

## **LICENSING SUB-COMMITTEE**

**Monday 7<sup>th</sup> September, 2015 at 10.30am**

**In a Conference Room, Council House, Walsall**

Councillor Sears (Chairman)  
Councillor Anson

(Reserve Member - Councillor Whyte)

### **In attendance**

Steven Knapper – Principal Licensing Officer – Walsall M.B.C.  
Dominic Patouchas – Legal Services – Walsall M.B.C.  
Chris Loach – Enoch Evans Solicitors  
Ms Trisha Richards – Designated Premises Supervisor  
Michael Carey – Environmental Health Noise Team  
Paul Rooney – Deputy Manager-Environmental Health  
PC Neil Gardiner – West Midlands Police  
Sgt Gary Iliff – West Midlands Police

### **Appointment of Chairman**

#### **Resolved**

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

### **Councillor Sears in the Chair**

#### **Welcome**

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

#### **Apology**

An apology for non-attendance was submitted on behalf of Councillor Sarohi.

#### **Declarations of Interest**

There were no declarations of interest.

## **Licence Hearing**

### **Application for a premises licence review under Section 51 of the Licensing Act, 2003 – The Victoria, Victoria Avenue, Bloxwich, Walsall, WS3 3HS**

The report of the Head of Economy & Environment was submitted:-

(see annexed)

Councillor Sears explained the purpose of the meeting and requested the Principal Licensing Officer (Mr Knapper) to explain the application.

The Principal Licensing Officer (Mr Knapper) enlarged upon the report for the benefit of the Sub-Committee and indicated that the application for a Premises Licence review in respect of The Victoria, Victoria Avenue, Bloxwich, Walsall had been made by the Environmental Health Department of Walsall Metropolitan Borough Council under Section 51 of the Licensing Act, 2003. The Environmental Health Department was a responsible authority under the terms of the Act. He continued that the premises licence holder was The Victoria (Bloxwich) Ltd and had held a licence since August, 2013. Ms Trisha Richards was the designated Premises Supervisor for the premises (effective from 14<sup>th</sup> July 2014) and the current premises licence and plan were provided (Appendix 1 refers). A street map of the locality was also given (Appendix 2).

The Deputy Environmental Health Manager had requested a licence review on the grounds that the premises licence holder was not promoting the statutory licensing objective or the prevention of public nuisance. The initial premises licence review application had been received by the licensing authority on 10<sup>th</sup> June, 2015 (Appendix 3 refers) and further information was supplied on 10<sup>th</sup> July, 2015. A premises licence review notice had been displayed for 28 days at the premises, on the Council's website and at the Council offices. The period for further written representations for submission by other responsible authorities or "other persons" closed on 8<sup>th</sup> July, 2015.

Written observations on the review application had been submitted on behalf of the Chief Officer of West Midlands Police and written representations had been received from "other persons" including a signed petition.

Mr Knapper drew the Sub-Committee's attention to paragraph 3.12 of the report which stated that existing licensing conditions for live and recorded music were deemed to be suspended between the hours of 8.00am and 11.00pm if it took place on licensed premises and the audience did not exceed 500. He then drew the Sub-Committee's attention to paragraph 3.13 of the report which allowed a licensing authority to lift the suspension detailed in paragraph 3.12 and give renewed effect to the existing conditions imposed on the licence. He then drew the Sub-Committee's attention to paragraph 4.2 of the report which set out the legal position and to the statement of licensing policy (Appendix 6 refers) and the statutory guidance issued under Section 182 of the Licensing Act, 2003 in respect of review hearings (Appendix 7 refers).

Members had no questions for Mr Knapper.

Mr Loach asked for clarification that the main area of concern was noise from the beer garden and from live bands playing at the premises.

The Environmental Health Officer (Mr Carey) reported that karaoke events had also led to complaints from surrounding residents regarding noise. Mr Loach stated that as far as he was concerned, there had been no statutory breaches from the karaoke evenings. There had been complaints from residents but no statutory nuisance had been discovered.

Documents from Environmental Health were submitted (see annexed) and the meeting was adjourned for 20 minutes in order that parties could peruse them.

The meeting reconvened at 10.55am.

Mr Carey referred to the report by Environmental Health Officers and indicated that there had now been 156 complaints about noise emanating from the Victoria Club and not 131 as set out in the report. He also drew the Sub-Committee's attention to table 2 of the report which highlighted incidents where officers attending the premises had suffered abuse from Mr Gorman.

The Legal Services representative (Mr Patouchas) asked if a public nuisance had been caused by noise emanating from the Club. Mr Loach replied that there had been instances in the past where loud music from live bands could have amounted to a nuisance but since noise attenuation works had been carried out at the premises, there should be no further breaches in future.

Mr Carey informed the meeting that officers did not want the premises licence to be revoked, they simply wanted the noise from live music curtailed to prevent further nuisance to adjoining residents.

Mr Patouchas asked if sound attenuation works had been carried out to the premises. Mr Carey replied that certain works had been carried out at the club, but they had not been completely successful. He added, in his opinion, the premises could only be profitable if live music was played there and loud rock music was not suitable for a residential area.

Mr Patouchas asked if there were any problems arising from acoustic music. Mr Carey replied no.

Mr Patouchas asked whether recorded music created a problem. Mr Carey replied karaoke type events led to complaints because of the live music element.

Councillor Sears asked if noise limiters could be fitted to the PA system to limit noise from the premises. Ms Richards replied that this would be difficult to achieve as bands used their own amplification systems not the pubs. She added that it might be possible to attach limiters to the power sockets so that the power supply was cut if excessive noise resulted.

Ms Richards indicated that complaints had been about live music from bands not about individual singers on karaoke.

Mr Loach concurred that when breaches had been witnessed by Environmental Health Officers, it was live bands that had been playing at the time. They had been asked to turn down the volume because they had been using their own amplification equipment.

Councillor Whyte asked if music was the major problem. Mr Carey replied that since noise abatement notices had been served on the premises, live bands had been restricted to Friday evenings and Sunday afternoons. Ms Richards reported that live bands only played on Sunday afternoons between 4.00pm and 6.00pm now to avoid any further breaches of the noise abatement notices.

Councillor Anson asked how many complaints had been made to the noise team since November, 2014. Mr Carey replied that there had been 50 complaints of noise but only one statutory breach of the noise abatement notices during that period.

PC Gardiner commented that, in his opinion, to remove the cause of the noise nuisance the playing of live music would need to be removed from the premises licence. He added that Ms Richards had ultimately done what the police had asked her to do to reduce the instances of noise pollution albeit too slowly to avoid further complaints from residents. He added that the police had helped Ms Richards with advice over the licensing and running of the club but co-operation had been damaged by the attitude of Mr Gorman and others at the premises towards the police. The breach of the noise abatement notice on 6<sup>th</sup> June, 2015 demonstrated the inability of the owners to comply with the Court Order.

Sgt Iliff (West Midlands Police) referred to the force's relationship with Ms Richards. He agreed with his colleague that Ms Richards had done what the police had requested but had taken too long to do it. He referred to the statement provided by Ms Richards and commented that it showed honesty and naivety on her part.

Ms Richards complained that she got little support or help from the police or the licensing authority after she had received her licence.

Sgt Iliff referred to the fact that there were over 1000 licensed premises in Walsall so the police could not give large amounts of police time to one individual. In the case of The Victoria Club, a DPS had been put in place but she had not been on the premises a lot of the time. The club had not been run properly at first but it had improved since Ms Richards had become the DPS and she had accepted the police help offered.

Referring to his second statement, Sgt Iliff commented that he now had a good relationship with the DPS at the club and that her father was a strong willed character, however, and could be cantankerous and highly opinionated. She added that Mr Gorman's behaviour had been excessive on a number of occasions and had made the running of the club by his daughter much more difficult.

With reference to the problems of 6<sup>th</sup> June, 2015, Sgt Iliff stated that it was a very unpleasant situation and hostile from the beginning. The music was excessively loud both inside and outside the building and breached the noise abatement notice creating a statutory nuisance. He added that he could still hear the music clearly when seated in his police vehicle some distance from the premises.

Sgt Iliff continued that when he had visited the club he had been met by a wall of noise when he opened the door to the premises. Mr Gorman appeared to be drunk and was very unpleasant; Ms Richards appeared to be drunk and her boyfriend who had first appeared to be friendly quickly became nasty. He added that he had had to move out onto the car park in order that they could hold a conversation. He could easily have arrested them for their behaviour towards him but decided not to take any action to avoid the situation escalating into a major incident. He had then been threatened and bullied into his car and expected the vehicle to be damaged by them. He was concerned that if a police officer could be treated in that way how would they treat a resident who complained about the noise. Eventually the music quietened down and most people left the club but there were still a few people standing outside and drinking at 1.00am.

Sgt Iliff concluded by stating that West Midlands Police had done their best to support the management of the club and the designated premises supervisor on 6<sup>th</sup> June, 2015 the situation had, in his opinion, got so out of control that action had been needed.

Mr Loach asked if there were problems at other licensed premises in Bloxwich. Sgt Iliff replied that there were but The Victoria posed a major problem for the police. Mr Loach asked if Ms Richards had worked with the police to improve the situation at The Victoria Club. Sgt Iliff replied yes. Mr Loach suggested that the reason Ms Richards had been slow to implement the recommendations was because she was busy carrying out sound proofing works at the club. Sgt Iliff agreed that this might have been a factor but housekeeping at the premises had been poor for some time with exterior doors being propped open to allow sound to escape.

Ms Richards informed the meeting that all external doors had self closing mechanisms fitted but sometimes patrons propped them open especially in warm weather. She referred to remedial action which had been undertaken which included sound proofing and the provision of curtains to further deaden noise. PC Gardiner asked why noise problems had been allowed to continue after noise abatement notices had been upheld in Court. Ms Richards replied that after the Court case, management had ceased booking bands on Fridays and only had live music on Sunday afternoons. Tribute bands also played on Saturday evenings. The event on 6 June 2015 had been a charity concert which had been arranged almost 12 months before. She added that she had carried out noise readings on that date and a noise level of 46 decibels had been recorded on a noise meter. This was not excessive.

Mr. Carey advised Ms. Richards that it was not enough to rely on a noise meter; she needed to patrol the perimeter and listen to the noise being made. Proper noise attenuation measures needed to be put in place if further breaches of the noise abatement notices were to be avoided.

Mr. Loach asked if Ms. Richards had attended meetings with the local community over the noise problems from the premises. Sergeant Iliff confirmed that meetings had taken place and Ms. Richards had attended. He asked if Ms. Richards had tried to resolve these problems, and had provided a phone number for residents to call if they felt that the noise from bands was excessive. Sgt. Iliff replied that Ms. Richards had done so.

Councillor Anson referred to the Police log of incidents involving the Victoria Club. P.C. Gardiner replied that the club was not a haven for crime; it was just a public nuisance.

Mr. Patouchas asked if the noise problem was a symptom of the poor management of the club. P.C. Gardiner replied "Yes".

Mr. Patouchas asked if the Police felt that Ms. Richards was suitable to be the club's designated premises supervisor. P.C. Gardiner replied that Ms. Richards had informed the Police that she would be giving up the post of designated premises supervisor as she had been undermined by the behaviour of her father and her boyfriend.

Mr. Patouchas asked if the DPS had been absent from the premises on a number of occasions when the Police had visited. P.C. Gardiner replied that Ms. Richards had gone on holiday and left the premises without management.

Mr. Carey informed the meeting that when Environmental Health Officers visited the premises on the weekend of V.E. celebrations they had found Ms. Richards' mother at the club.

Mr. Patouchas asked if replacing the DPS would resolve the problems of poor management at the club. Mr. Loach replied that the new DPS was an experienced individual who would sort out the club's managerial problems

P.C. Gardiner state that the Police had lost confidence in the management of the Victoria Club despite putting in a lot of time and effort into supporting the premises. He added that officers would wait and see if the new DPS could make a difference.

Mr. Carey commented that as the new DPS was not related to or controlled by Mr. Gorman, things should improve.

Sergeant Iliff stated that the Police did not want the Victoria Club's premises licence revoked; they simply wanted the live music element removed.

Mr. Loach was invited to present the case for the Victoria Club and referred to the statement submitted by Ms. Richards which set out the history of the premises. He accepted that music events caused concern for local residents at times, but drew the Sub-Committee's attention to the fact that the Club also carried out a number of other community events at the premises. He stated that Mr. Gorman had ploughed money into the venture and kept the club open. He referred to the letter from R. Wheeler, Accountants, dated 24 April 2015 which predicted a trading loss for the year in the region of £30,000. He added that the family's commitment and support for the club had been excellent. Mr. Loach then referred to the letters and e-mails from local residents supporting the club and its activities. He stated that to limit financial loss, light music was needed even though live bands had been responsible for most of the noise problems, and added that Ms. Richards had undertaken a lot of work to reduce noise emanating from the club. He indicated that she had used noise meters to monitor noise levels from Victoria Avenue. He referred to the advice given to Ms. Richards by Environmental Health Officers to patrol the perimeter of the premises, as if no noise could be heard there, then there could be no nuisance created. Ms. Richards had

provided a mobile phone number to local residents so that they could contact her if there were problems so that she could deal with them as quickly as possible.

Mr. Loach stated that the beer garden had been closed to help improve the situation further, and live bands only performed on Sunday afternoons. The new DPS, who was a very experienced individual, would be able to control Mr. Gorman.

Mr. Loach asked the Sub-Committee to consider the effect of limiting the licence on the viability of the club and indicated that if live bands were prohibited, then Karaoke would probably have to be removed from the licence as well. He felt that most of the complaints came from these two sources.

Mr. Carey asked what assurances the club would give that noise attenuation measures would be improved further. Ms. Richards replied that she hoped to reach a point where live music would not be heard beyond the boundary of the site.

Mr. Carey asked when the original noise insulation works had been carried out. Ms. Richards replied that it was in February/March, 2015. Mr. Carey stated that the works pre-dated the club's prosecution and the breach on 6 June. It was clear they were not working successfully. Ms. Richards indicated that if live bands were allowed to continue at the Victoria, then additional noise insulation could be provided.

The Deputy Manager – Environmental Health (Mr. Rooney) asked what measures were in place to reduce noise at source. Ms. Richards replied that bands had worked with Management. She suggested that a limiter be placed on power sockets so that power would be cut automatically when a pre-set noise level was reached. Mr. Rooney agreed that this was feasible.

Ms. Richards reported that in the past she had stopped bands playing when she felt that noise levels were becoming excessive. Mr. Carey commented that many of the problems came down to bad management. He hoped that the new DPS would prove to be successful.

Ms. Richards stated that she had pushed live music to offer something different at the Victoria Club to other licensed premises in Bloxwich. Mr. Carey informed the meeting that officers were still receiving complaints from residents about noise from the Victoria Club. Mr. Rooney stated that the local authority could look at setting acceptable noise levels with the club's management but that would not necessarily achieve the desired results.

Ms. Richards felt that the noise insulation now in place had resolved most of the noise problems except those from rock bands. P.C. Gardiner asked if Ms. Richards had considered anything else besides live music at the Victoria. Ms. Richards replied that she had considered sport and football but this had led to trouble. She had tried tribute bands, but they had proved unsuccessful. She was keen to cater for an older clientele at the club and rock music seemed to fit the bill.

Mr. Carey referred to the new DPS and asked if he would be responsible for running any other premises besides the Victoria Club. Ms. Richards replied "No".

P.C. Gardiner asked if the current noise-limiting measures were successful, Ms. Richards replied that she felt they were for most of the music played at the Victoria.

P.C. Gardiner asked what had gone wrong on 6 June. Ms. Richards replied that she did not know as noise meters had shown a level of 46 decibels only.

P.C. Gardiner indicated that premises were only as good as their management. Ms. Richards stated that a number of different bands had played at the venue and had used their own application equipment. She felt that this might have added to the problem as management had no control over the output. She indicated that management's plan involved keeping the club open and spending more money on improving facilities. She added that it was hoped to turn the Victoria Club into a successful wedding venue.

Councillor Whyte asked if the Victoria Club could have its own amplification system controlled by the management of the club. Ms. Richards agreed that this would be possible but she was concerned that it could be damaged by several bands using it.

Mr. Carey indicated that if the Victoria Club became a wedding venue, it would definitely need its own amplification system.

Councillor Anson asked if the Victoria was still a members only club. Ms. Richards replied "No".

Councillor Anson asked if the club was aware of the complaints made in November 2014. Ms. Richards replied that it was following the complaints in November, 2014 that the original noise attenuation works had been carried out.

All parties were invited to sum up, and Mr. Rooney reminded the meeting that there had been noise problems arising from the Victoria Club which had led to a noise abatement notice being served. He felt that further soundproofing was needed and the club should acquire its own amplification system with limiter.

P.C. Gardiner indicated that the Police had worked with the management of the club for over 12 months and there was a limit to the number of times that Ms. Richards, as DPS, could be asked to put things right.

Mr. Loach drew attention to the history of the club and asked what the future held for it. He asked for additional soundproofing to be undertaken and for the views of those who had written in supporting the club to be taken into consideration. He hoped that the new DPS would be given time to turn the premises around and asked that the Sub-Committee would continue to allow live music to be played at the venue.

Councillor Sears asked if all parties present were satisfied that they had had ample opportunity to air their views fully. This was confirmed, then the parties withdrew from the meeting at 12.25 pm.

The Licensing Sub-Committee considered all the evidence submitted and the representations made during the hearing and it was then



## **Resolved**

That, in order to continue to meet the licensing objectives at the Victoria, Victoria Avenue, Bloxwich, Walsall, the following steps must be taken:-

- (1) Ms. Richards must be removed as the designated premises supervisor for the premises;
- (2) The club must install its own amplification system and use it for all live music with a noise limiter fitted. The noise limit to be agreed between the management of the club and Environmental Health Officers;
- (3) The playing of live music to be limited to the hours of 11.30 am to 10.00pm daily with the exception of New Year's Eve when non-standard timings to 01.30 am will be permitted;
- (4) The Beer Garden to be closed at 9.00 pm daily and no patrons will be allowed to enter or remain therein after 9.00 pm;
- (5) Any condition of the premises licence which relates to live music, recorded music or both has the effect in relation to music. Such a condition is altered to include a statement that Section 177A of the Licensing Act, 2003 does not apply to it (the intention of the Sub-Committee is to lift the suspension of any condition imposed by Section 177A of the Licensing Act, 2003 and to give a new effect to any existing condition relating to the premises).
- (6) There will be no more than two live music events in any calendar month;
- (7) All windows and doors to remain closed during any live music activity to reduce noise nuisance (this includes all regulated entertainment).

All parties were re-admitted to the meeting at 1.18 pm and informed of the Sub-Committee's decision. The parties were informed of their right of appeal to the local magistrate's court within 21 days of receipt of the determination letter.

## **Termination of meeting**

There being no further business the meeting terminated at 1.20 pm

Chairman .....

Date .....