

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 02 JULY 2019 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**

4 **MINUTES**

3 - 16

To note the public part of the Minutes of the meeting held on 16 April 2019.

To note the public part of the Minutes of the meeting held on 28 May 2019.

To note the public part of the Minutes of the meeting held on 14 June 2019.

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 April 2019 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 28 May 2019 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 14 June 2019 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 B - 16 APRIL 2019
--

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE B HELD
ON TUESDAY 16 APRIL 2019
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Mike Sharpe and Adam Higgs.

ALSO PRESENT:

Chris Arundel – Licensing Section
Simon Mortimer – Legal Services
Katy Townshend – Committee Services.

NOTICE OF RECORDING

- 1/160519 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

- 2/160419 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest are 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

- 3/160419 No apologies were submitted.

4/160419 **ANY OTHER URGENT BUSINESS**

There were no matters of urgent business.

EXCLUSION OF THE PUBLIC

5/160419

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)

BIRMINGHAM CITY COUNCIL

LICENSING SUB - COMMITTEE B - 28 MAY 2019
--

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE B HELD
ON TUESDAY 28 MAY 2019
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Martin Straker-Welds and Adam Higgs.

ALSO PRESENT:

Shawn Woodcock– Licensing Section
Sanjeev Bhopal – Legal Services
Katy Townshend – Committee Services.

NOTICE OF RECORDING

- 1/280519 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

- 2/280519 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest are 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

- 3/280519 No apologies were submitted.
-

APPOINTMENT OF THE SUB-COMMITTEE

- 4/280519 Members noted the appointment by the City Council of the Committee and Chairman for the Municipal Year 2019/20.

Members were reminded that they may nominate another Member of their respective Party Group on the Licensing and Public Protection Committee to attend in their place.

Any Member nominated must have had formal training as set out in Paragraph 6.1 of the Licensing Committee Code of Practice for Councilors and Officers.

5/280519 **MINUTES**

The Minutes of Meeting held on 19 March 2019 were confirmed and signed by the Chairman.

The Minutes of Meeting held on 26 March 2019 were confirmed and signed by the Chairman.

The Minutes of Meeting held on 11 April 2019 were confirmed and signed by the Chairman.

The Minutes of Meeting held on 23 April 2019 were confirmed and signed by the Chairman.

6/280519 **DELEGATIONS OF THE SUB-COMMITTEE**

The delegations to the Sub-Committee were noted as follows:-

To determine matters relating to the Licensing Act 2003, the Gambling Act 2005, Hackney Carriage Licences, Private Hire Licences and such business as may be referred by the Assistant Director of Regulation and Enforcement.

7/280519 **ANY OTHER URGENT BUSINESS**

There were no matters of urgent business.

EXCLUSION OF THE PUBLIC

8/280519 **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)

BIRMINGHAM CITY COUNCIL

LICENSING SUB – COMMITTEE B 14 JUNE 2019

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON FRIDAY 14 JUNE 2019, AT 0930 HOURS, IN COMMITTEE ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB

PRESENT: - Councillor Mike Sharpe in the Chair;

Councillors Nicky Brennan and Bob Beauchamp.

ALSO PRESENT

David Kennedy – Licensing Section
Parminder Bhomra – Legal Services
Katy Townshend – Committee Services

DECLARATION OF CHAIR

1/140619 The Sub Committee declared that Councillor Mike Sharpe would Chair the meeting.

NOTICE OF RECORDING

2/140619 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

3/140619 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the 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

4/140619 No apologies were submitted.

**BAMBU 1ST FLOOR, KNOTWALL HOUSE, WROTTESLEY, BIRMINGHAM, B5
4RT - LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME**

**REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF
PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS**

5/140619 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 Deano Walker – West Midlands Police (WMP)

On behalf of the Premises Licence Holder

Jasdeep Kaul – Director/Designated Premises Supervisor (DPS)

Steve Walton – Deputy Manager/New Proposed DPS

Sarah Clover – Barrister – King Chambers

Carl Moore – Agent

* * *

The Chair made introductions and outlined the procedure to be followed and enquired whether there were any preliminary matters.

On behalf of West Midlands Police PC Walker stated that he intended to show the Members CCTV footage of a serious crime and rely on the private paperwork that was submitted prior to the hearing. Therefore, he would like the press excluded at the point he wished to refer to CCTV and the private paperwork.

Sarah Clover confirmed she had no issues with the request in principle, however, she required a copy of the private documents. She alluded to the fact that the premises and West Midlands Police (WMP) had a semi-agreed position.

Parminder Bhomra, the Committee Lawyer enquired whether those of behalf of the premises needed any time to read the private documents.

Sarah Clover responded, that she didn't think they did, however, she would like to see how they got on throughout the meeting. She didn't feel at that stage the documents would make much difference to the position they were in.

The Chairman confirmed that the CCTV and private documents would be heard in private.

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

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

Licensing Sub-Committee B – 14 June 2019

- a) That on Monday 10th June 2019 at 0407 hours, MWP was requested to attend Bambu by the ambulance control. They indicated that a man was in cardiac arrest.
- b) That when officers arrived, they went upstairs and observed small clear dealer bags, which they thought may have contained cocaine; a Class A drug. However, the bags had not yet been tested, and therefore, PC Walker could not confirm whether the substance was found inside the bags.
- c) The officers arrived to paramedics carrying out emergency cardiac arrest on the male in order to try and restart his heart and save his life.
- d) That they had bodycam footage, but had not yet viewed the CCTV from Bambu.
- e) That CPR took place for around 30 minutes, but could have been longer as paramedics were already attending to the male prior to WMP's arrival.
- f) The male was announced deceased at the scene.
- g) That WMP found a further number of bags of white powder and at which point PC Walker pointed Members to the photographs.
- h) That the male was found near the private booth area and dealer bags were also found in close proximity. The body cam footage would show the bags being found.
- i) That PC Walker and PC Reader attended the venue and met with the force CID.
- j) That initially the death was deemed as suspicious however, it was later treated as not suspicious.
- k) That the Duty Manager, Steve had assisted with CCTV and Mr Kaul confirmed to officers that he had not noticed anything suspicious and had not noticed any drug taking. Further, Mr Kaul was asked what the event was but was unable to confirm, he was clearly quite distressed.
- l) That officers found further bags of residual white powder and empty dealer bags in the bins, behind the door and they also found Nitrous Oxide canisters in bins around the venue.
- m) That the CID updated the incident log later that day and that was available in the paperwork at pages 5-8. The update included the findings on the CCTV which suggested that a man associated with the deceased tried to walk him downstairs and he collapsed (indicated by the movement of people around them), he was then carried back upstairs and he was laid out. The manager said that he still had a pulse at that stage. The staff did not directly administer first aid. The body had no signs of assault and no

signs of drug taking (white powder round nostrils etc). However, white powder residue was found on tables consistent with Cocaine snorting.

- n) That the dealer bags were all different sizes, suggesting there was multiple dealers.
- o) That there was also an assumption that people were sourcing drugs outside the venue and bringing them inside.
- p) That the associates of the deceased were rubbing water round his nose, and arms trying to cool him down and remove any white residue from his nose, consistent with a drug overdose.
- q) That WMP had seized the CCTV from the whole evening.
- r) That due to the clear use of drugs within the club, it was credible to say the male could have died as a result of taking drugs. However, it had not been confirmed as yet.
- s) That the reason WMP were present at the hearing was due to the serious crime of drug dealing within the venue.
- t) That they had spoken with the DPS. WMP were concerned that Class A drugs were being openly used in the premises and would have been in full view of staff. There was a complete lack of control in the venue and the management and door staff were complicit in drug taking. There was a complete disregard for public safety and crime.
- u) That WMP were requesting suspension pending the full review hearing.
- v) That he wanted to show the CCTV at this stage.

Sarah Clover, Barrister acting on behalf of the premises explained that what was visible on the CCTV was not in dispute; therefore, they would not be arguing the CCTV footage. Therefore, it was up to the Committee to decide if they wanted to view it.

Councillor Beauchamp asked if the footage had sound and wanted to see the footage.

The Chairman advised that the footage should be shown.

At this juncture, the Chairman advised that the public would now be excluded from the meeting.

EXCLUSION OF THE PUBLIC

6/140619

RESOLVED:

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

At this stage in the meeting having viewed the CCTV footage in private the public were readmitted to the meeting.

PC Walker in answer to Members questions made the following points:-

- a) That he could only speak from experience and usually as soon as officers arrived the area would be declared a crime scene. That someone had died in their club, and it was their responsibility to put the correct policies and procedures in place to ensure people treated it as a crime scene, and didn't clear the venue up.
- b) That the venue was supposed to have a drugs policy, however, it clearly had not been working.
- c) That it concerned him that the Duty Manager said the deceased had a pulse, yet no further intervention, or medical attention was given to the deceased by staff.

Sarah Clover, on behalf of the premises made the following statements:-

- a) That she wanted to start by expressing their condolences and thoughts to the deceased's family and friends, from the licence holder, management and staff who were all devastated.
- b) That they had been in conversations with PC Walker prior to the meeting and they wanted to work with WMP moving forwards.
- c) That Mr Kaul no longer wished to continue as DPS and that also appeared to be WMP's preference.
- d) That Mr Kaul had been DPS for some 10 years and Bambu had a licence for 11 years. The premises had operated well and had a positive relationship with the police. It was not a premises that was associated with a drug culture, it had a good reputation. That there had been no identified issues or concerns raised by WMP.
- e) That the incident had come as a tremendous shock.
- f) That the premises were operating an external event that evening, and they had caused issues.
- g) The premises operated their normal internal, flagship event and then sometimes would take on external events, which was not something created or organised by the venue.

- h) The event was unusual as it was an external, Vietnamese charity event, incorporating 7 birthday parties.
- i) That the death currently had not been confirmed as drugs, it was a cardiac arrest, and however, people had them for different reasons including drug overdoses. However, being candid about it, on this occasion it had been assumed it was drugs.
- j) That the serious crime was around the drugs and not around the death per-se. The Nitrous Oxide and balloons were an outside issue. There were two separate issues going on.
- k) The premises had invoices regarding the balloons that they purchased for decoration of the venue.
- l) That the Premises had no intention of opening at the weekend; as a mark of respect.
- m) That they would not be resisting a suspension in the interim period. The act provided the facility for the premises to make representations against the interim steps imposed. They proposed for the Committee to consider the immediate suspension, with a view to the premises making further representations back, after a meeting with police in order to see where they were in a few days' time.
- n) That the way Mr Kaul responded to questions on the night was limited due to him being extremely distressed, he was unable to fully understand and wasn't really able to focus. He wasn't being uncooperative.
- o) That the staff clearing up was regrettable, however the premises wasn't treated as a crime scene, the CID officers that attended were happy with staff cooperation.
- p) That the issues regarding staff not attending to the male, or providing CPR was due to medical staff already being at the scene by the time police arrived.
- q) That the Scene was not treated as a crime scene and the deceased was left in situ for some 10 hours which in itself was traumatic for staff.
- r) That the area was not cordoned off leading to staff feeling very confused, they didn't know what they were doing. That if the scene had been more demarked the staff would have taken a different approach, however, there were issues to work through there.
- s) That the police wanted to sit down together with the venue and go through it all. There was no indication from WMP that they wanted a long term suspension, which could put the business in jeopardy – it was a knee jerk reaction.

- t) That a long term suspension could be difficult to recover from as far as the business was concerned.
- u) That their immediate position was to ideally come back next week when they had a new honest approach agreed.
- v) That the premises had actually been trading for 17 years, and Mr Kaul had been DPS for 11 years.
- w) That the premises were not under the radar operators. They had a positive relationship with WMP. The incident was out of the blue.

In answer to members questions Sarah Clover made the following points:-

- a) That they would have discussions with WMP regarding the future of external events.
- b) That the premises had years of good history.

Mr Kaul responded to Members questions and explained that he had been removed as DPS and Mr Steve Walton would be replacing him as DPS, Steve was currently the Duty Manager at the premises.

Sarah Clover advised that discussions needed to take place with WMP in order to establish why the incident occurred, and what actually happened. Further she reminded the Committee that what they were asking for was an immediate short term suspension with the view to come back and make representations in order to review the suspension. It was not a blanket suspension.

Carl Moore advised that he would be going through the CCTV himself to see what occurred and what faults could be identified, he would be having discussions with WMP and everything would be revisited.

Neither party wished to make a closing submission.

At 1037 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 1141 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

7/140619

RESOLVED:-

The Sub Committee would like to express their condolences to the friends and family of the deceased.

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 China Town Leisure Limited in respect of

Bambu 1st Floor, Knotwall House, Wrotesley, Birmingham, B5 4RT 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,
- That Jasdeep Kaul is removed as the Designated Premises Supervisor.

The sub committee heard representations from West Midlands Police and the legal representative for the licence holder in connection with the application and certificate submitted by Supt. Tambling.

Members were particularly concerned by the West Midlands Police's submissions regarding the excessive drug paraphernalia found, along with Nitrous Oxide canisters throughout the premises which suggested there was ample drug dealing and drug use which could not be at this stage, directly attributed to the death of the patron.

It was noted by the members, the West Midlands Police evidence was clear regarding the signage of drug dealing and drug use within the premises.

The legal representative for the premises explained how the staff at the venue had been deeply affected and traumatised by the death of a patron and did their best to cooperate with West Midlands Police during and after the sad event. The Sub Committee were informed that the Designated Premises Supervisor planned to step down from his role which he had held for 11 years without complaint or concern from West Midlands Police, with a view to being replaced by another member of the management team.

Members were also made aware of the on-going discussions between the two parties prior to the hearing, and of their proposal to have a further dialogue next week to explore and discuss what had happened to identify areas for improvement in order to provide a fuller explanation of the circumstances surrounding the birthday parties held for the Vietnamese community at the premises.

Members were therefore requested to invoke a short term suspension with a view to enable both parties to have their proposed discussion and revert back to the Sub-Committee in the form of further representations against the interim step of suspension which they agreed with in principal.

The Sub-Committee also determined to remove the Designated Premises Supervisor in response to the comments made by his legal representative and considered that it was necessary and reasonable to impose these interim steps to address the immediate problems identified with the premises, in particular the likelihood of serious crime, and to promote the prevention of crime and disorder objective in the Act.

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 legal representative for 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.

Note - *at the end of the Sub Committee's announcement, Sarah Clover raised a query relating to a sentence within the decision notice which did not accurately reflect her stated position on WMP evidence, and requested it was clarified as an amendment.*

The Chairman on advice of the Committee Lawyer, agreed to remove the said sentence from the decision notice before approving the final version for circulation to all parties.

8/140619

OTHER URGENT BUSINESS

There were no matters of urgent business.

The meeting ended at 1147 hours.

.....
CHAIRMAN

