

BIRMINGHAM CITY COUNCIL

LICENSING SUB – COMMITTEE A 8 APRIL 2019

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD
ON MONDAY 8 APRIL 2019, AT 0930 HOURS, IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp and Martin Straker-Welds.

ALSO PRESENT

David Kennedy – Licensing Section
Parminder Bhomra – Legal Services
Katy Townshend – Committee Services

NOTICE OF RECORDING

1/080419 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

2/080419 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/080419 No apologies were submitted.

**LICENSING ACT 2005 PREMISES LICENCE (SUMMARY REVIEW) JILABI,
2065 COVENTRY ROAD, SHELDON, BIRMINGHAM, B26 3DY**

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

(See document No. 1)

At 1012 hours the following persons attended the meeting.

On behalf of the Applicant

PC Deano Walker – West Midlands Police - WMP

On behalf of the Licence Holder

Patrick Deward – Premises Licence Holder

Jean Deward – Designated Premises Supervisor - DPS

Those making Representations

Matthew Phipps – Representing Punch Taverns Ltd

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During introductions the Chair invited all parties to make any preliminary points, at which stage PC Walker requested that the CCTV be heard in private due to:-

- ❖ On going investigations
- ❖ The need for the CCTV to be kept out of the press

The Chairman asked if all parties were happy for the CCTV to be heard in private, excluding the public.

All parties confirmed they had no objections.

The Chair continued to outline the procedure to be followed during the hearing.

David Kennedy, Licensing Section, made introductory comments relating to the documents submitted.

On behalf of West Midlands Police, PC Deano Walker made the following points:-

- a) That at 0220 hours there was a large disorder at the premises on the Bristol Road in Northfield.
- b) That according to the police incident log, it was recorded that there were 25 people fighting.
- c) That a second call was made to the police, which reported someone had been stabbed at the venue.
- d) The third caller was extremely distressed.
- e) That one caller said knives had been used, another person said someone had been stabbed.
- f) That the officers attended the scene and within a few minute found a male on top of the stairs with stab wounds.

- g) That the venue was a basement style club.
- h) The male was found at the entrance of the venue.
- i) That when officers found the male he was receiving first aid by members of the public, he was covered in blood and there was an open wound to his stomach.
- j) The customers informed officers that they were using a coat to stem the bleed.
- k) Officers took over first aid as they were unsure if the patrons were intoxicated.
- l) That according to the initial investigation he had been stabbed 5 times.
- m) That the crime report stated he was stabbed 6 times, but that was incorrect, it was actually 5 times.
- n) That the brother of the stabbed male was also stabbed 3 times and the knife cut through his liver.
- o) The first victim had a punctured lung.
- p) That both victims were taken to hospital, but fortunately their injuries were not life threatening.
- q) That another patron was bottled at the premises the same night. He left of his own accord and later made his way to the Queen Elizabeth Hospital.
- r) That all offences would be shown in the CCTV.
- s) That the incident happened on Saturday but WMP Licensing Team weren't made aware until the Monday, they requested CCTV and upon viewing the CCTV it was clear that serious crime and serious disorder had taken place and therefore they applied for the Expedited Review.
- t) That on the 12th March 2019 a meeting was held at the Council House and the Sub Committee suspended the licence pending a full review. The premises had not appealed the decision.
- u) That from when the licence was suspended until the review, the licence had been breached, they had not provided incident logs, door staff profiles, and no risk assessments had been served to WMP when they had been trading past 0100 hours. WMP had power of veto over events going past 0100 hours.
- v) That WMP had included screen shots from *Facebook* that indicated the premises has been trading past 0100 hours.

- w) That the evidence bundle also included a previous incident from October 2018 – it was a similar incident.
- x) That another incident was brought to WMP's attention on the 3rd March 2018 and the police spoke to security and the offenders were ejected.
- y) That it would be appropriate to show the CCTV footage at this stage.

At this juncture, the Chairman advised that the public would now be excluded from the meeting.

EXCLUSION OF THE PUBLIC

4/080419

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.

At this stage in the meeting having viewed the CCTV footage in private the public were readmitted to the meeting.

On behalf of West Midlands Police, PC Deano Walker made the following points:-

- a) That he had contacted the licence holder in order to make him aware of the suspension and had left his contact number. However, he had not been able to establish any communication with him. That there had been no dialog from the licence holder since the suspension and the summary review. Therefore, they had been unable to work out if they would propose conditions to prevent the incident from happening again.
- b) That he had not been able to have discussions with the licence holder, so they were sitting here with no evidence that the licensing objectives would be promoted in the future.
- c) That unless the licence holder could convince the Committee, then WMP were asking for revocation. They needed to be assured that a serious incident would never happen again.

In response to Members questions PC Walker made the following points:-

- a) That they had no dialog from the PLH (Premises Licence Holder) and did not believe it was WMP's fault. They had left contact details and were always forthcoming.
- b) That it was a big incident and they were surprised they had not received any contact.

- c) That the licence holder was a nice man and there were no problems between him and the police, so he did not know why they had not been approached.
- d) That on top of the incident there were also breaches of the licence conditions.
- e) That the premises had been closed but was supposed to keep an incident book, however, there was no notification of the incident and no notification of door staff.
- f) That event notification was important as WMP risk assessed the event and had power of veto. They would research to see whether the event was linked to gangs or troublesome events.
- g) That from the incident logs, perhaps there was a build up to the event of the large scale disorder.
- h) That he was not aware of a name change being submitted for the premises.
- i) That victims very rarely gave information and they were concerned the incident could happen again.
- j) That to stop people bringing stuff into the premises they would need to risk assess events, use wands, and have good door staff. However, these were ineffective previously.
- k) That they were not aware of any search policy.
- l) That if patrons didn't want to be searched, they wouldn't be allowed into the premises.

Mr Matthew Phipps, on behalf of Punch Taverns, asked if it was possible to have a few moments to speak to his clients as it was his first time viewing the CCTV footage.

At 1131 the Chairman advised there would be a short adjournment and all parties, with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1139 all parties were invited to re-join the meeting.

Mr Phipps continued:-

- a) That Punch Taverns were not attending as a pub company, they were attending as the landlords of the property, and they owned the unit and sublet it to Mr Deward.

- b) That from their perspective they didn't want the licence to be revoked, as the unit was unlikely to have an alternative avenue other than a licensed premises.
- c) That going forwards it seemed that the licence needed modification, updating and modernising in terms of conditions, searches, policies and procedures, CCTV, and search wands.
- d) That from his view, polycarbonate glassware should be a condition, the absence of bottles being passed across the bar, no glassware outside or brought inside the venue. That was a matter to be considered.
- e) That from the Public Health representation in the paperwork, they were not seeking revocation.
- f) That Punch Taverns position was that they did not want the licence to be revoked either.
- g) That if the Committee were satisfied by what the PLH had to say then they invited the Committee to give careful consideration to that.
- h) That the premises had been operating well without concerns and did not come across as a venue that had a history of issues that had "come to the boil".
- i) That they were not challenging WMP's fundamental points and invited the Committee to conclude that adding additional conditions to the licence was appropriate.
- j) That if the Committee could not be satisfied then they would say no more, it was a very serious incident.

At this juncture Mr Deward advised that he would be relying upon the CCTV footage and therefore, would request that the CCTV be shown in private.

At this juncture, the Chairman advised that the public would now be excluded from the meeting.

EXCLUSION OF THE PUBLIC

5/080419

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.

At this stage in the meeting having viewed the CCTV footage in private the public were readmitted to the meeting.

Mr Deward continued:-

- a) That he would add additional CCTV cameras, CCTV signage, door supervisors, and a staff training renewal. Door staff would have hand held metal detector wands.
- b) That the door staff working on the night of the incident were SIA registered.
- c) That in terms of the door staff, they were told not to be heroes if people had weapons, the police should be called immediately, of which Mr Deward did.
- d) That he would interview new door staff.
- e) That he would still be employing new door staff himself.
- f) That additional CCTV and CCTV signage would be implemented.
- g) That the new CCTV would cover the blind spots.
- h) That all door staff would have wands.
- i) That there would be 4 members of staff.
- j) That he had been operating the venue since 2012, originally with TENs and then he was granted a licence in 2014. At that time he was dealing with WMP South Birmingham officer, but unfortunately that all changed and someone else took over, but he never heard from anyone else.
- k) He had received no notification from police, and had no contact with them.
- l) He had spoken with police regarding the incident and provided them with the CCTV footage.

PC Walker explained that Mr Deward did supply WMP with the CCTV footage. However, after the suspension PC Walker gave Mr Deward his details and never heard anything from him.

Mr Deward responded saying he honestly thought he had to wait until the full review to make any representation. He did not get the letter informing him about the suspension and had learnt a lot.

He also explained that the other incidents were when people became abusive in the venue and he phoned the police and the issues were resolved.

In the future he would 100% liaise with police and he took responsibility for what happened.

Jean Deward made the following points:-

- a) That in terms of the prevention of crime and disorder they would install additional CCTV footage to cover the blind spots.
- b) Mr Deward wanted to work closely with the police and had been in discussions with PC Walker today.
- c) That Mr Deward was more than willing to sit down and work with police in order to prevent reoccurrence.
- d) That there was no intention to employ the existing door staff; they would be hiring new ones.
- e) That they would be using wands at the door, but would also be open to any further recommendations.
- f) That there had been very little police logs in relation to the venue; only 3 incidents in the whole time of operation. Mr Deward rang the police on all three occasions.
- g) That lessons had been learnt and the CCTV had been reviewed numerous times.
- h) There would only be one entrance in and out of the club and they would be using barriers outside.
- i) That there were no complaints of public nuisance and all private functions were guest listed so there was no concerns with protecting children from harm.

Mr Deward added that there was signage up about no smoking inside the premises; however, he may have been on the phone at the time the p[patron was smoking inside the venue.

In response to Members questions Mr Deward made the following points:-

- a) That he was on the phone a lot of the time and he was trying to resolve the situation when he was not on the phone.
- b) That the injured male was still very aggressive, but patrons assisted in first aid.
- c) That it would be addressed in staff training regarding injured persons and first aid.
- d) That bottles weren't normally an issues, but on that night it clearly was.
- e) That women didn't want plastic cups for wine, however, he would be willing to do Polycarbonate glassware on nights with younger patrons.
- f) That he was happy to work with WMP.

- g) That they did not use external promoters, and he was happy to have that conditioned.
- h) That he wanted to work with WMP and was more than willing to engage with WMP and Licensing.

The Committee Lawyer advised the Committee regarding the amendment to conditions if the premises was going to open.

The Chairman asked Mr Deward if he felt that the conditions would restore confidence that he was a responsible person to run the venue.

Mr Deward confirmed that he had an overall good history and although there had been a few problems previously they were all minor. The incident happened so quickly and there was a lot going on; it was *madness*.

In summing up Mr Matthew Phipps, on behalf of Punch Tavern made the following points:-

- That there was little more to say, but he would reiterate one point, that going forward the Committee would have confidence that the conditions would address the anxieties that the CCTV disclosed. Furthermore, it was perfectly okay to proceed in that way.

In summing up PC Walker made the following points:-

- That the DPS was separate from Mr Deward.
- That the first time he had heard the conditions was today, as he had not been in contact with Mr Deward.
- That he expected a lot more in order to stop the incident from reoccurring.
- That the licence holder could not just take on SIA door staff *willy nilly*, he had to be registered to do so.
- That they should not open until conditions were put in place and he expected to hear more in terms of drug policies, search policies, and crime scene training.
- That he had expected a voluntary reduction in hours.
- The licence hours had an impact.
- That he was not convinced, and everything had been offered too late.
- That control of a licence started from the top and he was not confident that the premises had any control and did not think the offered conditions were the way forward.

In summing up, Mr Deward made the following points:-

- That the reason he had not added conditions was because the licence had been suspended.
- That if drugs were found he would hand them over.
- That the night had finished when these individuals pushed their way into the premises, they had never opened until 0400 hours.

The Committee Lawyer asked if anyone had any final submissions, or anything to add, and all parties concluded that they had nothing further.

At 1236 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1329 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

6/080419 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by Mr Patrick De Ward in respect of The Dukes (T/A Medleys), Bristol Road South, Northfield, Birmingham, B31 2JR, following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that the interim step of suspension remains in force and the licence be revoked, in order to promote the prevention of crime and disorder and public safety from harm objectives in the Act.

The Sub-Committee's reasons for revoking the licence are due to concerns by West Midlands Police in relation to the licensee failing to control the premises 9th March and, failing to comply with the conditions of the licence during that night.

West Midlands Police also raised concerns that the licence holder did not provide incident logs, door staff profiles and risk assessments which were all conditions of the licence. Members noted, the police officer had advised the licence holder of his contact details in order to establish dialogue after the suspension of the licence but heard nothing.

Members considered the licensee appeared to be laid back about the serious disorder that took place and failed to convince the Sub Committee that he could promote the licensing objectives, even with new additional conditions offered during the hearing.

The new additional conditions lacked detail to enable any meaningful commentary from the responsible authority which would mitigate the members, and WMP licensing officer's concerns. The lack of quantity and quality of those conditions failed to instil any confidence that the premises would be managed in a far better way than seen on the cctv footage in private.

Further, members sensed a lack of responsibility from the licensee in that there was no engagement with the responsible authority prior to the hearing. Members considered the licensee had missed an opportunity to re-establish a dialogue with WMP licensing unit based at Lloyds House.

Although the Sub-Committee gave careful consideration to the submissions and volunteered conditions made by the premises licence holder, members were not persuaded that the issues identified could be addressed satisfactorily.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence, remove the Designated Premises Supervisor or suspend the licence for a specified period of not more than 3 months, but was not satisfied given the evidence submitted, part of which was heard with the public excluded from the hearing following a request from West Midlands Police, in accordance with regulation 14 of the Licensing Act 2003 (Hearings Regulations 2005) that the licensing objectives would be properly promoted following any such determination.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the application and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, the written representations and the submissions made at the hearing by the police, and the premises licence holder and his representative, and other person.

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. The determination of the Sub-Committee save for the interim step of suspension being maintained does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

7/080419

OTHER URGENT BUSINESS

There were no matters of urgent business.

Meeting ended at 1340.

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CHAIRMAN