

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 27 JUNE 2018 AT 09:30 HOURS
IN ELLEN PINSENT ROOM, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

A G E N D A

1 **NOTICE OF RECORDING**

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

2 **DECLARATIONS OF INTERESTS**

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

3 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 14

4 **MINUTES**

To note the public part of the Minutes of the meeting held on 16 May 2018.

5 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

6 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3

PRIVATE AGENDA

1 MINUTES

To note the private part of the Minutes of the meeting held on 16 May 2018 and to confirm and sign the Minutes as a whole.

2 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENSES

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 OTHER URGENT BUSINESS (EXEMPT INFORMATION)

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE C 16 MAY 2018
--

**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE C
HELD ON WEDNESDAY 16 MAY 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair

Councillors Mike Leddy and Bob Beauchamp

ALSO PRESENT

Bhapinder Nandra, Licensing Section
Chris Arundel, Licensing Section (Drivers)
Joanne Swampillai, Committee Lawyer
Katy Poole, Committee Manager

NOTICE OF RECORDING

- 1/160518 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

- 2/160518 Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this 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

- 3/160518 Cllr Buchanan gave his apologies and Cllr Dring was the Nominee Member
-

MINUTES – PUBLIC

- 4/160518 That the Minute of meetings held on 20th December 2017 were confirmed and

signed by the Chairman.

EXCLUSION OF THE PUBLIC

5/160518

RESOLVED:

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-
(Exempt Paragraphs 3)

OTHER URGENT BUSINESS

6/160518

The Chair was of the opinion that the following report could be considered as a matter of urgency in view of the need to expedite consideration thereof.

ARTHOUSE, 54 BISSELL STREET, BIRMINGHAM, B5 7HP - LICENSING ACT 2003 – SECTION 53A EXPEDITED REVIEW APPLICATION – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS

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

(See document No. 1)

Those Making Representations

PC Abdool Rohomon – West Midlands Police

On behalf of the Premises Licence Holder

Ms Lucy Jane Wilcox – Director

Mr Duncan Craig – Solicitor – Citadel Chambers

The Chairman introduced the Members and officers present and explained the hearing procedure. Prior to the commencement of proceedings the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The main points of the report were outlined by David Kennedy, Licensing Section.

In presenting the case for West Midlands Police and in response to members questions PC Rohomon made the following points:

1. That the venue was situated in Digbeth and was mainly contained within a

commercial part with a residential area nearby.

2. That during the evening of Friday 11th May 2018/morning of Saturday 12th May 2018 a 999 call was made and it was stated that someone had fired a gun and a fight had broken out.
3. Further details were taken and it was logged against the venue Arabian Nights (an adjoining property).
4. However, upon inspection by officers there were people “star bursting” and running away in panicked states. Further vehicles were making off at speed.
5. The firearms officer spoke to the security who stated they had seen a gun and it had been pointed at someone’s head inside the club, on the dance floor.
6. They also approached the event’s organiser Tenesha Stewart, who confirmed that a disorder had taken place inside Arthouse and those involved had been ejected. She had not seen a firearm. Therefore, there had been discrepancies with what was said about the incident.
7. During the evening/morning officer were being made aware of names of the people involved. These individuals were known to the police in relation to organised crime groups and heavy drugs.
8. The event’s organiser also told officers that the Designated Premises Supervisor (DPS) was Mr Jordan Patel and that only he had access to the CCTV system. This was a concern as Mr Patel was previously involved with the premises and at the previous full review it was resolved that he would no longer have any participation in the organising, or running of the premises. He was also removed as the DPS. The police were still carrying out enquiries.
9. The police had obtained CCTV from Mr Patel; however, they were still making enquiries into whether it was in fact the CCTV from that night.
10. That from what they had investigated, something serious had happened.
11. That Arabian Nights was a shisha lounge, and no events took place on the night in question.
12. They were confident that the incident was linked to the Arthouse.
13. That they were confident that an incident happened inside that premises. Officers attended and were told by security and the event’s organiser that an incident happened inside the Arthouse. Which led to people panicking and “star bursting” out of the premises. People sped off in vehicles which later caused an accident further down the road.
14. That the premises were known to the Committee for a previous expedited

review in November 2017. Further conditions were attached to the licence following that review and Mr Patel was to have no involvement, so the police were questioning why he was the only one who had access to the CCTV and why the event organiser was naming him as the DPS when he should not have had any involvement.

15. An event management plan was provided, however, the event for that evening was “TBC”. There should have been a minimum of 8 security staff on that evening, but when officers inspected the signing in sheet, there were only 6.
16. That they did not believe the premises licence holder was running the premises, and believed that in fact Mr Patel was running the premises.
17. That organised crime gangs were involved that night and it was clear something serious had happened.
18. That it was clear the evening resulted in chaos.
19. That the threat to the public was too significant.
20. That the venue management plan listed a number of events from 4th May 2018 – 27th May 2018, all of which apart from two were “TBC”. Therefore, as far as the police were aware, there were no risk assessments.
21. That they were conducting enquiries to establish how many people were in the venue at the time of the incident.
22. That there was a crash on Bissell Street, and it is assumed the crash was caused by the getaway from the incident at Arthouse. However, they had no information on that.
23. That the WMP officers were investigating the CCTV.
24. That the event’s organiser had been into the station and spoken with PC Reader.
25. That it was hard not to assume that Mr Patel was the DPS when officers were told that information. Further, police were also told that he was the only one who had access to the CCTV.
26. That they wanted to be clear, that the CCTV they had seized contradicted what officers saw when they arrived at the premises that evening. On the commander control log a number of names were mentioned very early on, who were members of organised crime gangs.

Mr Duncan Craig, on behalf of the premises licence holder, addressed the Chairman and requested a short adjournment, to allow him time to take instructions on the points that had been raised by PC Rohomon. He requested the adjournment to be allowed after PC Rohomon had finished his representation.

PC Rohomon had no objections.

Members considered the request and in the interests of fairness deemed it appropriate that a short adjournment be allowed, in order for Mr Craig to be instructed.

PC Rohomon finalised by pointing out that the paperwork showed the DPS as Mr Jacob Kerin, yet when officers arrived at the scene that evening they were advised that the DPS was in fact Mr Jordan Patel.

At 1446 the meeting was adjourned, to allow Mr Craig to be instructed. All parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1452 the meeting was reconvened and all parties were invited back into the meeting.

In presenting the case for the premises licence holder and in response to members questions Mr Duncan Craig made the following points:

1. He firstly thanked the Members for allowing the adjournment and advised them that the time had been used purposefully.
2. That his client's position was that no incident took place. The call to WMP was in relation to a firearm, officers then turned up and there were numerous different stories, the CCTV shows that no incident took place at all at the premises.
3. That it was a requirement that the date and time was on the CCTV footage.
4. That the call to police was in relation to Arabian Nights, the premises next door.
5. That there was an evidential burden.
6. That Ms Tenesha Stewart did not say she was the event's organiser as the event was a private birthday party with circa 100-150 people in the venue. The venue could hold significantly more.
7. That the mention of criminals associated with organised crime gangs said to be present at the premises was not ground for review.
8. That no incident took place, no fun was present and nothing occurred at the premises on that evening.
9. That the premises licence holder was not involved in the downloading of CCTV footage and she had not been involved in that process at all. She was at a charity event that weekend called Smartworks for vulnerable women and therefore, she asked Mr Patel if he would download the

CCTV for her. Mr Patel and his client were purely friends.

10. That Mr Patel was in no way involved with the management of the business. He was asked by WMP to get the footage and he was happy to assist them with the requirements.
11. That his client had asked Mr Patel to provide the information as she was unavailable.
12. That Mr Patel was not present at the premises on the evening. There was considerable hearsay and speculation.
13. That if the CCTV was the wrong date, that would be evident.
14. That the car accident outside the premises was nothing to do with anyone associated with the premises and the chaos the firearms officers witnessed was perhaps in relation to the collision.
15. That the premises met all the requirements for the CCTV and there had not been a suggestion that they hadn't. The footage was provided and nothing significant was found upon viewing the footage, if WMP had viewed something of concern they would have said.
16. That WMP were recommending suspension of the licence on evidence that was differentiated and when the CCTV does not support the hearsay accounts of people who had not even been identified.
17. That Mr Patel had no involvement in the management of the business.
18. That the Members were effectively being asked to end the business based on some accounts that had been given by people that no one knew which was contradictory to the CCTV footage.
19. That surely the CCTV footage should take priority.
20. That he wanted to be clear, if there were any concerns over the CCTV footage being the wrong day WMP had the authority to seize the hard drive.
21. That we had to work on the assumption that the CCTV footage was correct.
22. Mr Jacob Kerin was managing the premises that night.
23. That the police called Mr Patel, not Mr Kerin even though they had Mr Kerin's number. They asked Mr Patel to provide the CCTV.

In response to Members questions Ms Lucy Jane Wilcox made the following points:

1. That Mr Patel had no management role, but he was the events organiser.

2. That they were holding lots of private events, not external events.
3. That they reduced the security to 6 because they had less people occupying the building than normal.

In response to Members questions Mr Duncan Craig, on behalf of the premises licence holder made the following points:

1. That the discrepancies were there due to hearsay and due to the fact that nothing happened at the premises that night.
2. That Mr Patel was not the DPS and we were not able to identify who said that statement.
3. That there was a difference between the premises being under review and them not complying with certain conditions on the licence.
4. That what we were dealing with was establishing what necessary steps to take because the premises were associated with crime and disorder, but there was insufficient evidence to suggest the premises was.
5. That anyone could ring 999 and false accounts could happen.
6. That the car crash was in no related to the premises.
7. That they provided event management information, but the dates that were “TBC” were external events.

In response to Members questions, Ms Lucy Jane Wilcox made the following points:

1. That all staff had been trained on CCTV.
2. That all the staff would have gone home due to party finishing.
3. That no one was aware who said Mr Patel was the DPS.

PC Abdool Rohomon confirmed that there were no injured persons as stated in the paperwork and that it was a typing error.

Mr David Kennedy addressed Mr Craig and Ms Wilcox, asking them why they had not provided the CCTV to support their claims that nothing had happened that night.

Mr Craig responded stating they were unaware about the review until late last night and therefore, it was short notice. He further explained that there was nothing stopping PC Rohomon bringing the CCTV footage either.

PC Rohomon responded to Mr Craig:

1. That the firearms unit who attended the scene reported on what he saw, and what his video camera captured. He reported of people in the street, panicking. A name was identified and that name was identified as the same name they had on the adult register.
2. Indications were made that a man was grabbed by the neck and the gun was held to his head. It was further stated that it happened inside the Arthouse.
3. Further comments were made in relation to Mr Patel being the DPS and Talisha as the events manager. It was identified that Mr Patel was the only one available to get the CCTV and the number recorded was the one they rang retrieve the CCTV.
4. Following conversations with the inspector Mr Patel agreed to meet them and when he rang again Mr Patel stated that no police officers to be present and that the incident was nothing to do with “his venue”. This was on the call log and he was very irate.
5. He clarified that WMP did have evidence, including witness statements, calls logs and command and control logs.

In summing up, Mr Duncan Craig, on behalf of the premises licence holder made the following points:

1. That suspension was a high burden and had to be necessary to do so on the basis that the premises was associated with serious crime and disorder.
2. That the CCTV supported that nothing happened and they also stated that nothing happened.
3. That if the CCTV footage did not have a date on then that would be evident. Therefore, we had to work on the assumption that the CCTV was correct and there was no evidence to suggest it was not.
4. That for the reasons above, he was asking the Committee to put their concerns to one said about the events lists, door operations, and look at the event that did not happened and on that basis not to suspend the licence.
5. That in relation to Mr Patel, he had nothing to do with the premises.

In summing up, PC Abdool Rohomon, on behalf of West Midlands Police, made the following points:

1. That they had two lots of information; the call logs and command and control logs, and the CCTV.
2. There were clear breaches of conditions and they should be dealt with at

the full review.

3. However, it was a serious incident. WMP were told that it was a private birthday function, yet names given that night were people associated with organised crime gangs and one was on the adult register.
4. The initial 999 call resulted in firearms officers being discharged. People were panicking and star bursting trying to get away from the venue at speed. The manager of the premises stated that people were ejected from the premises, yet nothing was recorded in the incident book. Therefore, we can conclude that serious crime and disorder did take place.
5. That they will get to the bottom of the CCTV.
6. That they were requesting suspension and they also asked Members to be mindful regarding what had previously happened at the premises. Although that was not a reason to suspend the licence. The grounds for suspension were relating to the event PC Rohomon had talked about.

At 1543 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 1615 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

7/160518

RESOLVED:-

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Art Venue Ltd, in respect of Arthouse, 54 Bissell Street, Birmingham B5 7HP, this Sub-Committee determines that the Licence be suspended pending a review of the Licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reasons for imposing this interim step are due to concerns raised by West Midlands Police in relation to matters which came to light as a result of an incident of serious crime & disorder that had occurred during an event held at the premises during the weekend of 12th May 2018, as outlined in the Chief Officer of Police's certificate and application.

The Sub-Committee heard the submissions of West Midlands Police, who confirmed that an investigation had started into the incident of serious crime and disorder. At 03:11 hours, the Police had been called to attend what was described to them as an incident in which a firearm had been discharged and thereafter a fight had broken out.

On arrival, the Police had found scenes of chaos, with patrons fleeing the location in a panicked manner; cars were observed by Police to be driving off at speed. An investigation was in its early stages. It was suspected by Police that there had indeed been a firearm crime, which was of course a serious crime, and too significant a serious risk to public safety to deal with via the ordinary licensing review regime.

"Body cam" footage recorded by a Firearms Officer attending the incident had been reviewed by Sergeant Williams carefully – in particular a recording of a member of security staff stating that a gun had been pointed at a man's head inside the premises. Police were already aware at this early stage that patrons had included those known to be involved in organised crime and in drugs. There were suggestions to Police that the Designated Premises Supervisor was a Mr Patel, which had caused alarm; following previous incidents at the club, the Sub-Committee had imposed a condition that he was not to have any role in management.

Following the incident, Police requested CCTV from the premises by contacting Mrs Wilcox, who is a Director of the company which holds the premises licence. However it had been Mr Patel who had responded to Police and supplied the CCTV footage. When the premises' CCTV was examined, it showed no incident at all. Given the melee which had greeted the attending officers on the night, and the chaos the Police witnessed of a 'starburst' of patrons escaping the scene either on foot or by car, this was surprising.

The Sub-Committee heard submissions from the premises' legal representative, and from Mrs Wilcox, a Director of the company which holds the premises licence. It was the premises' view that no serious crime incident involving a firearm had occurred at all. This was extraordinary given the account given on the Superintendent's Certificate. This, however, was their firm position, and accordingly the approach to the hearing taken by the premises was that no action should be taken; instead all decision-making should simply be deferred to the summary review hearing in 28 days' time. The premises did not propose any additional security/ searching methods which would prevent weapons being taken into the premises.

The Police confirmed that the incident of serious crime and disorder was that involving the firearm, and the resulting 'starburst' of patrons fleeing the site. Yet the premises' general circumstances, and in particular the management arrangements, described by Police, also seemed highly unsatisfactory.

The DPS had had little involvement in dealing with Police enquiries; instead, that job had been taken on by a member of staff who was not meant to have any managing control. Another member of staff, thought to be acting as some kind of Events Organiser/ Events Manager or similar, was named by Police at the hearing; the Sub-Committee was taken aback on hearing this name in connection with Arthouse, as the name was well known to them as a person associated with problem premises elsewhere, and who had been shown in the past to have no concern whatsoever for the safety of night-time patrons in the city. It was noted that this person had stated to Police attending on the night that she had not seen

any gun; this seemed surprising given that other staff, recorded on Police body cam, had confirmed that a gun had been pointed at a man's head inside the club.

A Venue Management Plan handed to Police showed the vast majority of events described simply as 'to be confirmed', which was completely unsatisfactory. The reason given by Mrs Wilcox for this was that the venue was often privately hired; the Sub-Committee found this unpersuasive, as such events would necessarily have to be booked in advance and details noted in order that arrangements could be made. The event on the night in question was described to the Sub-Committee as a private birthday party; West Midlands Police confirmed that this was the first time that they had heard the event referred to as such.

The premises, via their legal representative, urged the Sub-Committee not to suspend the Licence; they considered that there was no evidence that such an incident had taken place on the night. This was not persuasive. The Director stated that staff had left the premises as the event was over; yet staff had been recorded on the body cam of the Firearms Officer. The Sub-Committee observed that the DPS named on the documents did not attend to address them, which they initially found surprising; however as the hearing progressed Members suspected that this was perhaps because the named DPS had had little involvement – either on the night or in the immediate aftermath. However the two staff members who had been identified as having a degree of involvement and/ or control did not attend to address the Sub-Committee either.

The only person who did attend was a company Director who had not been present on the night and who had passed Police requests for assistance to Mr Patel to deal with. The reason given by Mrs Wilcox for passing Police requests to Mr Patel was that he was available at the time; yet the Sub-Committee heard that Mr Patel "had to leave his brother's wedding" in order to liaise with Police over the CCTV of the serious crime incident. Members considered that this explanation rather confirmed the importance of Mr Patel's role in the premises' management structure.

It was the recommendation of West Midlands Police that the licence be suspended whilst the Police investigated. This was to ensure public safety. It was not accepted that the Premises Licence Holder company was running the premises through its Director Mrs Wilcox; it was suspected by Police that it was in fact Mr Patel who had managerial control. Throughout, the DPS had been conspicuous in his absence – in the descriptions of the night, the dealings with the Police, and also in not attending the Sub-Committee meeting.

The Sub-Committee agreed that the interim step of suspension was the correct course. On hearing submissions from both sides, the Sub-Committee was particularly concerned to hear of the management arrangements. It appeared that the arrangements were wholly unsatisfactory in terms of upholding the prevention of crime & disorder and public safety objectives. The suggestion by the premises that the evidence was pure speculation was not accepted; a 'starburst' of patrons had been directly witnessed by Police officers, and some patrons were suspected to be connected to organised crime and drugs. The application had not been made based on speculation, but on the basis of first-hand accounts recorded on the night. It was striking that the premises' submissions were concerned primarily

with the financial loss to the business that a suspension would cause, rather than the prevention of crime & disorder, or taking any steps to ensure public safety.

Having heard the Police's account, the Sub-Committee determined that it was both necessary and reasonable to impose the interim step of suspension to address the immediate problem with the premises, in particular the likelihood of serious crime and or serious disorder, and to ensure public safety.

The Sub-Committee considered whether it could impose any other interim step, including modification of licence conditions, or exclusion of the sale of alcohol by retail or the removal of the Designated Premises Supervisor. The Sub-Committee did not believe however that any of these would address the seriousness of an incident in which the Police suspected a firearm had found its way in to the premises. The risks could only be addressed by the suspension of the Licence as an interim step.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, and the submissions made at the hearing by the Police, by the legal representative for the premises, and by a Director of the premises licence holder company.

All parties are advised that 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 hold a hearing within 48 hours (excluding non-working days).

All parties are advised that there is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

EXCLUSION OF THE PUBLIC

8/160518

RESOLVED:

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-
(Paragraphs 3 & 4)

The meeting ended at 1621 hours.

.....
CHAIRPERSON