

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 22 February 2019

Attendance

Members of the Licensing Sub-Committee

Cllr Alan Bolshaw (Chair)

Cllr Wendy Thompson

Cllr Rita Potter

Review Applicant

PC Michelle Churm

Inspector Stuart Roberts

West Midlands Police

West Midlands Police

Responsible Authorities

Elaine Moreton

Section Leader Licensing

Employees

Michelle James

Leonie Woodward

Donna Cope

Kirsty Tuffin

Licensing Policy Manager

Lead Lawyer

Democratic Services Officer

Democratic Services Officer (observing)

Premises Licence Holder

Manjit Singh

Jake Flanagan

Premises Licence Holder

Consultant on behalf of the Premises Licence Holder

Item No. Title

1 Apologies for absence

Apologies were received from Dianne Slack, District Officer, Trading Standards.

2 Declarations of interest

There were no declarations of interest.

3 Licensing Act 2003 – Application for a Review of a Premises Licence in respect of The Outback, 50 Queen Street, City Centre, Wolverhampton, WV1 3BJ

An application for an expedited review of a Premises Licence in respect of The Outback, 50 Queen Street, City Centre, Wolverhampton, WV1 3BJ, had been received from West Midlands Police on 28 January 2019. A Licensing Sub-Committee hearing was held on 30 January 2019 to determine the interim steps required pending full review.

The Chair led round-table introductions and outlined the procedure to be followed. All parties confirmed that they understood the procedure.

Michelle James, Licensing Policy Manager, provided an outline of the application. She reported that since the agenda had been published, mediation had taken place between West Midlands Police and Jake Flannigan, Licensing Consultant representing the Premises Licence Holder. She confirmed that a written copy of this mediation had been published as supplementary information and copies had been sent to all relevant parties.

West Midlands Police confirmed that the summary was accurate.

Jake Flannigan, Licensing Consultant, queried the Sub-Committee report presented by the Licensing Policy Manager and stated he had not received a copy of the document.

Donna Cope, Democratic Services Officer, assured the Licensing Consultant that a copy of the Sub-Committee report had been emailed to both himself and his client, Mr Manjit Singh.

The Chair asked the Licensing Consultant if he and his client wanted to adjourn the Hearing to allow them time to view the report. The Licensing Consultant agreed to this.

The Sub-Committee adjourned at 10.20 hours.

The Hearing reconvened at 10.30 hours.

Jake Flannigan, Licensing Consultant, advised the Sub-Committee that he and his client *had* received the specified report via email, but as the document had been encrypted for data protection, neither of them had viewed it.

The Chair invited West Midlands Police to present their application.

PC Michelle Churm, West Midlands Police, confirmed that mediation had occurred with the Licensing Consultant and his client prior to the Hearing and a written agreement between the two parties had been produced. She stated that the only issue outstanding within the agreement was the closing time of the premises as the Licensing Consultant and his client had not agreed to the hours requested by the police.

PC Churm stated that West Midlands Police were satisfied that the agreed amendments and additional conditions to the licence would promote the four licensing objectives. However due to the stabbing that took place on 26 January 2019 and the number of previous incidents at the premises, they believed that the closure time should be reduced from 6.00am to 4.00am.

The Chair afforded all parties present the opportunity to question the Review applicant in relation to her submission. PC Michelle Churm and Inspector Stuart Roberts provided the following responses to questions asked:

- A log of previous incidents at the premises had not been provided prior to the Hearing due to IT issues, however PC Churm had paper copies with her should anyone wish to view it.
- The previous incidents included issues with door staff, no knife arch in place and disorder within the premises.
- A number of the incidents had occurred after 0400 hours.
- West Midlands Police intended to monitor the premises should the proposed amendments be implemented.
- An email from Jake Flannigan requesting information from the police on 19 February 2019 could not be found.
- Police presence in the city centre finished at 0400 hours.
- CCTV evidence had not been provided to the Sub-Committee as mediation had taken place between both parties, so presenting the footage was deemed unnecessary.
- The CCTV showed a patron taking a knife from his pocket after leaving the premises.

The Chair invited the Licensing Authority to make representations. Mrs Elaine Moreton did so as per Appendix 5 of the report.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. Mrs Moreton provided responses to questions asked.

The Chair invited the Premises Licence Holder to make representations. Jake Flannigan, Licensing Consultant representing the Premises Licence Holder, stated the following:

- His client had agreed to the closure time of 0400 hours but did not agree to the termination of licensable activities at 0330 hours.
- No evidence had been provided in relation to the presence of a knife on the premises as the CCTV had not been provided to the Sub-Committee.

- The police were unable to confirm the whereabouts of the offenders prior to the incident.
- The grime artist deemed by police as a 'risk' and 'wanted' was extremely popular and currently touring the UK.
- Other grime artists were performing at other city centre on the night of the stabbing incident.
- He and his client disputed claims made by the police that a knife had been on the premises.
- He and his client had cooperated with the police to reach the agreement before the Sub-Committee and agreed to all the conditions being added to the licence, except for the closing time and terminal hours for licensable activities.
- The police had requested a closure time of 0400 hours as this was convenient for them and their policing schedule.
- The causal link between the premises and the stabbing incident had not been demonstrated.
- The incidents on Queen Street were related to another premises.

The Chair invited all parties present to question Jake Flannigan in relation to his submission.

Jake Flannigan and Manjit Singh, Premises Licence Holder, provided responses to questions asked:

- The premises had agreed to the proposed licence conditions and amendments to satisfy police concerns.
- They were not happy to use the same security company as Bangul but had agreed that information would be shared between the two premises via radio link.
- Risk assessments for all events would be sent to the police as per proposed licence condition
- The premises agreed wholeheartedly to adhere to the new conditions.
- No CCTV evidence of a knife had been seen and the knife arch had been working on the night of the incident.
- An additional two CCTV cameras had been installed to cover the front of the building but not in the position requested by the police.
- The police were advised in advance that the 'risk' artist may perform at the premises but no evidence of this could be provided.
- Discussions between the premises and the 'risk' artist had begun roughly six weeks prior to the stabbing incident.
- CCTV footage of the knife had been requested from the police via email on 19 February 2019 but was not provided.
- A knife could not be seen on the CCTV footage.
- The premises were not responsible for the incident.
- On the night of the incident a 'grime' artist failed to turn up at another popular city centre venue creating disorder throughout the city.

The Chair invited all parties present to make their final address.

Elaine Moreton, Licensing Authority made a closing statement.

PC Michelle Churm presented the following summary on behalf of West Midlands Police:

- It was their belief that the incident occurred due to the presence of the 'risk' artist at the premises.
- The performance of the 'risk' artist had been heavily advertised on social media.
- CCTV evidence of the knife had not been provided to the Sub-Committee as mediation had taken place and an agreement reached.
- WMP were happy with the agreed conditions.
- WMP strongly believed the artist in question was a risk.
- Not all evidence had been disclosed due to data protection.
- WMP were happy to review the closing time of the premises in six months should there be no further incidents.

Jake Flannigan presented the following summary on behalf of the Premises Licence Holder:

- The premises informed the police of the 'risk' artist as soon as they could, and the police took no action.
- The premises had previously adhered to police requests where possible.
- On the night of the incident, staff at the premises called the emergency services, administered first aid and provided police with CCTV footage.
- The problems on Queen Street were not associated with Outback but other premises.

All interested parties, with the exception of the Lead Lawyer and the Democratic Services Officers, withdrew from the meeting to enable the Sub-Committee to determine the matter.

All interested parties were invited back to the meeting and the Chair advised them of the decision of the Sub-Committee. He stated that in their opinion, the causal link between the premises known as Outback and the stabbing which occurred on the 26th January 2019 was peripheral.

The decision was read out in full by the Lead Lawyer.

Resolved:

An application had been made by the West Midlands Police for a review of the premises licence in respect of The Outback, 50 Queen Street, Wolverhampton WV1 3BJ, on 28 January 2019.

The Chief of Police had given a certificate under section 53A(1)(b) Licensing Act 2003 ("the Act"), stating that in their opinion the premises were associated with serious crime and disorder and had requested a full review hearing.

The test to determine the kinds of conduct amounting to serious crime, as per the Act and Home Office Guidance, was set out in section 81(2) & (3) (a) & (b) of the Regulation of Investigatory Powers Act 2000.

The Sub-Committee met on 30 January 2019 to decide on the Interim Steps to apply pending full review of the licence, as required under section 53B of the Act. The Sub-Committee were satisfied that a serious crime had occurred at the premises and that interim steps were required pending determination of the review and decided to suspend the licence pending the full review hearing.

At this hearing to review the Premises Licence, the Licensing Sub-Committee listened carefully to all representations made by the persons who spoke at the hearing and considered all the evidence presented.

The Sub-Committee heard from the applicant (West Midlands Police) that:

- A number of previous incidents at the premises had been recorded;
- Including a serious incident which took place outside the premises at 0422hrs on Saturday 26 January 2019;
- CCTV showed a customer leaving the premises with a knife, although the CCTV was not provided to the Sub-Committee;
- Mediation had occurred with the Premises Representatives leading to the agreement presented to the Sub-Committee as the 2nd supplement to the agenda and the only outstanding point being the time of closure;
- They believed the amendments and additional conditions to the licence would promote the four (4) licensing objectives.

The Sub-Committee heard from Elaine Moreton, Section Leader, Licensing Authority (as Responsible Authority), that in her opinion, the licence was deemed weak and would be bolstered by the new conditions as set out in the agreement, and that this would promote the four (4) licensing objectives.

The Sub-Committee heard from Jake Flannigan, representing the Premises Licence Holder, that:

- No evidence as such had been provided in relation to the presence of a knife on the premises as the CCTV had not been provided to the Sub-Committee;
- The perpetrators were not linked to the premises, although the victim had been present in the premises earlier in the evening;
- The Premises Licence Holder had cooperated with the police to reach the agreement before the Sub-Committee and had agreed to all the conditions being added to the licence, except for the closing time.

Therefore, based upon the above and having regard to the application and relevant representations made, the Licensing Sub-Committee:

1. Decided that the current suspension of the licence be removed with immediate effect.
2. Agreed paragraphs 1 to 3 of the agreement present in the 2nd supplementary agenda as follows:

- a. The current manager Abdul has stepped down from all licensable activities, that he remains the leaseholder and business owner and agrees to limit his role to business administration only;
 - b. A “change of DPS” application has been made to substitute the current DPS with the current Premises Licence Holder, that within two months of the date of this notice there will be a further application for the new DPS Abdullah Maroof (as soon as his own licence is issued) and that Abdullah Maroof will meet with West Midlands’ Police prior to his appointment;
 - c. The premises will operate in conjunction with “Banjul”, premises present on the opposite side of Queen Street, in terms of door security, as it is recognised that the combined activities of both venues in Queen Street may have an impact on the Licensing Objectives. West Midlands’ Police will be notified if a different Security Company to “Banjul” is to be used.
3. Agreed to modify the licence by adding the following conditions:
- a. The venue will keep an incident log in which serious incidents taking place whilst the premises are open will be recorded and will notify West Midlands Police of said incidents on a weekly basis;
 - b. The venue will operate to a defined Search Policy, which shall include provisions for a nightly briefing of all Door Supervisors, who will sign as having been so briefed. The policy will include that searching must take place of all customers, DJ’s, promoters and entourage on each occasion that they enter the venue, including re-entry on the same evening. The Policy will also require a female Door Supervisor to be present at all times the venue is open to the public;
 - c. The venue will maintain and use serviceable link radios whenever the premises are open to the public and share relevant intelligence when appropriate;
 - d. Two additional CCTV cameras will be present at all times at the front entrance of the premises, giving coverage of the street and the front of the venue; the cameras will record at all times and be of evidential quality and the footage will be stored for a minimum of 28 days;
 - e. The premises will complete a risk assessment for every week-end and bank holiday on which they are open to the public and will forward these to West Midlands’ Police at least 7 days prior to any event. “Event” is given its ordinary meaning and includes all entertainment, including regular DJ’s and any other artists, actors or other celebrities. Such risk assessments will identify the birth and used name of any artist, their date of birth and contact details;
 - f. The premises will adjust its hours to close at 4.30am;
 - g. There will be no admissions after 3.30am;
 - h. All licensable activities are to terminate at 4.00am.

The above action was considered an appropriate and proportionate action for the promotion of the prevention of crime and disorder and public safety licensing objectives.

In accordance with Section 53D(5) of the Licensing Act 2003, the interim steps put in place following the hearing on 30 January 2019 will cease to have effect immediately.

An appeal may be made to the Magistrates' Court against the decision, by the applicant, the holder of the premises licence, or any other person who made a relevant representation, within 21 days from the date of receipt of written notice of this decision.