

BIRMINGHAM CITY COUNCIL

LICENSING SUB – COMMITTEE B 6 SEPTEMBER 2018

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD
ON THURSDAY, 6 SEPTEMBER 2018 AT 1230 HOURS, IN THE ELLEN
PINSENT ROOM, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM.**

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Martin Straker Welds and Bob Beauchamp.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Phil Wright – Committee Services

**LAB 11, 26 OXFORD STREET, DIGBETH, BIRMINGHAM B5 5NR- LICENSING
ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 -
APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE:
CONSIDERATION OF INTERIM STEPS**

A certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, an application for Review of Licence, a copy of Premises Licence and Location maps were submitted:-

(See document No. 1)

The following persons attended the meeting.

On behalf of West Midlands Police

PC Rohomon – West Midlands Police

On behalf of the Premises Licence Holder

Mr D Craig – Solicitor representing the Premises Licence Holder
Mr W Power – Owner of Afta Dark Music Ltd, the Premises Licence Holder

The Chair made introductions and outlined the procedure to be followed.

David Kennedy, Licensing Section, made introductory comments relating to the documents submitted.

On behalf of West Midlands Police PC Rohomon made the following points:

Licensing Sub-Committee B – 6 September 2018

- a) West Midlands Police had made an application for a review of the premises following an incident at the premises on the weekend of 1 and 2 September 2018.
- b) West Midlands Police were alerted to the incident by a 999 call from staff at City Hospital indicating that a 19 year old male had been transported in to the hospital by ambulance suffering from a cardiac arrest. The 999 operator indicated that the patient had come from Lab 11. At about the same time a call from the ambulance service confirmed that they were transporting a male from Lab 11 and querying whether it was a drugs overdose.
- c) The patient was confirmed deceased from a heart attack at 0346 hours on 2 September 2018. This was approximately 1 hour and 20 minutes after the initial calls to the ambulance service.
- d) It was emphasized that the premises had been very co-operative with the Police, supplying the CCTV as soon as asked without question. However the incident had taken place within the premises when the male had appeared to have taken an illegal substance, become ill and passed out. Security was notified and promptly took the victim to the medical room. The patient had deteriorated so quickly that he had to be carried to the room. CCTV suggests that CPR took place and a defibrillator was used.
- e) Early indications following information received from the victim's friend of 8 years, was that they had entered the premises at 2200 hours and the victim had been fine up to 0100 hours when he was last seen. The friend indicated that he had never known the victim to take drugs and there was no peer pressure to do so.
- f) Therefore initial inquiries were that the drug, believed to cocaine, was supplied within the club. It was noted that West Midlands Police were meeting the Premises Licence Holder at premises in the coming week to look at the CCTV and the premises' policies and procedures.
- g) The police were requesting that the licence be suspended as they could not be sure that the premises could be operated in a safe manner. It was acknowledged that the club would be voluntarily closed the coming weekend.

Responding to questions from Members of the Sub-Committee PC Rohomon made the following points:-

- a) The premises operated on Friday and Saturday nights. Mr Power added that the premises held other nights for students on a weekly and monthly basis in the week.
- b) The premises had not had any incident similar to this previously and at the time of the incident the premises were not overcrowded and security were able to reach the victim without difficulty.

- c) West Midlands Police had established through evidence gathered so far that the victim was fine early in the evening but was seen to have a totally different personality when found having a possible fit. His friend had been contacted by the Police and they had not been aware he had passed away and the information given about the victim was, in PC Rohomon's experience, genuine. West Midlands Police were confident that the drug was taken inside the premises.
- d) When all the CCTV has been reviewed the police would be able to assess the level of searching done on entry to the premises. A toxicology report would be undertaken which would hopefully identify the drug taken and how it was administered. In addition it would indicate the strength of the drug.

In response to a question from the chair, Mr Kennedy explained that the licence had been held since 2014 and during that time there had been no drug related reviews although the premises had been the subject of a review for another issue.

Mr Craig presented the case on behalf of the Premises Licence Holder and made the following points:-

- a) The Premises Licence Holder had no objections to the suspension of the licence and was fully co-operating with the police as they were keen to establish what had happened.
- b) A meeting had been arranged between the Premises Licence Holder and West Midlands Police next Tuesday where a full review of the CCTV would be undertaken to establish what happened.
- c) Whilst the results of the toxicology report were awaited the premises were unsure as to what action could be taken, although a review of the security arrangement at the premises would be undertaken and whether the same promoter would be used again.
- d) It was confirmed that a new licence was obtained in 2014 to allow an extension to the licensed area rather than seeking a variation to the existing licence.
- e) The premises would not operate for two weekends and it was noted that all at the premises were deeply affected by the incident and would ensure a similar situation did not happen again.
- f) It was noted that there had been previous issues from time to time associated with operating a premises such as this but none relating to drugs. The premises were operated in a positive manner.

Responding to questions from Members of the Sub-Committee, Mr Craig and Mr Power made the following points:-

Licensing Sub-Committee B – 6 September 2018

- a) An external promoter was being used for the event on 2 September 2018 and the normal procedures were followed. There was nothing unusual with the cliental attending the event which was similar to other events. Appropriate staffing was in place with medical people. Safety precautions had been in place. Staff had acted quickly to the incident and did all they could. Along with the door supervisors a member of the security team moved through the premises and all members of the team were in radio contact
- b) Identity checks were undertaken with a second pat down search and bag search. There was a no re-entry policy. A drugs dog had not been used but had in the past.
- c) The premises believed that the incident was an isolated case. It was clear from the CCTV footage that the victim's behavior was unusual both mentally and physically. People who tried to gain entry under the influence of alcohol were not allowed to enter the premises.
- d) It was acknowledged that there was a possibility the drugs being in the premises or brought in to the premises given that the victim entered the premises at approximately 0943 hours and at 0126 hours staff were alerted to the victim's behavior.

PC Rohomon and Mr Craig indicated that they did not wish to sum up.

At 1318 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 1340 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

1/060918 **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 Afta Dark Music Ltd in respect of Lab 11, 26 Oxford Street, Digbeth, Birmingham, B5 5NR 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 is due to concerns expressed by West Midlands Police in relation to matters which came to light at the premises during the weekend of 2nd September 2018, as outlined in the Chief Officer of Police's certificate and application.

West Midlands Police stated that there had been a fatality of a patron aged 19 years, during the weekend of the 2nd September. At this early stage, it was suspected that the death was likely to have been caused by a drug overdose.

The Sub Committee determined the causes of the serious crime appeared at this stage to originate from either patrons of the premises, or deficient security measures (perhaps at the door), and/or the inability of management to uphold the licensing objectives.

It was the recommendation of the Police that the interim step of suspension should be imposed. The premises licence holder stated that this was not resisted.

The Sub-Committee therefore considered it necessary and reasonable to impose the interim step of suspension to address the immediate problems with the premises, in particular the likelihood of serious crime, and to promote the prevention of crime and disorder objective in the Act.

The Sub Committee noted that West Midlands Police had found the premises to be cooperative and helpful thus far.

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 by the police and the premises licence holder at the hearing.

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.

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

2/060918

OTHER URGENT BUSINESS

There were no matters of urgent business.

The meeting ended at 1343 hours.

.....
CHAIRMAN