

LICENSING SUB-COMMITTEE

Wednesday, 23rd November, 2011 at 10.30 a.m.

Conference Room, Council House, Walsall

Present

Councillor Sears (Chairman)
Councillor Anson
Councillor Cook

In attendance

Steven Knapper - Principal Licensing Officer, Walsall MBC
Hazel Powell - Senior Licensing Officer, Walsall MBC
Jackie Taylor - Senior Licensing Enforcement Officer, Walsall MBC
Scott Kearney - Licensing Enforcement Officer, Walsall MBC
Paul Green - Legal Services, Walsall MBC
Mr. I. Perry - Objector
Mrs. J. Perry - Objector
Mrs. G. Evans - Objector
Mrs. L. Levesley - Objector
Mr. A. Levesley - Objector
Mr. Jon Borkowy - Applicant
Mr. Tony Mercer - Applicant

Appointment of Chairman

Resolved

That Councillor Sears be appointed Chairman of the Sub-Committee for this meeting only.

Councillor Sears in the Chair

Welcome

The Chairman extended a welcome to all persons present at the Sub-Committee which had been established under the Licensing Act, 2003.

Apologies

There were no apologies submitted for non-attendance.

Declarations of Interest

There were no declarations of interest.

Licensing Hearing

Application for a Club Premises Certificate Variation under Section 84 of the Licensing Act, 2003 - Friary Club, 39 Whetstone Lane, Aldridge, Walsall, WS9 0JD

The report of the Interim Regulatory Manager was submitted:-

(see annexed)

The Principal Licensing Officer (Mr. Knapper) enlarged upon the report and indicated that as representations had been received, the application could not be determined under officers' delegated powers and would have to be determined by the Sub-Committee. He informed the meeting that the current Premises Certificate was contained in Appendix 1 to the report and the application for the variation had been received on 28th September, 2011. The proposed variation was contained in Appendix 2 to the report and Section 19 included the steps to be taken to promote the licensing conditions. He drew the Sub-Committee's attention to Paragraph 3.4 of the report which set out the variation in hours applied for and to Appendix 3 which showed the location of the premises in Aldridge.

Mr. Knapper stated that the variation application had been advertised correctly and a representation from West Midlands Police had been received on 25th October, 2011. The representations had been mediated with the applicant on 1st November, 2011 and would become conditions attached to the Variation Certificate if it was granted. He reported that there had been problems with the wording of the condition regarding people being outside the premises during licensable hours so the police had suggested an alternative form of words which would make enforcement easier. He added that no drinks should be taken outside or into the smoking shelter and the facilities for dancing should also be removed from the Certificate as the revocation of their music licence had rendered dancing redundant.

Mr. Knapper continued that Trading Standards had made a representation regarding the application on 25th November, 2011 (Appendix 4 refers). There were no other representations from responsible authorities. There had been five representations from interested parties living in the vicinity of the site (Appendix 5 refers).

Mr. Knapper requested the Sub-Committee to determine whether the application for a Club Premises Certificate variation should be granted as requested, granted with additional or modified conditions or refused.

Members had no questions for Mr. Knapper.

Mrs. Evans (local resident and objector) asked if the conditions relating to people outside the rear of the club premises was being changed or whether the wording was being amended. Mr. Knapper replied that the condition had been re-worded by the police to make it more easily enforceable. He added that it would now relate solely to club members and their guests and not to everyone.

Mr. Perry (local resident and objector) stated that the club premises comprised a lounge area and a Church Hall. In the past, the club had organised lettings of the Church Hall but it now appeared that the Church was responsible for the activity. Although lettings were made by the Church, those people using the Church Hall were taking advantage of the club's facilities. He wondered if this was an attempt to circumvent the conditions imposed by the Licensing Sub-Committee in 2008 as people were still wandering about on the grassed area at the rear of the Church Hall and children were continuing to play there.

Mrs. Levesley (local resident and objector) asked how the Church would determine that people using the outside areas during licensable activities were members or their guests. Mr. Knapper replied that people would have to be signed in as members on arrival at the club for the Club Certificate to be operational.

Mrs. Perry (local resident and objector) asked if the licensing conditions also applied to members' guests. Mr. Knapper confirmed that they did.

Mr. Borkowy (applicant) indicated that the booking fee for the hire of the hall went to the Church and not the Friary Club. He added that the club was not trying to circumvent the conditions of licence but simply to increase revenue for the Church.

Mrs. Levesley asked if there was CCTV at the premises. Mr. Mercer (applicant) replied that there had been CCTV in position since 2009 but only at the front of the building.

The Senior Licensing Enforcement Officer (Jackie Taylor) expressed concern over the proposed extension to licensing hours as the existing conditions were not being complied with for the existing 29½ hours per week. She reported that there had been nineteen complaints regarding noise nuisance from the premises and three complaints about adults and children wandering about outside the premises which was contrary to the existing licence conditions. The last of these had involved children playing outside for up to three hours with no adult supervision.

Mr. Mercer (applicant) indicated that children played on the grassed area to the rear of the Church Hall in warm weather. He added that when CCTV was installed at the rear of the premises, the rear door would also be alarmed. If it was opened, then club members would be made aware that someone had gone outside and they could go out and bring the children back inside to comply with conditions and avoid nuisance to local residents.

Councillor Cook asked about other incidents. Jackie Taylor referred to complaints made of patrons smoking outside the designated smoking shelter and of excessive noise at a New Year's Eve party.

Mr. Perry stated that he had had cause to complain on eight occasions since 2009. Three had been made to Environmental Health and five direct to West Midlands Police.

Mrs. Evans referred to an incident on 13th November, 2011 when children had been playing outside unsupervised in the afternoon. She reminded the meeting that the site was bounded on three sides by housing and on the fourth side by Whetstone Lane.

Mr. Perry circulated an aerial view of the Church Hall and its surroundings:-

(see annexed)

Mrs. Evans reported that the club currently operated for 29½ hours per week but if the Club Certificate was varied as requested, then the opening hours would increase to 80 hours per week. She was concerned at the breaches currently occurring and the effect of noise from patrons leaving at 11.00 p.m., midnight or 1.00 a.m. on adjoining residents. She added that children were playing outside and adults were drinking outside in contravention of existing conditions and breaches were continuing to occur even after the variation to the club premises had been applied for.

Mrs. Evans stated that most of the breaches occurred on Sundays when the club was open from 12.30 p.m. If the variation to the Club Certificate was granted then, she feared, that the level of nuisance would return to the 2008 levels. She asked what time people would actually leave the club if they were allowed to drink up for up to thirty minutes after closing time.

Mr. Perry informed the meeting that he had lived in the vicinity of the Friary Club for twenty four years. For the first sixteen years, there had been no problems but from 2002, matters had got progressively worse as the patrons of the club grew and local residents had suffered considerable distress as a result. A review of the club licence had been carried out in 2008 and it had been confirmed that the club was opening outside its designated hours and breaching the Noise Abatement Notice. As a result, the playing of music was removed from the licence and the hours of operation were more tightly controlled. Monitoring of the premises by Trading Standards had also been increased.

Mr. Perry drew attention to the notice which had been posted on the Friary Club door which stated that the club “wanted new hours in line with all other pubs and clubs” in the area. He continued that breaches of the licensing conditions had been reported to Trading Standards, Environmental Health or the police on at least eight occasions.

Mr. Perry gave three grounds of objection to the proposed revised hours:-

- (1) The unsuitability of the site for longer hours as it was hemmed in by housing on three sides;
- (2) The unsuitability of the proposed hours as being open to 12 midnight on three nights a week would mean guests not leaving until 12.30 a.m. at the earliest, which would be unacceptable to adjoining residents;

- (3) That the small group of volunteers who control the premises had indicated that they could not be there all of the time. If they struggled to manage the club when it was open for 29½ hours a week, he was concerned that they would find it impossible to control when open for 80 hours per week.

Mr. Perry stated that he would have thought the management would have been particularly careful to control patrons having put the revised application in but problems had continued. Sunday afternoons were still a problem and this was the only day at present when the club was open from 12.30 p.m. Other pubs and clubs in the area controlled their patrons but the Friary Club did not.

Mr. Perry reminded the meeting that the premises comprised a Church Hall and bar with little or no sound proofing. All the conditions offered by the management were passive measures and nothing active was being done to improve the situation for residents. The club shirked its responsibility and the management's track record was abysmal. He added that CCTV might well show when people were outside the premises but he was concerned that the management would still not take appropriate action to remove this nuisance. He asked the Sub-Committee to refuse the application for the Club Licence variation.

Mrs. Levesley reported that she lived next door to the Church Hall and had tried to be a good neighbour. She felt, however, that the proposed hours were far too ambitious for a residential area. The notice which had been posted on the Friary Club's door underpinned the management's aims for the premises - wanting a public house in a residential area. She added that she had spoken to the new Priest about the proposals and he had indicated that although the maximum hours had been requested, it was unlikely that they would be used on a regular basis. She drew the Sub-Committee's attention to an occasion when the club had been closed and a drunken patron had demanded entry. Although the premises were closed, he had been verbally abusive and had smashed a window before leaving the premises. She referred to the reputation of the club and to the fact that the voluntary policing by club members was patchy. She queried whether the area needed the hours proposed and whose benefits would be served by them. She questioned whether the training proposed would be adequate and stated that she had no confidence in the current management of the premises.

Messrs. Borkowy and Mercer had no questions for the objectors.

Councillor Anson asked if residents could see easily into the club's grounds. Mrs. Evans, Mr. Perry and Mrs. Levesley all indicated that they could see into the club's rear grassed area from their homes.

Councillor Anson asked how many children and patrons congregated in the rear garden area. Mr. Perry stated that the numbers varied from six to eight children and three adults to twenty children unsupervised for long periods of time.

Paul Green (Legal Services) asked about the number of children outside on 2nd October, 2011. Mrs. Evans replied that there were a large number of children playing football on that occasion.

Councillor Cook referred to deliveries to the premises. Mr. Knapper reported that deliveries as early as 7.00 a.m. were considered to be acceptable.

Councillor Cook asked if residents had approached the club to ask for later deliveries. Mr. Perry replied that when he had tried to speak to the club members, he had been ushered out of the premises. When he had tried to ring up and complain, the phone had been put down on him. He had then been advised by the police not to attempt to speak to the club direct.

Mrs. Perry confirmed that she could hear everything that went on in the club because they lived so close to the building.

Mrs. Evans stated that the club were supposed to keep doors and windows closed to limit noise emanating from the premises but whenever the weather was warm, this requirement was ignored.

Mr. Mercer (applicant) reported that the main reason for wanting to increase the opening hours of the Church was so that the club could cater for funerals associated with the Church. He added that the club had a quiz night on Thursday evenings and everyone had to leave by 11.00 p.m. If longer hours were introduced, then patrons' leaving could be staggered.

Mr. Mercer stated that when CCTV to the rear of the building was installed, the rear door would be alarmed. If anyone went outside, the alarm would be activated and a club member would be able to go outside and usher patrons back into the premises.

Referring to the smoking shelter, Mr. Mercer stated that it had been moved to a point furthest from adjoining homes. With regard to deliveries, he would try to arrange later timings to help residents.

Mr. Mercer added that he would supply local residents with a phone number and e-mail address so that they could contact club members with concerns which could be dealt with as quickly as possible.

Mr. Borkowy informed the meeting that the new Priest was very different to the old one. He was married and wanted the Church Hall to be more of a community venue. He would be moving into the Presbytery in Spring 2012 and would not hesitate to complain to the club if noise levels were excessive.

Mr. Mercer stated that the club's membership had changed a great deal since 2005. Although the club had existed since 1962, most people still walked there and it was not the management's intention to turn it into a night club.

The Senior Licensing Enforcement Officer (Jackie Taylor) referred to management's comments that the variation was needed to cater for funerals. Mr. Borkowy replied that the Hall formed part of the Church buildings and would be used as such. Jackie Taylor reminded the meeting that the club premises were for the use of club members and their guests only. She asked how many guests each member could sign in. Mr. Mercer replied two.

Jackie Taylor asked who controlled club members and their guests. Mr. Mercer replied that trained staff would do this. Jackie Taylor asked who controlled entry at present. Mr. Mercer replied that club members carried out this duty at present. It was hoped to improve their performance following further training by West Midlands Police.

Jackie Taylor asked where the signing in book was kept. Mr. Mercer replied at the bar. Jackie Taylor commented that anyone could, therefore, enter the premises before being signed in by a member. Mr. Mercer confirmed that this was the case at present.

Mrs. Perry asked how many staff were normally employed at the club. Mr. Mercer replied four. Mrs. Perry asked how staff who were busy serving at the bar could also be responsible for sorting out problems arising from children and adults misbehaving at the rear of the premises. She asked how the club operated on Saturdays at the present time. Mr. Borkowy replied that the club applied for Temporary Event Notices on Saturdays.

Jackie Taylor reminded the meeting that the club should control who entered the premises and restrict access to club members and their guests only. Mr. Mercer confirmed that this was the case.

Mrs. Evans stated that she had attended a funeral at the Church and afterwards at the Church Hall and most of the guests were non-members.

Mr. Perry asked if the club did not intend to use the full 80 hours, why had it applied for them. Mr. Mercer replied that the club could not afford to be open for the full 80 hours but by applying for the full allocation, they would have leeway to operate within the times proposed when the need arose.

Mr. Perry referred to the position of the smoking shelter and indicated that he was happy with its present location. Mr. Mercer indicated that the club did not intend to relocate the smoking shelter from its present location.

Mr. Perry asked how the club intended to manage Friday/Saturday afternoons when the rear door had been alarmed. Mr. Mercer replied that if the alarm was activated, then a club member would go out and bring whoever was outside back into the building.

Mr. Perry expressed doubt that the club management would be able to prevent children from playing outside. In view of past events, he did not believe that the club's management would improve sufficiently to ensure that children were adequately controlled and supervised. Mr. Mercer stated that when the door was alarmed, a notice would be posted stating that there was no rear access to the premises. The gate at the side would also be locked at all times, effectively preventing access to the grassed area at the rear. He invited the objectors to inspect the changes when they had been completed.

Jackie Taylor asked how the grassed area at the rear of the building was controlled at present. Mr. Mercer replied that a member would report that children were playing outside and a member of staff would be despatched to bring them back into the building.

Jackie Taylor commented that if the children belonged to club members, they should know that they were not allowed outside during licensable hours.

Mr. Knapper informed the meeting that the Friary Club had had a significant number of Temporary Event Notices and a Temporary Event Notice lifted all restrictions attached to a licence whilst it was in force.

Mr. Levesley stated that his house was opposite the front entrance of the club and suffered noise from patrons leaving late at night. If they were allowed to leave between 12.30 a.m. and 1.00 a.m., he asked how rowdy behaviour would be controlled by the club management. Mr. Mercer replied that patrons would be reminded to leave quietly and respect neighbours' privacy. Those breaching such requests, faced having their membership revoked.

Mrs. Levesley asked what the opening hours of the club would be if the variation was granted. Mr. Mercer replied that on most evenings it would remain at 8.00 p.m. to 11.00 p.m. Thursdays might be later because of the quiz night.

Mrs. Levesley asked why the club was making the application in view of the answer to the previous question. Mr. Mercer stated that the club was currently losing money and membership was falling so improvements needed to be made.

Mrs. Levesley asked if an active recruitment drive was being made. Mr. Mercer replied that this was not necessary as the current membership stood at 320.

Councillor Cook asked if the premises would be used for christenings and weddings as well as funerals. Mr. Mercer stated that christenings usually occurred at weekends and could be catered for under existing arrangements. Weddings could not be held because the club could not provide music and dancing.

Councillor Cook asked if the number of people attending the club was restricted by the fire service. Mr. Knapper replied that the premises were self regulating and management should carry out their own risk assessment of the maximum numbers permitted to attend. He added that there had been no objection to the variation from the fire service.

Both parties were invited to sum up and Mr. Perry, on behalf of other objectors, expressed concern that the hours sought, although not likely to be fully utilised, were nevertheless available and could lead to further nuisance for local residents. He added that residents still had no faith in the management of the club and the measures put forward were all passive with no active measures proposed. He asked the Sub-Committee to refuse the variation application.

Jackie Taylor referred to the high number of complaints received concerning the premises and to the fact that insufficient detail had been supplied by the club as to how the licensing objectives would be maintained. She also asked for the variation application to be refused.

Mr. Mercer stated that the club would not open for all the hours applied for. It was only on Saturdays that extra hours would be utilised. He wanted to assure objectors and the local community that management would do more to control the nuisances complained of and that club members would work more closely with local residents to improve matters.

All parties withdrew from the meeting at 12.20 p.m.

The Sub-Committee considered carefully all the written evidence submitted and the representations made at the hearing, following which it was,

Resolved (Councillor Anson abstaining)

That the application for a club premises variation in respect of the Friary Club be refused.

All parties were re-admitted to the meeting at 12.45 p.m. and advised of the Sub-Committee's decision and right of appeal to the local Magistrates Court within 21 days of receipt of the decision letter.

Termination of meeting

The meeting terminated at 12.50 p.m.

Chairman

Date