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Please ask for: Frederick Prout

Date 24 July 2020

My Ref

Your Ref

Dear Ms Clover

Application for the Summary Review of a Premises Licence – OMG, 11 The Parade, Plymouth.

Reference to the Licensing Sub Committee meeting held on the 24 July 2020 in respect of the above premises.

The following is the written notification of the decision by the sub-committee to consider whether interim steps should be taken pending the full review of the premises licence to be undertaken within 28 days of the application receipt.

This item was heard in private in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005 in that the public interest in hearing the matter in private outweighed the public interest in the matter being heard in public. This was so as to not prejudice any criminal proceedings in relation to the incident.

The Committee:

I. Heard from the Police

- that their application was triggered by a serious event on the 12 July 2020, namely rape of a woman 16 years or age or over – Sexual Offences Act 2003
- the interim review was triggered by a serious event – what we are seeking today is not permanently revoke the license, we were looking at 28 day suspension of license so that the event, can be processed and further training carried out and implemented.
- Provided background information as there was an ongoing live criminal investigation which limited information available to be disclosed
- That on the 12 July police received report of rape located on the 2nd Floor of the nightclub. The following day DI Rossen made communications with the police licensing department not trigger the serious Event Audit (SEA) so criminal investigation could take place. The SEA took place on Tuesday this week

- The finding from the Significant Events Audit and crime investigation enquires there has been a failing in the promotion of the licensing object the following were highlighted:-
 1. Poor management.
 2. The lack of training of staff in vulnerability. This was further highlighted by the circumstances in which the victim left the venue.
 3. The lack training of staff in identify the level of intoxication of persons entering and leaving the premise.
 4. Staff members should be present on all floor when patrons are using those area's ideally an SIA registered person.
 5. The Lack of queue management training.
 6. The current premises licence does not reflect the operation of the premises and is not fit for purposes.
 7. Concerns over the control of the entrance of the venue and those persons entering.
- The Mr Seymour, Police licensing officer gave evidence of his meeting for the SEA process as follows:
 - 1234hrs I attended the premises and started the SEA process:-
 - Jamie Morris is the DPS not present at time of SEA
 - The capacity of the venue has been reduced due Covid 19 secure assessment and now 60.
 - At the time of the incident there were 22 persons in the venue. The incident took place on the second floor of the venue seating area to the right of the bar.
 - The incident book was checked and had been recorded but it was noted that the refusal entry was blank.
 - The two SIA staff details:-
 - Steve Brown SIA number 101332967444261 Head Door Staff
 - Luke Willis SIA number 1011912554522652
 - Both SIA staff work for TAG Security.
 - The location of the SIA staff at the time of the incident was one on the main entrance and one crowd control in front of the venue.
 - A note that this was on the instruction of the police (Statement Attached).
 - The CCTV at the time was fully functioning and captured the incident, the premise have saved the footage onto the hard drive so it won't be written over in time.
 - Bar staff at the time of the incident were 3 and 1 glass collector, it was also noted that staff were required to conduct floor visits every 15 minutes and had to sign for the visit.
 - The premises has an external radio this was with the head door staff.
 - The venue is poly plastic .
 - Age policy - Challenge 25
 - Staff are retrained every 6 months
 - The premises have informed me that there have since the incident doubled the door staff but not because of the incident but because of crowd control
 - Enquired whether the premises had a policy for queue management, which was a negative.
- In summary said that the crime was one of rape and if convicted will have a custodial sentence of 3 years which satisfied the first trigger for this application.
- With regard to associate of this crime to the premises, the police regard that there has been a deterioration of procedures and policies outlined
- Reason for the associate of the crime to the premises was that door staff were too friendly and too kind to police officers and therefore left their posts to help manage people not related to the premises; and also the fact that there were no staff members on the floor.
- With regard to the argument that the victim could have called for help and this would have been heard, would like to warn against such claim and blame of victim, as sometimes they may feel it is on possible to do this; we are not discussing whether the rape was consensual; but whether it could have been avoided
- As a result the Police would wish to see policy updated and more engagement with the policing officers to avoid further incidents and note that Mr Causon wants such engagement as soon as possible.

2 Heard from the Legal Representative of the premises and Mr Causon, Company Director

- That this application is a fundamental abuse of the summary review process, and the way evidence was presented last minute, during the meeting could cost the police or others a judicial review.
- Questioned why the application took 13 days to submit when this procedure is to be used for something that needs to be resolved immediately.
- The review has to be linked to serious crime, which has to be associated with the premises.
- There is an allegation of rape within the premises and also publicly reported, multiple offences in the area of Plymouth Hoe. The incident on the Hoe it was submitted had no relationship to these premises
- Police CCTV evidence of the event within the premises had not been produced.
- On the 12 July the CCTV held by the premises showed that the couple queued for some period of time outside so it was denied they were intoxicated as they would have sobered up whilst outside. A further check for intoxication that staff looked for was whether a person could negotiate the steps into the premises and also within the premises safely; if they wobble on the steps then door staff would check for intoxication.
- There was no evidence of intoxication by this couple whilst using the steps both before and after the incident
- Police had requested the assistance of the OMG door staff to manage people not related to OMG or Jumping Jacks, nearby establishment also owned by Mr Causon
- The Police officer giving evidence today said that the door staff should not have been pulled away to manage general crowds, they should have stayed to manage this premises – the staff being away is considered to contribute to the incident not being picked up as quickly as they would have done.
- The duty of care towards the female was exercised by staff they interviewed the female as she looked as if she was intoxicated – but because she said she was okay they had let her go.
- It was submitted that the Police have exercised their powers too quickly and this could cause undue hardship to the premises if the licence should be suspended for any period of time.
- That conflicting accounts of what happened in the statements provided by OMG was attributable to having to prepare in three hours, in addition to not receiving full notification of the evidence from the Police which should have been provided with the application certificate
- Questioned the link of the activity within the club to any criminal activity
- Advised that catered to LGBT community, but welcome everyone to club regardless of their sexuality
- Explained that the reason the DPS was not present at the meeting with Mr Seymour, was that it was not requested that he be present
- In summary said
- There is no real evidence of the failings of the premises as Mr Causon has a good relationship with the police and any failings could have been brought to his attention by other means
- Capacity considerations are not a matter for the police, but for fire risk or more recently Covid risk assessment
- These proceedings are not a question of punishment for what has happened, the committee can only take a step to protect the public in urgent fashion to preserve public interest
- Submit that nothing assists the situation in imposing conditions; or removal of the DPS nor in the imposition of suspension.
- Request that the committee do not impose interim steps and if improvements to management/training/policies are required these will be attended to and these could have been brought before the committee via Review of the premises rather than this process

3 **The Committee** considered all of the above information and were concerned not only about the alleged offence but also about the lack of management demonstrated which allowed the act to take place.

Although the evidence before the committee gave conflicting information as to whether the female was vulnerable, it is considered that the premises have a clear duty of care to its patrons whether or not they are vulnerable.

The reason for this lapse has been attributed to the door staff being taken away from their duties, but care could have been exercised by other members of staff present given the low occupancy numbers within the premises at the time.

It is considered that to suspend the licence at this stage would be extreme, but it is considered proportionate to impose the following interim condition:

Condition:

Between the hours of 11pm until close of the venue, a SIA registered door staff must staff each floor within the premises.

Although not a condition, the committee would further recommend that all staff be updated on the Ask Angela policy with evidence of this produced at the final review hearing.

There is no right of appeal at this stage of the process

The proposed provisional date for the full review hearing is 18 August 2020. This will be confirmed to you by way of letter.

If you have any queries in respect of the above please contact me on the above telephone number.

Yours sincerely

Frederick Prout
Senior Licensing Officer