



**REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES**

**LICENSING SUB - COMMITTEE**

**4 APRIL 2023**

**APPLICATION FOR A PREMISES LICENCE SUMMARY REVIEW UNDER  
SECTION 53C OF THE LICENSING ACT 2003**

**The Colliseum Nightclub  
(aka Valesha's Night Club & Savannah's Gentlemen's Club)  
Corner of 23 Bradford Street and 17 Newport Street  
Walsall  
WS1 1RZ**

**1.0 Summary of Report**

- 1.1 For members of the licensing sub-committee to determine an application for a premises licence summary review, in respect of The Colliseum Nightclub (aka Valesha's Night Club & Savannah's Gentlemen's Club) Corner of 23 Bradford Street and 17 Newport Street Walsall, WS1 1RZ.
- 1.2 The review application is made by the Chief Officer of West Midlands Police, a responsible authority under the terms of the Licensing Act 2003.
- 1.3 The application cannot be determined under officer delegated authority.

**2.0 Recommendations**

- 2.1 That the licensing sub-committee having regard to the submitted review application;
  - a. Take such steps, if any, as it considers necessary for the promotion of the licensing objectives.  
The steps available to the members are:
    - a. the modification of the conditions of the premises licence,
    - b. the exclusion of a licensable activity from the scope of the licence,
    - c. the removal of the designated premises supervisor from the licence,

- d. the suspension of the licence for a period not exceeding three months, or
  - e. the revocation of the licence; and
- b. Review any interim steps that are in place on the date of the hearing and consider whether it is appropriate for the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

### **3.0 Background information**

- 3.1 The current premises licence which includes the operating schedule and premises plan is attached as **Appendix 1**.
- 3.2 A street map of the locality is given as **Appendix 2**.
- 3.3 The Chief Superintendent of West Midlands Police has requested a premises licence summary review on the grounds that the premises is associated with serious crime, serious disorder, or both and has suggested that the normal procedure of calling a premises licence review would be insufficient in comparison with the severity of the crime and serious management failings at the premises concerned.
- 3.4 The summary review certificate, a formal note which both identifies the premises and provides a statement from the Chief Superintendent outlining the reasons why they believe the premises is associated with serious crime, serious disorder, or both, was received on 14 March 2023 and is given as **Appendix 3**.
- 3.5 In addition, the premises licence summary review application, also received on 14 March 2023 is given as **Appendix 4**. This application details amongst other things:
- Assault and disorder reported to the Police shortly after 05:00hrs on Saturday 11.03.23.
  - Disorder taking place inside the premises where a male was stabbed with a bladed instrument, tragically, resulting in his death at the premises shortly thereafter.
  - An allegation of failure to comply with a condition of licence, namely that: "Routine searches will take place to ensure that no illegal substances or weapons are brought in to the club".
  - This venue has historic association with gang nominals (ie persons believed to be gang members) and that some gang nominals were present at the premises on the night of the incident.
- 3.6 On 16 March 2023, in accordance with section 53A(2)(a) of the Act, a sub-committee meeting was held to consider what, if any, interim steps

should be imposed pending the determination of a review hearing. The WMP requested the suspension of the premises licence; that was unopposed and agreed by the representative of the premises licence holder. The sub-committee determined to suspend the licence. The suspension of the licence taking immediate effect. **Appendix 5** is a copy of the Determination letter to the licence holders.

- 3.7 The consultation period for the review application ends on the 28 March 2023. Any submission received on the day will be forwarded to all parties prior to the committee hearing on the 4 April 2023.
- 3.8 On the 27<sup>th</sup> March 2023 WMP served on the local authority and the licence holder its supporting documentation which are given as **Appendix 6**.
- 3.9 On the 27 March 2023, the Licensing Authority were in receipt of further supporting information from WMP. A copy of the supporting documents are attached as **Appendix 7**.
- 3.10 At the time of completing this report the premises licence holder had not provided any additional information in respect of the review application.

#### **4.0 Resource Considerations.**

##### **4.1 Financial:**

If aggrieved by the decision of the sub-committee both the police and the premises licence holder may apply to the Magistrates' Court for an appeal hearing. The Licensing Authority would have to bear the costs of defending such an appeal.

##### **4.2 Legal:**

The Sub-Committee is obliged to determine the summary review application with a view to promotion of the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In addition to the promotion of the licensing objectives the licensing sub-committee, in determining the application, must have regard to:

- Representations made.
- Relevant sections of the Licensing Act 2003.
- Relevant sections of the statutory guidance issued under s.182 of the Act.

- The licensing authorities' policy statement.

In determining the summary review application the sub-committee can take such steps as it considers necessary for the promotion of the licensing objectives. The steps available to the sub-committee are:

- f. the modification of the conditions of the premises licence,
- g. the exclusion of a licensable activity from the scope of the licence,
- h. the removal of the designated premises supervisor from the licence,
- i. the suspension of the licence for a period not exceeding three months, or
- j. the revocation of the licence

Where the sub-committee takes the step to modify the conditions of licence or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for one such period (not exceeding three months) as it may specify.

In determining the summary review application the sub-committee is obliged to decide whether the interim steps currently in place, should be withdrawn or modified. The sub-committee's final decision on interim steps must outline which interim steps will cease to have effect, if any, when the summary review decision takes effect.

Should the sub-committee be minded to modify the current interim steps, the steps available to them are:

- The modification of the conditions of the premises licence;
- The exclusion of the sale of alcohol by retail from the scope of the licence;
- The removal of the designated premises supervisor from the licence; and
- The suspension of the licence

The review decision will not take effect until the end of the appeal period or, if an appeal is lodged, at the disposal of the appeal.

Where the applicant for review, holder of the premises licence or any other person who made relevant representations in relation to the application is aggrieved by the decision of the licensing authority, appeal is to magistrates court where the reasonableness or otherwise of the decision will be tested.

## **182 Guidance**

12.2 - The powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The powers are

aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives. The powers complement the general procedures in the 2003 Act for tackling crime and disorder associated with licensed premises and should be reserved for the most serious matters which cannot be adequately or otherwise redressed unless urgent action is taken. Separate powers in the Anti-social Behaviour, Crime and Policing Act 2014 provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance). The consequent review of premises licences by the licensing authority is provided for by section 167 of the Licensing Act 2003.

12.5 - The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:

- (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or
- (b) Involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose.

12.6 - There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which it is also used.

12.7 - In deciding whether to sign a certificate, the senior officer should consider the following (as applicable):

- The track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises. It is not expected that this power will be used as a first response to a problem and summary reviews triggered by a single incident are likely to be the exception.
- The nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
- Should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in Part 4, Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014, or section 38 of and Schedule 6 to the Immigration Act 2016, to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers (for example, modifying licence conditions following the use of a closure power)?
- What added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?

12.8 - It is recommended that these points are addressed in the chief officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not considered to be appropriate. It is up to the police to decide whether to include this information in the

certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review. In appropriate circumstances the police might want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53D, this could be done on an interim basis pending a full hearing of the issues within the prescribed 28-day timeframe or for an appropriate period determined by the licensing authority.

12.12 - The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee rather than the full committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

12.13 - The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

12.16 - In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring.

12.18 - The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and/or serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that the licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the

normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.

4.3 **Staffing:** Nothing arising from this report.

#### **5.0 Citizen impact**

5.1 None arising from this report.

#### **6.0 Community Safety.**

6.1 Is addressed through the review hearing process.

#### **7.0 Environmental impact**

7.1 None arising from this report.

#### **8.0 Performance and risk management issues**

8.1 None arising from this report.

#### **9.0 Equality implications**

9.1 None arising from this report.

#### **10.0 Consultation**

10.1 Carried out in accordance with prescribed regulation.

#### **11.0 Contact Officer**

11.1 Muhammed Sayful Alom, [sayful.alom@walsall.gov.uk](mailto:sayful.alom@walsall.gov.uk)

#### **12.0 Appendices**

12.1 Appendix 1 – Current premises licence.  
Appendix 2 – Street map of the locality.  
Appendix 3 – Summary review certificate  
Appendix 4 – Summary review application  
Appendix 5 – Interim steps Determination  
Appendix 6 – West Midlands Police submission  
Appendix 7 – Further supporting documents from West Midlands Police