

# BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE B -  
TUESDAY 21 FEBRUARY  
2017**

**MINUTES OF A MEETING OF THE LICENSING  
SUB-COMMITTEE B, HELD ON TUESDAY, 21  
FEBRUARY 2017 AT 1000 HOURS  
IN COMMITTEE ROOM 1, COUNCIL HOUSE,  
BIRMINGHAM**

**PRESENT:** - Councillor Lynda Clinton in the Chair

Councillors Alex Buchanan and Bob Beauchamp

**ALSO PRESENT**

David Kennedy, Licensing Section  
Joanne Swampillai, Committee Lawyer  
Tayyibah Daud, Committee Manager

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**NOTICE OF RECORDING**

01/210217 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.

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**APOLOGIES**

02/210217 Apologies were submitted on behalf of Councillor Leddy and Councillor Moore. It was noted that Councillor Buchanan and Councillor Beauchamp were the nominated members.

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03/210217 **MINUTES**

The Minutes of the meeting held on 21 June 2016 were noted.

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**LICENSING ACT 2003 CLUB PREMISES CERTIFICATE – REVIEW**  
**STANLEY’S CLUB, 400 KINGSTANDING ROAD, KINGSTANDING,**  
**BIRMINGHAM, B44 8LD**

The following persons attended the meeting: -

**On behalf of West Midlands Police**

PC Abdool Rohomon

PC Vicky Demuth

**On behalf of the Club Premises Certificate Holder**

There was no one present on behalf of the Premises Certificate Holder. The initial Review application was served by first class recorded delivery by West Midlands Police. The application was returned back to the police, as no one had signed for it, therefore officer's hand delivered the application. In addition, PC Demuth hand delivered the evidence bundle as supporting documents to the premises.

Mr Kennedy confirmed Enforcement officers had visited the premises and placed blue review notices that met the statutory requirements at the premises.

It was agreed by all parties that the Club Premises Certificate Holder had adequate notice and knowledge that there was a meeting present today. It was agreed by Members and all parties that it would be reasonable and proportionate for the meeting to continue in the absence of the Certificate Holders presence.

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

(See documents no. 1)

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy, Licensing Section.

PC Rohomon requested that in view of the fact that CCTV footage that the police proposed to show included sensitive information, that the meeting be conducted in private. This was agreed by Members.

PC Rohomon made representations in private. A separate minute was recorded.

04/210217 **EXCLUSION OF THE PUBLIC**

**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 heard.

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**PUBLIC**

For ease of reference all of the public part of the meeting has been kept together in the Minutes

After PC Rohomon had made representations in private (Minute No 06/210217 refers), the Sub-Committee heard the remainder of the case in public.

PC Rohomon made the following points in respect of his representation and in response to Members' questions: -

1. The plan that was submitted alongside the initial application of the Club Premises Certificate does not reflect the layout which is currently in place at the premises currently.
2. The initial plan showed 8 snooker tables at the premises. However, there are only 4 snooker tables at the premises.
3. There is now a newly-built bar and DJ booth at the premises.
4. No variation application has been received by the Licensing Authority, implying that the Club Premises Certificate Holder is already in breach of his certificate.
5. Members were concerned that the risk assessments of the premises would have been done on the plan that was submitted alongside the initial application. Fire exits and safeguarding would have also been assessed on the plan submitted, however, the layout of the premises is completely different now, and thus the checks and assessment previously taken are not sufficient.
6. It is clear that the each snooker table has the capacity to accommodate 2-3 people. Therefore, there should be a small amount of people at the premises as opposed to the large group of people seen at the premises.

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7. PC Rohomon stressed that the guidance issued under section 182 of the Licensing Act 2003, reflects that an Club Premises Certificate are subject to far tighter controls & requirements than a Premises Licence.
8. There are strict rules to become a member. Membership cannot be just attained at the door. It takes two working days for someone to become a member of the club.
9. The club is not licensed to sell alcohol but just supply alcohol to members and guests.
10. PC Rohomon stated that the club were in breach of their procedural rules. (See documents no.2).
11. As the rules state that any members are allowed to introduce guests. The members must enter the name and address of the guest together with their own name in a book. Showing, there should be an audit trail at the premises.
12. However, this had not been complied with and when asked to present evidence of this, the premises were unable to.
13. PC Rohomon stated that it was important to go through the control log to illustrate the issues that had arisen at the premises.
14. The first log received from the premises was on Sunday 15<sup>th</sup> May 2016. The control log showed a call was received at 0200 hours, stating that a male had been hit on the head with a hammer.
15. Although no evidence of this incident was found, it important to note that the premises was still open at 0300 hours even though the premises certificate is conditioned to close at 0200 hours.
16. On 13<sup>th</sup> August 2016 a call was received from a member of public stating that there was noise coming from men who were outside the premises. PC Rohomon stated that the premises are situated in a residential area.
17. This log was received at 0126 hours; there is no indication from this log to suggest that the premises were planning to close at their conditioned closing time of 0200 hours.
18. Referring to a log dated Sunday 2<sup>nd</sup> October 2016, it stated that the individual contacting the police referred to the club as a 'pub'.
19. PC Rohomon stressed that a snooker club which provides snooker /pool tables is referred to as club. However, a pub is usually a place where individuals go to consume alcohol. Therefore, clearly members are not just present at the premises.
20. PC Rohomon stated that the incidents have begun to ramp up and started to cause problems for West Midlands Police.

21. Referring to an incident that occurred on Saturday 8<sup>th</sup> October 2016 which occurred at 2151 hours. It was clear that a local resident had made a complaint about youths outside the premises that were shouting and drinking.
22. Another log dated 9<sup>th</sup> October 2016, similarly complained of noise coming from the premises as female was screaming. It is clear that the premises are causing a public nuisance.
23. There is a clear lack of control as to what is happening at these premises as 3 calls had been received in the space of nine days.
24. PC Rohomon stated that the officers that attended the premises would not know the difference between a Club premises Certificate and a Premises Licence, as they are general quick response officers.
25. After receiving emails from officers who visited the premises, Police Licensing Officer, PC Mroczkowski arranged to liaise with the premises on Thursday 13<sup>th</sup> October 2016. The meeting was attended by the Vice Chairman and Secretary of the club.
26. PC Rohomon stressed that very clear advice was given to the premises. The police have tried to intervene and help the premises to operate in compliance with their Conditions.
27. The log on Boxing Day states there was a suspected stabbing at the premises at 0600 hours. When police arrived at the premises there had been no stabbing at the premises.
28. However, the premises were trading at 0600 hours in the morning and people were asked by the police to clear the premises.
29. PC Rohomon stated that alcohol was not taken from individuals who were leaving the premises in the morning, as the volume of people leaving the premises was very high. Removing alcohol from customers would have just inflamed the situation.
30. All the safety measures that were expected to put in place at the premises were not present.
31. Referring to Police Sergeant Holder's statement, when visiting the premises on Friday 30<sup>th</sup> December 2016. It was clear that there was cannabis at the premises.
32. There were individuals playing poker, who stated they did not have membership cards.
33. The premises were unable to provide the membership book.

34. It is very apparent that the club are not complying with what the Certificate permits. Without a membership card, no-one is a member of the club and therefore should not be present at the premises.
35. PC Rohomon stated that the premises were not a qualifying club and do not meet the criteria and should have their Premises Certificate revoked under Section 90 of the Licensing Act 2003. However, if the Committee were minded to follow this section the club has a three months window to appeal.
36. PC Rohomon stressed that the premises have operated beyond their scope; the club is operating as a night club and providing regulated entertainment and the sale of alcohol to members of public without a Premises Licence.
37. The premises are now causing the police crime and disorder issues.
38. There is not much the police can do as opposed to if there was a premises licence in place.
39. PC Rohomon requested that under the review powers of section 87, where the premises have 21 days to appeal, the certificate should be revoked.

In summing up, PC Rohomon reiterated the premises have clearly breached the conditions of their Club Certificate. There are clearly very young crowds present at the premises who participate in underage drinking. The plans submitted with the initial application do not reflect the current layout of the premises. There are clear concerns as measures that are expected to be in place at a club are not. There is no control at the premises and the premises should be revoked under section 87.

At 1122 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.

After an adjournment, all parties were recalled to the meeting at 1207 hours and the decision of the Sub-Committee was announced as follows:

05/2102117 **RESOLVED:-**

That having reviewed the Club Premises Certificate held under the Licensing Act 2003 in respect of Stanley's Club, 400 Kingstanding Road, Kingstanding Birmingham, B44 8LD upon the application of West Midlands Police this Sub-Committee hereby determines to

**WITHDRAW CLUB PREMISES CERTIFICATE UNDER SECTION 88(4)(d) of the LICENSING ACT 2003**

That the Club Premises Certificate be withdrawn under section 88(4)(d) of the Act, in order to promote the prevention of crime and disorder and the protection of children from harm objectives in the Act.

The Sub-Committee's reasons for withdrawing the Club Premises Certificate are due to concerns by West Midlands Police in relation to the activities they observed going on at the premises, when called by members of the public on separate occasions in October and December 2016 to attend to deal with problems. These problems included a female screaming, a suspected stabbing, and reports of cannabis being smoked on the premises.

On attending at the premises, the Police observed that the premises could in no way be described as a Snooker Club for private members. It was being run as if it were licensed premises open to the general public. Police observed the premises operating beyond the permitted time of 2am (on one occasion, on Boxing Day morning, when significant Police resources attended to deal with reports of a stabbing, they discovered that the premises had operated all night and were still open at 6am), instances of underage drinking, a noticeably 'young' clientele, noise nuisance through the playing of recorded music, use of nitrous oxide gas canisters & helium balloons, cigarette smoking within the premises, and no Security Guard control over the door.

It was apparent that the playing of snooker was not even part of the operation, as the snooker tables had been covered up and bottles were standing on them. In addition there had been changes to the layout of the premises since the Certificate was granted - for example the removal of some of the snooker tables, and the construction of a bar and DJ booth, which made it akin to licensed premises offering regulated entertainment.

These matters made it plain that the premises no longer met the criteria of a genuine club premises, where the main activity should have been snooker playing, with supply of alcohol to be ancillary to the main activity. Instead, the premises was operating as fully licensed premises offering alcohol and regulated entertainment – a clear breach of the terms of the Certificate.

In addition even the membership requirements were not being observed, as the management were unable to supply the Membership Card/ Guest Book details. Individual patrons who were asked by Police to show their Membership Cards did not have any. No age verification checks had been made, and indeed could not be made, as there were no security arrangements for the front door, and the only staff present were serving behind the bar. It was apparent that admission was being permitted to the general public, not to card-carrying Members and their named guests, as required by the Certificate and indeed the premises' own Rules.

In addition it was noted that the majority of patrons were of a young age, and at least one confirmed to Police that he was under 18 - whilst standing in the street drinking alcohol supplied by the premises as patrons were being asked to leave. This had happened on the Boxing Day morning occasion at 6am, when significant Police resources had to be deployed after reports of a stabbing at the premises. Four days after this, Police were again called to the premises to deal with concerns that patrons were smoking cannabis.

The noise complaints made by local residents concerned noise made in the street by patrons in the early hours. It was noted that residents reported that the patrons, after creating disturbance in the street, then returned to the premises and went back inside, demonstrating that the 2am closing time was not being observed by the management.

No-one from the premises attended the hearing, nor were they represented. However the Sub-Committee were satisfied that the Police had made the premises aware of the hearing properly, through the display of statutory Notices and service of papers by hand-delivery.

The Sub-Committee decided to withdraw the Certificate under section 88(4)(d) of the Act. They were mindful of the provisions of s90 of the Act; however because of the seriousness of what they heard from West Midlands Police they decided to withdraw the Certificate under s88(4)(d) of the Act. Whilst the Sub-Committee were concerned that the premises appeared to be operating in a manner which was no longer consistent with a Club Premises Certificate, of far greater concern were the scale and number of incidents which had taken place at the premises in such a short period of time, which evidenced to the Sub-Committee that the premises were being operated in a manner which was clearly undermining the prevention of crime and disorder objective.

The Sub-Committee gave consideration as to whether it could modify the conditions of the Club Premises Certificate or suspend the Certificate 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 information contained in the application, the written representations received and the submissions made at the hearing by West Midlands Police.

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 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.

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