

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE A FRIDAY 1 OCTOBER, 2018

**MINUTES OF A MEETING OF LICENSING
COMMITTEE A HELD ON MONDAY
1 OCTOBER, 2018 AT 1000 HOURS IN
ELLEN PINSENT ROOM, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Mike Leddy and Martin Straker-Welds

ALSO PRESENT

David Kennedy - Licensing Section
Joanne Swampillai – Committee Lawyer
Louisa Nisbett - Committee Manager

NOTICE OF RECORDING

1/011018 The Chair advised the meeting and it was noted that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATION OF INTERESTS

2/011018 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 the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/011018 Councillor Mike Leddy attended the meeting in place of Councillor Bob Beauchamp.

**LICENSING ACT 2003 – PREMISES LICENCE – (SUMMARY REVIEW) LAB 11,
26 OXFORD STREET, DIGBETH, BIRMINGHAM, B5 5NR**

The following report of the Acting Director of Regulation and Enforcement was

submitted:-

(See document No. 1)

The following persons attended the meeting:-

On behalf of the Applicant:

William Power, Premises Licence Holder and DPS
Duncan Craig, Barrister

Those Making Representations on behalf of West Midlands Police

PC Deano Walker

Those Making Representations on behalf of Public Health

Kyle Stott
Graham Lines (Accompanying Kyle Stott)

Following introductions by the Chair, the main points of the report were outlined by David Kennedy, Licensing Section.

Two documents were submitted as supplementary evidence having already been circulated to all parties - Lab 11, CCTV System and additional evidence for the review from Lab 11:-

(See document nos 2 & 3)

P C Deano made the following points on behalf of West Midlands Police and in response to Members' questions:-

1. The police were called at approximate 0230 on 2 September by staff at the City Hospital informing them that a 19 year old male had suffered from a cardiac arrest.
2. Prior to this the ambulance had notified them that they were transporting someone suffering from a suspected drug overdose. The male was later pronounced deceased by the hospital.
3. WMP had been in communication with Lab 11 over the weekend. Since the incident they had sought CCTV footage and medical reports. WMP had been contacted by William Power the premises licence holder.
4. The CCTV had been delayed owing to the amount of CCTV footage to be reviewed. The male had been with friends however had lost contact throughout the night. The CCTV footage had been viewed at the previous Licensing meeting that had led to interim measures being put in place.
5. With reference to the written representations by WMP, P C Rohoman. Significant changes had been made at the premises and were set out in the statement which included improved CCTV, improved security, introduction of a welfare team/room and safeguarding.

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6. WMP were relieved at the new operating measures put in place for the future and noted that the interim steps seemed to be working. They recommended that interim measures should continue as conditions of the licence if the licence was agreed.
7. There were a few other premises in close proximity of Lab 11 and these were the strictest conditions they had seen. It was explained that a lot of the premises used Temporary Entertainment Notices (TENS) as a way to hold events and compete with each other. Approximately 15,000 to 20,000 people attended events in the area. There had been 2,000 attending the venue.
8. There was comprehensive coverage of all the policies included in the operating schedule. For example the medical room, risk assessment, search policies and dispersal policy were all included and had been discussed with WMP.
9. With regard to any loopholes, no policy could be 100% guaranteed. It was hoped that the improved measures would act as a deterrent to drugs in the premises. Improvements had been made to all areas of the policies that required improvement.
10. It was confirmed that the actions recommended for the toilet area, eg removing all flat surfaces, installing mesh on surfaces, cutting toilet doors in half, oiling surfaces etc had all been implemented apart from the mesh which would be completed in the next 3 weeks.

Kyle Stott made the following points on behalf of Public Health and in response to Members' questions:-

1. Public Health had made representations on the grounds of the prevention of crime and disorder and public safety. Details were set out in the report.
2. The information was compelling. At the time of the expedited review WMP were satisfied that a serious offence had taken place, however no consultation had taken place with Public Health. Events had since moved on.
3. From a public safety perspective they were concerned about the number of ambulance call outs to the premises. 17 in the last 12 months and the unfortunate circumstances that had led to today's hearing.
4. Kyle Stott had read all the documents and noted the robust and proactive way the premises licence holder had worked with the police and staff. He noted there were now 42 CCTV cameras and the footage clarity was crystal clear. He had seen the toilets etc. and felt encouraged. The surfaces had been oiled and the lighting improved. He was most encouraged by the introduction of a Ravesafe policy and setting up of a welfare function.
5. If the licence was not revoked by the Sub-Committee, he would be happy to work with the venue going forward. Whilst being concerned about the incident he was encouraged regarding the actions taken.
6. The biggest concerns were the number of ambulance call outs. He had discussed this with the premises licence holder. Kyle Stott asked that the

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ambulance data be addressed and how the data could be used to make improvements in the future as this culture would not go away. He referred to the tragic circumstances and stressed that preventative measures should be used at every opportunity to avoid any re-occurrence where possible.

7. Kyle Stott was encouraged at the interim steps taken so far. He had also visited the premises. Six events had been held so far with 1 ambulance call out for a person with an underlying medical condition. The premises had been fair and transparent about the incident.
8. Kyle Stott suggested the following condition be added to the conditions of licence for the premises:-
 - a. That the conditions from the interim steps be included as part of the conditions of licence; and
 - b. That the premises routinely collect and react to ambulance data in order to inform the welfare provision for patrons.
9. The Committee was informed that all premises were required to work with all responsible authorities as a condition of their licence.
10. Kyle Stott said that the premises had a duty of care to look after the people attending the premises, however he would welcome the opportunity to work with the community at risk and offer support to the venue. Some preliminary discussions had taken place. There was a specific mandate for public health and they would work towards prevention by being in touch with the premises licence holder who were experts in the field.
11. It was confirmed that the 17 ambulance call outs were to the door of Lab 11.

Duncan Craig, Barrister in presenting the case for the Premises Licence Holder and in response to questions from Members made the following points:-

1. Duncan Craig referred to the steps that had been undertaken by the premises including improving CCTV, installing 42 fixed cameras increased from 23. The position of CCTV cameras had been modified to the suggested positions. A zoom camera had been added to the exterior of the premises. The control area for the CCTV cameras was in the office and the type of cameras used had been upgraded. The quality of the pictures was shown on pages 5 and 6.
2. A new security provider had been employed. The security risk assessment was attached at appendix B. This was a new procedure.
3. Drug detection dogs will be used together with a number of anti-drug measures.
4. A Welfare Team will be employed. This had been welcomed by all the responsible authorities.
5. William Power was the new DPS. Duncan Craig will be involved in the staff training overseen by the new Operations Manager to be recruited in the next 2 weeks.

6. Duncan Craig made reference to the additional document and pictures showing the good quality of CCTV pictures, pg 8 - notices displayed promoting Ravesafe, pg 9 - the new lighting measures, pg 10 – alterations to the toilets, pg 13 – entrance policies.
7. Pages 15-18 of the documents contained an action plan showing the procedures the premises are required to follow in the event of a person taken ill at the Club detailing the medical attention and setting out the steps to be taken to prevent the loss of life. It was felt that this policy was needed.
8. Page 21 – The welfare team ground rules and Ravesafe scheme were outlined.
9. Mr Power had worked hard to make improvements. During the last 4 weeks comprehensive steps had been taken.
10. Duncan Craig expressed their gratitude to WMP and P C Rohoman in particular who had taken time to work with the premises licence holder who had cooperated with all responsible authorities and assisted them to take the appropriate steps. All the recommendations from WMP had been adopted by the premises. Everything had already been completed or was in the process of being done.
11. Following a meeting between WMP and William Power, WMP had commented on the positive attitude of William Power in relation to the proceedings. WMP had recommended to the Committee that the interim conditions be agreed as permanent conditions should the licence be agreed. The premises invited the Committee to impose the conditions on the Licence. It was noted that even though an operations manager was being appointed the ultimate responsible for the licence was the with premises licence holder.
12. Six events had taken place during the last few weeks with no issues.
13. William Power had discussed security with national and local security contractors and sought recommendations for a security contract prior to the incident. The new security provider was Eagle Security,
14. WMP had said that the arrangements for the premises were the best seen. The new entertainment policy had made a dramatic improvement. Over the coming months they would ensure that the standard continued. William Power would be there to ensure the standard was retained.
15. William Power said that it was their aim to run a successful business, they had done everything suggested to them by the police and they had a duty of care for everyone in the venue. As the Premises Licence Holder and DPS he would uphold the licensing objectives. New roles had been identified as part of a blanket restructure to improve the areas of the business requiring improvement.
16. The biggest fear was for someone to lose their life and this had an effect on him and his family. The premises needed to ensure that people were able to enjoy themselves safely. As the venue owner he would ensure the procedures

were upheld and prevention was in place to avoid any incidents and if one occurred to react in the best way possible.

17. William Power was setting up Ravesafe as a separate organisation. The scheme could be offered to others and he had received a lot of interest from festival operators and venues. The scheme had the potential to make the whole industry safe. It will have consistently revolving practices.
18. They were proactive in trying to ensure that a similar incident did not reoccur. The data from security and medical reports will be interpreted to help them be more selective with regard to the event they put on. One suggestion was 3 strikes and you're out. The scheme could set a higher standard to premises in the City.
19. The premises had no previous concerns with regard to crime and disorder. There may have previously been room for improvement but they were not an irresponsible premises and have always complied with the conditions of licence.
20. It was felt that the improved conditions would have an effect on the clients attending the premises. Any reasonable person would see the conditions as necessary to ensure public safety.

In summing up Kyle Stott stressed and made it clear that an extremely serious and tragic event had taken place. He noted that the police were not pursuing a criminal investigation. Public Health had concerns about ambulance data. The Premises Licence Holder had contacted him immediately to discuss his concerns and he had listened to everything that had been implemented. There had been a transparent approach by the Premises Licence Holder who had said they were responsible and had a duty of care for everyone in the premises and to uphold the licensing objectives. Kyle Stott noted the change of managers at the premises. He was encouraged and willing to work with the venue going forward. He made reference to the new security team, new policies, Ravesafe scheme and proactive approach of the premises in particular the welfare team and prevention measures. 6 big events had taken place with no issues. Kyle Stott no longer requested the revocation of the licence and was encouraged how the interim steps had worked. He strongly recommended that William Power worked closely with service users. The issue would not go away however the venue would be a safer environment.

In summing up West Midlands Police said that the events had been upsetting and had affected them. The premises had learnt from its mistakes. They had worked hard in cooperation with WMP. All the measures in place would minimise the risks. The premises had the best risk assessment they had seen in a long time. The police were encouraged by the measures taken and were not seeking a revocation of the licence.

In summing up Duncan Craig stated that the incident had been upsetting for everyone. The premises had complied and done everything that had been asked of them. The recent events that had taken place had been busy with 1800 students attending allowing them to test the interim conditions. In response to a query there were no significant risks with regard to the traffic. The outside area of the premises was monitored by CCTV and there was a recommended taxi provider.

At 1145 hours, the Sub-Committee adjourned and the Chair requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1216 hours, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

4/011018 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 by Afta Dark Music Limited in respect of Lab 11, 26 Oxford Street, Digbeth, Birmingham, B5 5NR following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that the Premises Licence shall remain in force, and that the Premises Licence shall be modified as follows:

1. the conditions sought by West Midlands Police and agreed by the Premises Licence Holder shall be adopted as conditions on the Premises Licence, namely:

“For every event at the premises there will be a documented risk assessment detailing as a minimum:

- a. Artists (full name, stage name)
- b. Hours of operation, including last entry time
- c. Security deployment
- d. CCTV and bodycam provision
- e. Searching
- f. Drugs prevention and policy
- g. Welfare and vulnerability policy
- h. Anything else that may be relevant

And lastly, West Midlands Police will have power of veto over each event”.

2. to routinely collect review and react to ambulance data, as recommended by the Public Health department of the City Council, in order to inform the welfare provision for patrons
3. the interim step shall be maintained pending any Appeal (namely the modified conditions imposed at the meeting of 20th September 2018)

The Sub-Committee's reasons for imposing these agreed conditions are due to submissions by West Midlands Police and Public Health. The Sub-Committee noted that all parties agreed that the Premises Licence Holder had been cooperative with the responsible authorities throughout, and had taken steps to improve all aspects of the operation and to reduce the likelihood of serious crime recurring.

In light of the steps taken by the premises licence holder, the Sub-Committee is satisfied that the review does not require the licensing authority to take any further steps to promote the licensing objectives. The Sub-Committee considers the above conditions imposed to be appropriate, reasonable and proportionate to

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address the concerns raised regarding the likelihood of serious crime and or serious disorder.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the 2003 Act, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, the application and certificate issued by West Midlands Police under Section 53A of the 2003 Act, the written representations, and the submissions made at the hearing by the Police, by Public Health and by the premises licence holder and his legal representative.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee, save for the maintenance of the interim step of modified conditions, does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of

OTHER URGENT BUSINESS

5/011018 There was no urgent business.

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CHAIRMAN