months by 'All in Security'. In addition, random checks would be carried out.
31. SIA security training (personal licence) would be undertaken by half a dozen staff to ensure the best training was undertaken.

PC Rohomon made the following points with regards to the representations and in response to questions from Members:-

1. An overview was given as to the reason for the Expedite Review. Following intelligence received, it was noted the manager was involved in the dealing of drugs from the premises. Surveillance of the member of staff was undertaken and warrant executed on 31 January 2020.
2. West Midlands Police (WMP) officers discovered significant quantities of drugs (class A) and cash in the safe at the premises as well as at the home address of the manager. There were several weapons at the home address of the manager too.
3. Following the previous hearing, PC Rohomon could see that the premises owner was unaware of what had been happened however, this could not be excused.
4. Policies and procedures had been complied with and all members of the management had undertaken DBS checks.
5. Awareness now in place by PLH and DPS that drugs are not just 'class A, B etc' drugs but could be referred also alcohol and prescribed medication.

6. The PLH had volunteered to install the CCTV which was welcomed and would be an investment for the premises.
7. The PLH and DPS had been very engaging on the Drug Policy in a short timeframe.
8. Numerous amendments to the running of the business had been adhered to.

In summing up PC Rohomon made the following points: -
WMP were satisfied with the measures implemented and the right steps were in place. The management and staff were now trained however, the police would keep the premises under security. There was confidence the premises were working in a positive direction.

The Chair noted the position of the police was clear.

In summing up Ms Toney made the following points: -

- The measures in the application had been outlined to review.
- Measures had been implemented and had been put in place to protect the public.
- It was necessary for the premises to stay free of crime and disorder.
- Requested for the interim steps to be withdrawn and for the business to reopen.
- All the Conditions that were put in place should give the Committee confidence.

At 1009 hours the Chairman requested all present, with the exception of the Members, the Committee Lawyer and the Committee Managers withdraw from the meeting.

After an adjournment and at 1051 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

4/130220

RESOLVED:-

That, having considered the representations made on behalf of Subside Bar Limited the premises licence holder for Subside, 57 High Street, Digbeth,,Birmingham, B5 6DA in respect of the interim steps imposed on the 3 February 2020, this Sub-Committee hereby

determines that the appropriate course is to modify the interim steps imposed at the meeting on 3rd February 2020 as follows:

- The suspension of the premises license will be lifted; and
- There will be a restriction on opening hours at the premises. The premises will only be permitted to open between 12 noon and 12 midnight.

The Sub-Committee carefully considered the representations made by the legal representative for the holder of the premises licence. The premises relied on the written application made in advance of this meeting. They stated that the premises have successfully implemented measures discussed with the police both during and after the meeting on 3rd February 2020. The premises stated that these were extensive and that the concerns stated by the police at the expedited review on 3rd February 2020 were no longer present following these implementations. The venue therefore stated that it is their view that the suspension of the licence is no longer necessary and has an effect on the viability of the business.

The premises did not seek to go through each measure imposed, however they did highlight the measures in relation to security. They stated that a search of every customer would not be viable and they would instead impose random searches.

The Sub Committee were concerned with whether the measures implemented would alleviate the concerns which led to the expedited review on 3rd February 2020. The premises stated that the police raid was specific to one person who is no longer employed by the venue and, although there were flaws in management, the implementation of the measures discussed with the police would improve management and accountability. The premises also stated that the DPS has been actively involved in the development of these changes.

The Sub Committee gave consideration to copies of the training manual implemented by the premises which was provided during the meeting. The Sub Committee were not impressed that the premises had not had a fully implemented drugs policy before the need for the expedited review arose. The premises held their hands up that their previous drugs policy was targeted towards customers and that they had not considered that the problem might originate within the management of the venue.

The Sub Committee observed that the concerns which led to the initial review were exacerbated by the existence of a safe on the premises to which only one individual had access. The premises stated that any drugs seized would now be placed within a safe which only three members of senior members of staff would have access to, including the DPS and the owner of the premises.

The police were then invited to respond to the representations made by the premises. The police briefly set out the background to expedited review. PC Rohomon confirmed that the police had been consulting with the premises in relation to the policies and changes put forward. This has been an extensive process but the police found that the business have been engaging with them. The police stated that they are as satisfied as they can be that the amendments suggested by them have been implemented by the premises. In the opinion of the police, there is not anything more that the premises could do now and they would be satisfied for the suspension to be lifted.

The Sub Committee gave consideration to the representations made both by the police and on behalf of the premises licence holder. The Sub Committee did not have confidence that the premises would properly imbed the measures put forward and therefore felt that the licensing objective of the prevention of crime and disorder could be undermined. The premises had not satisfied the members that the landlord was not an absentee from the business. It was felt that the premises needed to demonstrate over time that they would implement these measures.

The Sub-Committee therefore considers that the appropriate course is to modify the interim step as follows:

- The suspension of the premises license will be lifted; and
- There will be a restriction on opening hours at the premises. The premises will only be permitted to open between 12 noon and 12 midnight.

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.

OTHER URGENT BUSINESS

5/130220 There was no other urgent business.

The meeting ended at 1056 hours.

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CHAIRMAN