

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 15 SEPTEMBER 2021
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 15 SEPTEMBER 2021 AT 1200 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nicky Brennan in the Chair;

Councillors Mary Locke and Diane Donaldson

ALSO PRESENT

David Kennedy – Licensing Section
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)

9/150921 **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.

10/150921 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and 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.

There were no interests declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

11/150921 Apologies were submitted from Cllr Neil Eustace and Councillor Diane Donaldson was the nominated substitute Member.

**LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION
ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES
LICENCE: CONSIDERATION OF INTERIM STEPS - BAMBU, 1ST FLOOR
KOTWALL HOUSE , WROTTESLEY STREET, CHINATOWN, BIRMINGHAM,
B5 4RT.**

On Behalf of the Applicant

Mark Swallow – WMP (West Midlands Police)

On Behalf of the Licence Holder

Duncan Craig – Barrister, Kings Chambers
Kadir Ahmed – PLH (Premises Licence Holder)

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

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

The Chair invited the applicant to make their submissions, at which point Mark Swallow of WMP made the following points: -

- a) The premises operated as a nightclub between Sunday and Thursday each week.
- b) They operated extended hours Friday-Sunday.
- c) Friday 10th September an incident occurred and subsequently two Section 18 wounding's being reported to WMP. One person received a stab wound to the right shoulder and hand and then the second person received a stab wound to the hip.
- d) There was another person arrested for affray who was engaged in a fight outside the premises.
- e) Officers were outside Bambu and flagged down by a member of the public who said he didn't feel well. He had cuts to his shoulder and right hand. The incident occurred on the dancefloor inside the premises.
- f) Officers attempted to enter the premises and there was a large disorder on the staircase. Officers were forced outside the premises because it was so ferocious.
- g) One person was arrested, and officers were forced to use spray.

- h) The officers found another male with stab injuries inside the premises.
- i) Both injured males were taken to the QE hospital, but their injuries were not life threatening.
- j) Police recovered knives and a wallet.
- k) There was blood found inside the premises and an open first aid kit.
- l) No call was made to WMP or the ambulance service.
- m) The fire exits in the premises were blocked.
- n) Officers stated that staff had not been forthcoming when questioned.
- o) The DPS (Designated Premises Supervisor) was spoken to by officers, he stated he was not at the premises at the time of the incident.
- p) The premises was being used for a private party and the list of attendees was seized by officers.
- q) Conditions were imposed on the licence back in 2019, including conditions that all events must be risk assessed, and that everyone must be searched by security who would be required to wear bodycams. WMP were concerned that despite those conditions knives still made it into the premises and serious injuries and a mass disorder occurred.
- r) The enquiries made by police resulted in unsatisfactory responses from those working at the premises.
- s) The licence holder had failed to promote the licensing objectives and as a result people had been the victim of unprovoked and vicious attacks.
- t) The management failings had contributed to serious assault taking place and WMP wished to bring this to the attention of the Licensing Committee.

Members asked questions and Mark Swallow, WMP gave the following responses: -

- a) The security persons on duty held the SIA badges.
- b) All persons entering the premises (staff and attendees) should be searched upon entry into the premises.

The chairman then invited the Licensing Holder, or their representative to make their case, at which stage Duncan Craig made the following points: -

- a) That he received a call on Monday about an incident that happened at the premises Friday/Saturday. The premises had already been in contact with WMP – the DPS emailed WMP on Saturday evening.

Licensing Sub-Committee C – 15 September 2021

- b) He followed that with a phone call to WMP and spoke directly to Mark Swallow yesterday (Tuesday).
- c) That he wasn't clear what WMP were asking the Sub Committee to do in regards to the licence, however he was not instructed to oppose that.
- d) The premises wanted to work with WMP and assist them in anyway they can.
- e) There were a number of misapprehensions within the review application fundamental to the conduct of the premises. The premises could not have done anything more reasonably than they did on that Friday night.
- f) The first aid kit was used to administered first aid to a doorman.
- g) Further, the head doorman who was known to WMP got further reinforcements when the incident occurred – it was not correct that they didn't inform the police and the CCTV footage would prove that.
- h) That his client witnessed a significant part of the incident that happened near to the dancefloor. One of the persons involved in that incident was asked to leave the premises by his client and the head doorman – at that stage it was not apparent that he had injuries to his shoulder. The CCTV footage would show the head doorman talking to him and there was no suggestion that he was wounded.
- i) The man left the premises and took his shirt off at which stage a female operative saw he had a cut to his shoulder and immediately doormen approached police officers on the street and told them what had happened. Those officers attended the premises, one of which was Sgt Wheeler. The premises didn't phone the police as they were already attending the premises. It was reasonable that anyone would assume the matter was being adequately dealt with. The CCTV and discussions with officers on the ground would confirm that.
- j) The CCTV had been seized and the attendance list had been given over to officers willingly. The premises were content for the police to take the hard drive.
- k) His client also asked police if staff should leave or stay at the premises, he also asked the Sgt whether he should close the premises. The officer said he could do what he wanted. They stopped selling alcohol at 0218 hours and people were asked to leave which led to the second incident where people didn't like being asked to leave.
- l) His client gave the keys to an officer on Saturday so they could get into the premises.
- m) The picture painted on the review application was simply wrong, fundamentally wrong in fact.

Licensing Sub-Committee C – 15 September 2021

- n) During the second incident the IP (injured person) was involved in an altercation and fell onto some broken glass and sustained a cut to his side, it did not involve a knife. Mark Swallow had the CCTV footage for that incident too.
- o) That he had visited the premises and the upstairs of the property was empty and not operating currently. The fire exit there was blocked off which actually assisted safety.
- p) The risk assessment was done and sent to WMP.
- q) He confirmed that every person entering the premises was searched and CCTV would further confirm that.
- r) That he invited a greater degree of precision in relation to where the knives were found.
- s) If he wanted to get a knife into the Crown Court over the road, he knew he could. People can get knives into premises despite the premises best efforts.
- t) The searches were thorough and comprehensive.
- u) That he thought the police were asking the Committee to suspend the licence and he would not be opposing that, but he wanted his client's case to be heard.
- v) His client was adamant he had done everything he could, and Mr Craig agreed with him.
- w) There was no delay in the police being notified of the incident (he said he would call Mark Swallow later to discuss this further).
- x) The points raised needed proper investigation as it had a huge bearing on the conduct of the premises and the promotion of the Licensing Objectives.
- y) He knew the Committee would suspend the licence and he would not oppose that.
- z) He would speak with WMP to find a way forward.

The chairman then invited questions from Members at which stage Mr Duncan Craig gave the following responses: -

- a) He fell onto the floor and glass was already on the floor – they thought it was a smashed bottle.
- b) The incident at the bar someone had already been arrested for.
- c) There was no suggestion anyone had been bottled.

- d) There was a previous review, but the licence was transferred earlier this year. The licence holder had not been involved with the premises previously to that.
- e) It was a private birthday party, everyone was aware that gang nominals can book things as birthday parties even when they are not, but there was nothing to suggest that this was the case here. The police would do enquiries in relation to that but there had not been a moody atmosphere before. The incident came out of nowhere.
- f) There was 400 people inside the premises, all invitees and the police had the invite list. There was mix of 60% males and 40% females.
- g) Upon entry 2 door staff were referencing and ticking off names against the invite list. There was no ID in that sense.

Mr Ahmed then answered some questions from Members:-

- a) A female operative then searched all female handbags and 3-4 door staff were carrying out searches of all persons (full body searches).
- b) In the Arcadian there was a St Johns Ambulance service and they were called.
- c) In his experience it was probably quicker to go out and find the police than call them.
- d) The police officers were about 10 meters away and they spoke to Sgt Wheeler.

The Chair then invited the parties to make a closing submission.

Mark Swallow, representative of WMP made the following closing statements: -

- That he had listened to Mr Craig's submissions and would look into the issues.
- That he would invite the Committee to suspend the licence, which was a proportionate response to the incident of serious crime – Section 18 wounding's.
- Someone had been arrested for affray and was being interviewed.
- 2 knives had been recovered from the scene; one was found outside the premises discarded in a drain along with a wallet, the other was found inside the premises near the dancefloor upstairs.
- They did approach officers, but they did not phone the police. They were inside the premises and ejected someone from a major disorder – you would have thought they would have just phoned the police rather than go outside and try find police on the off chance they would be there to speak to. It was the IP who approached officers – not staff.

- That it was not acceptable.
- 2 knives got into the premises and were used as weapons which was not acceptable. People suffered serious injuries.
- There was a first aid kit open which appeared to be used to treat the injured persons, Mr Craig stated it was used to treat door staff. But that wasn't reported to WMP. They didn't know the extent of the injuries for that person.
- The licence should be suspended pending the full review.

In summing up, Duncan Craig, on behalf of the PLH made the following points: -

- The doorman had a cut to his finger. Minor cut to his finger.
- The police were approached a couple of minutes after the incident took place, approximately 3 minutes. It was not like the premises had been hanging around.
- There was some follow up from Dave Gregory and he would speak positively about the premises working with them.
- That he would cooperate with the police and try and find a way forward.

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;

12/150921

RESOLVED:-

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Arcadian Wrotesley Entertainment Ltd in respect of Bambu, 1st Floor Kotwall House, Wrotesley Street, Birmingham B5 4RT, this Sub-Committee determines:

- that the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application, and
- that Jasdeep Kaul be removed as the Designated Premises Supervisor

Members heard the submissions of West Midlands Police, namely that the certificate issued by Superintendent Fox under s53A(1)(b) of the Act related to two instances of wounding under section 18 of the Offences Against the Person Act 1861 which had happened at the premises. There had also been an outbreak of disorder, and an arrest for affray had been made.

The evidence was that on the day in question it was poor management control which had led to the incident. The Police recommended that the Sub-Committee

should impose the interim step of suspension of the licence, pending the full review hearing.

The Sub-Committee then heard from the company which held the licence, via its counsel. The licence holder did not oppose the suspension of the licence, and stated an intention to cooperate with the Police in their investigation. The director of the licence holder company had recently taken the premises on, but did not have any previous experience of running licensed premises.

In deliberating, the Sub-Committee determined that the failure to uphold a safe style of operation had led to an outbreak of serious crime, and agreed with the Police that the causes of the serious crime appeared to originate from unsatisfactory internal management procedures at the premises.

The Sub-Committee found the Police evidence relating to the s18 wounding incidents to be alarming, and not something that inspired the slightest confidence in the operating style at Bambu. The Sub-Committee determined that it had no confidence in the management to ensure safe operation. All in all, the Sub-Committee considered the licence holder to have failed to take its responsibilities seriously.

The Sub-Committee determined that it was both necessary and reasonable to impose the interim step of suspension to address the immediate problems with the premises, namely the likelihood of further serious crime.

The Sub-Committee considered whether it could impose other interim steps, including modification of licence conditions, but considered that this would offer little to address the real issue, which was the lack of proper management control shown by the licence holder, which was a significant risk to the upholding of the licensing objectives.

However, the Sub-Committee determined that the removal of the designated premises supervisor was a very important safety feature, given that it was this individual who was responsible for the day to day running of the premises. Therefore, the risks could only be properly addressed first by the suspension of the licence, and secondly by the removal of the designated premises supervisor, pending the full Review hearing.

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 under s182 of the Act, and the submissions made by the licence holder via its counsel, and by West Midlands Police, at the hearing.

All parties are advised that the premises licence holder may make 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.

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