

BIRMINGHAM CITY COUNCIL

LICENSING SUB – COMMITTEE A 11 APRIL 2018
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**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD
ON WEDNESDAY, 11 APRIL 2018 AT 1000 HOURS, IN THE ELLEN PINSENT
ROOM, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM.**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Alex Buchanan and Des Flood.

ALSO PRESENT

David Kennedy – Licensing Section
Sanjeev Bhopal – Legal Services
Phil Wright – Committee Services

**GLAMOUROUS SHOW BAR, ALBANY HOUSE, 27-35 HURST STREET,
BIRMINGHAM, B5 4BD - LICENSING ACT 2003 AS AMENDED BY THE
VIOLENT CRIME REDUCTION ACT 2006 – CONSIDERATION OF
REPRESENTATIONS IN RESPECT OF THE INTERIM STEPS IMPOSED ON 29
MARCH 2018**

The following documents were submitted:-

- A. Representations made by the premises licence holder
- B. Decision of the meeting held on 29 March 2018
- C. Certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003
- D. Application for an expedited Review of Premises Licence
- E. Copy of Premises Licence
- F. Location Maps

(See document No. 1)

The following persons attended the meeting.

Those Making Representations

Sarah Clover – Barrister representing the Licence Holder

Carl Moore – Licensing Consultant

Matthew Eason – Licence Holder and Designated Premises Supervisor

On behalf of West Midlands Police

PC Reader – West Midlands Police

PC Rohomon – West Midlands Police

Following introductions and an outline of the procedure by the Chair, David Kennedy, Licensing Section, made introductory comments relating to the report.

Sarah Clover made the following points:

- a) The reason that it was necessary to make representations against the interim steps imposed was that the company, financially, could not last the 3 weeks until the full hearing. The company had recently opened a premises in Coventry and the Birmingham venue was subsidising those premises. 25 staff in Birmingham and a further 8 in Coventry were at risk and were awaiting their wages. In addition the landlord was owed rent.
- b) It was her understanding that there was no appetite to close the premises by the Authority but if the interim steps were not amended to allow the premises to trade then the premises would have to close for financial reasons.
- c) Carl Moore and Matthew Eason had had a meeting with West Midlands Police the previous day for detailed discussions. An operating plan had been put forward but the police had indicated that that should have been done before and did not change anything.
- d) The premises had operated since 1982 and had for many years been known as a venue serving the LGBT community. Mr Eason had taken over in 2005. In recent years the demographics of the clientele had changed and problems were being created that the police were not happy with. It was now the intention to change the operating model back to catering for the LGBT community which the operating plan was setting out to achieve. It was intended to have staff on the door from 2200 hours. It was intended to control the migration from other bars and close at 0400 hours on Tuesday and Wednesdays. In addition last admission on other days would be 0400 hours. Other measures that would be introduced were polycarbonate glasses and body cameras. There was no issue with the introduction of a ID scanner but it was questioned how effective it would be in addressing the issues and would be an additional expense.

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- e) The situation improved over the Christmas period but it was disputed that there had been a spike in the number of incidents in February 2018 as had been suggested by the police. Following the nasty incident on 28 March the police had looked at their logs again and highlighted a number of calls to the premises.
- f) The premises' logs indicated that during the same period there had been a couple of incidents where the police had been called to the premises. These included a person picking up other peoples drinks and an issue with the girlfriend of one of the door staff. The premises disputed the suggestion that underage drinking was taking place on the premises. The reference to 'significant injuries' in the Police's documentation was misleading as the only injury had been to a member of door staff.
- g) Regarding the incident on 28 March it was emphasised that the person had got past door security and the incident had been unforeseen. For this reason the premises were of the view that it should not be connected to other concerns of the police.
- h) It was noted that there are no conditions relating to the number of door staff required and on the night of the incident on 28 March 2018, when it became known that a door supervisor had called in sick, steps were taken to obtain the services of another door supervisor who unfortunately did not arrive until after the incident had occurred. Not problems were anticipated by having only one door supervisor available so the decision was made to open.
- i) The police appeared not to be treating the incident as a priority as they had only attended the premises yesterday to obtain the CCTV footage of the incident because the relevant officer was on leave.
- j) It was believed that the victim was hospitalised overnight and would recover fully from his injuries.
- k) The premises believed that the action plan had worked and the police had never used their power of veto for use of the premises beyond 0400 hours. The action plan was an ongoing relationship between the premises and the police and Mr Eason was in regular contact with the police via email.

Responding to questions from Members of the Sub-Committee and the Committee's legal advisor, Sarah Clover and Matthew Eason made the following points:-

- a) At the meeting with the police PC Reader had had concerns relating to the totality of the plan.
- b) Whilst body cameras had not been introduced other actions had been taken relating to a dress code, security, the provision of a drag artist to welcome people at the door, CCTV and drug use policy.

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At this point in the meeting copies of the action plan were circulated:-

(See document No. 2)

At 1050 hour the meeting was adjourned and all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the room.

At 1100 hours the meeting reconvened and all parties returned to the room. Sarah Clover and Matthew Eason continued answering questions from Members:

- c) The difference between the October Action plan and the current one were outlined and in addition to those matters raised in b) above staff training was mentioned.
- d) It was acknowledge that the limited door staff on the 28 March 2018 was not correct and steps had been taken to ensure the correct numbers were on the door and elsewhere in the premises in the future. This would be 2 on the door and a further person circulating throughout the premises.
- e) With regard to staff training staff had been informed of a meeting with the between Moore Secure and bar staff tomorrow. Health and safety and fire training would be undertaken. Further training would be undertaken before the premises reopened.
- f) It was anticipated that the new plan could be brought in to use as soon as the premises reopened.
- g) The views of West Midlands Police were welcome and there was an ongoing dialogue between the premise and the police.

PCs Rohomon and Reader made the following points on behalf of West Midlands Police:

- a) The issue of the a certificate under section 53A (1)(B) of the Licensing Act 2003 was a very serious business and the issuing Officer had to be certain that serious crime and disorder had taken place at the premises.
- b) An incident had taken place which following investigation had led to the arrest of the offender. Following interview that person had been released on bail. The matter was serious.
- c) A meeting had taken place between the Licensee and the police. Matters discussed were those that the Sub-committee had heard so far in the meeting. By the end of the meeting the previous day the premises had not advised what their business plan was and had repeatedly evaded answering the question 'What is your business model?' Therefore the police had only seen the plan that morning.

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- d) The problem was the late night hours that the premises operated and people coming from other premises and the plan had very little change to the one produced at the first meeting.
- e) Regarding door staff, conditions were proposed previously to deal with the people who came from other premises.
- f) The Designated Premises Supervisor (DPS) was an experienced person and should be aware of the 4 objectives of the Licensing Act and appropriate measures should have been in place from the start.
- g) The DPS had blamed the door supervisors but it was his plan and he employed them. It was felt that this demonstrated a lack of management control which led the police to have little faith in him. In addition management of other parts of the business could be improved.
- h) There had been a drop in problem over the Christmas as the premises had employed more security staff and then had reduced the numbers.
- i) West Midlands Police were disappointed that the premises had not offered any conditions at the meeting the previous day or indeed at the present meeting. No paperwork had been forthcoming at the meeting the previous day. What has been produced did not address the control of the late night admissions from other premises which were causing the problems.
- j) There was no proof that staff had been trained in a proper fashion.
- k) The financial situation at the premises did not outweigh public safety or the 4 objectives of the Licensing Act.

Responding to questions from Members of the Sub-Committee and the Committee's legal advisor, PCs Rohomon and Reader made the following points:-

- a) West Midlands Police had been in discussions with Matthew Eason on how procedures could be overhauled to change times and have 3 door staff in place at all times licensable activities were taking place. It was conceded that on occasions it had not been possible to speak to each other as both parties were busy.
- b) The hours the premises remained open allowed people to leave other premises when they closed between 0200-0300 hours and gain access to Glamorous.
- c) It remained the view of the police that the interim steps should remain in place as the police were concerned that the DPS continued to blame others and he would continue running the premises in the same way without producing a robust plan being produced. There were still concerns relating to staff training. For these reasons West Midlands Police had no confidence that the premises would managed correctly.

In summing up PCs Rohomon and Reader, on behalf of West Midlands Police made the following points:

- a) They had heard nothing new that would satisfy them that the suspension could be lifted.
- b) The way forward was that a proper action plan needed to be in place. Although such a document had been circulated at the meeting it was emphasised that West Midlands Police had not had time to go through it.
- c) The action plan had not been written when the expedited review had been lodged.
- d) The view of West Midlands Police was that the suspension of the licence should remain in place.

In summing up, Sarah Clover, acting on behalf of the premises, made the following points;

- a) The police had required the plan to be a written document yet when such a document was produced they then criticised it.
- b) In reality the document was made up of a combination of proposals that the police would have seen before. It was more descriptive and a much improved document from that produced in October. There was no reason for the police not to have confidence in it.
- c) The ID problems had been cured and the steps taken to overcome them had been successful.
- d) Glamorous had always been a destination and late night venue since 2005 opening to 0600 hours and for the police to suggest otherwise was unfair.
- e) It was now the intention to concentrate on encouraging people from the LGBT community to visit the premises to move away from people from other premises. This was in direct response to the incident that took place on 28 March 2018.
- f) The underage issue related to the girlfriend of one of the door staff had come to the premises. The member of staff no longer worked at the premises. That had no bearing on the incident on 28 March 2018.
- g) It was emphasised that the Licence Holder and Designated Premises Supervisor was an able and good operator who the police could have confidence in. There were no issues of non-compliance as suggested by the police. For these reasons the premises could safely reopen.

- h) Section 182 Guidance indicated that the financial situation of the Licence Holder could be considered and weighted during the decision making. It was necessary to reopen as staff with families would have to be laid off soon

At 1145 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 1325 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

01/110418 **RESOLVED:-**

That, having considered the representations made on behalf of Mr Matthew James Eason the premises licence holder for Glamorous Show Bar, Albany House, 27-35 Hurst Street, Birmingham, B5 4BD in respect of the interim step imposed on the 29 March 2018, this Sub-Committee hereby determines to retain the interim step of suspension of the premises licence.

The Sub-Committee carefully considered the representations made by, and on behalf of, the premises licence holder but were not satisfied at this stage that it was appropriate and proportionate to modify the existing Interim Step of suspension, so as to allow the premises to effectively re-open and undertake licensable activities.

Concerning the incident on the early hours of 28 March 2018 and the history of other reported crime at the venue in the run up to the Expedited Review application being submitted, the Sub-Committee accepted that there were discrepancies between the two parties in relation to compliance with the premises' Action Plan which the premises were placed on in October 2017. However, the incident which gave rise to the Review application itself was not disputed and clearly involved serious crime and/or serious disorder.

The Sub-Committee felt that it was not appropriate at this stage to modify the Interim Step of suspension in the context of the West Midlands Police's continuing concerns about having confidence in the Premises Licence Holder and his ability to properly promote the licensing objectives.

Although, a constructive meeting had taken place between the two parties on the 10 April 2018, this was very much in the opinion of the Sub-Committee the start of a discussion about how the premises licence holder should address the Police's continuing serious concerns around the prevention of crime and disorder, specifically seeking to establish the root causes of these matters and how they should be dealt with moving forwards.

The Sub-Committee did feel the arguments around modifying the interim step of suspension were finely balanced, and were pleased to note that the premises licence holder had prepared an Operating Plan for the premises should the Sub-Committee have agreed to lift the suspension. However, they were equally concerned that the plan, which was submitted to them as part of the premises

licence holder representations, had only been formally presented to the Police on the morning of today's meeting, and at the Police's request, from the meeting which had taken place the day before.

Although the legal representative for the premises licence holder submitted that the submitted Plan contained "nothing new", the Sub-Committee had expected more constructive discussions to have taken place between the parties involving a more formal review of the venues policies and procedures, including all appropriate risk assessments and how these would be actioned as conditions and evidenced by the venue. That said, the Sub-Committee felt it was nevertheless important to note that the premises licence through their engagement of CNA Risk Management Ltd would be seeking to address these specific issues.

The Sub-Committee therefore considers at present that the suspension of the premises licence until determination of the review hearing remains necessary for the promotion of the licensing objectives.

In reaching this decision, the Sub-Committee has given due consideration to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003 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 and the representations made at the hearing by the Police, Premises Licence Holder, and their legal representative.

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 (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded. Where the licensing authority has already held a hearing to consider representations against the interim steps, the holder of the licence may only make further representations if there has been a material change in circumstances.

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.

02/110418 **OTHER URGENT BUSINESS**

There were no matters of urgent business.

The meeting ended at 1331 hours.

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CHAIRMAN