

LICENSING SUB-COMMITTEE

Friday, 1 May, 2009 at 10.30 a.m.

Conference Room at the Council House, Walsall

Present

Councillor Anson
Councillor Wilkes

At 10.30 a.m. the meeting was inquorate, only two members being in attendance. At 11.11 a.m. Councillor Sarohi joined the meeting, and the hearing commenced.

Appointment of Chairman

Resolved

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

Councillor Anson 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 – The Friary Club, 39 Whetstone Lane, Aldridge, Walsall, WS9 0JD

The report of the Head of Public Protection was submitted:-

(see annexed)

The following persons were present:-

For the applicant:-

Mr. Blakemore – Committee Member on behalf of applicant

Mr. Moore – Solicitor for applicant

For the objectors:-

Mr. Leigh Davy – Environmental Health (Responsible authority)

Mr. David Elrington – Environmental Health (Responsible authority)

Ms. Lorraine Boothman – Trading Standards (Responsible authority)

Ms. Jackie Taylor – Trading Standards (Responsible authority)

PC Brian Doyle – West Midlands Police (Responsible authority)

Mr. I. and Mrs. J. Perry – interested party

Mrs. G.A. Evans – interested party

Mr. and Mrs. A. Levesley – interested party

Also present were:-

Mr S. Knapper – Principal Licensing Officer, Walsall MBC

Mr P. Green – Legal Services, Walsall MBC

Mr. Knapper outlined the report and referred to an additional submission from Mr. and Mrs. Levesley which was circulated to all parties.

Mr. Knapper advised all parties that the Club was applying for an extension of hours for Fridays, Saturdays, Sundays and Bank Holidays.

There were no questions to Mr. Knapper.

P.C. Doyle was then invited to address the Sub-Committee. In doing so he drew attention to his comments in the document at Appendix 5, and made the point that a new licence had been issued to the Club on 9 March 2009 following the Clubs withdrawal of their appeal against the Sub-Committees decision from October 2008.

There were no questions to P.C. Doyle from the objectors.

In reply to a question from Mr. Moore, P.C. Doyle advised that there were no incidents of public disorder apart from checking on licensing matters and an incident where alcohol was served in contravention of the conditions.

Councillor Sarohi referred to the sale of alcohol by the Club fifteen minutes before their licence allowed, and suggested that the alcohol must have been served prior to that time. P.C. Doyle confirmed this to be the case. In reply to a question from Councillor Wilkes, P.C. Doyle explained that the incident on 29 March, 2009 occurred when there were people in the Club grounds who should not have been there.

Mr. Davy was then invited to address the Sub-Committee. In doing so, he referred to noise nuisance from the Club and pointed out that complaints had continued and there had been two further breaches of the abatement notice which will be going

through the court process. He went on to say that when the licence was reviewed in October 2008, it was agreed that an informal noise level would be set. This had been done on 25 October, 2009 when a disco was playing and there was no noise nuisance. A noise level was agreed and this should have been adhered to. There were further complaints on 25 October and 8 November when the noise level was louder than that set. Mr. Davy went on to say that he had received emails from the applicant accepting that the Club was aware of the levels at which the sound should be set. Mr. Davy then circulated a plan indicating the location of premises at which noise readings from the Club had been taken and which showed how far music from the Club had travelled on 31 December. Further complaints had been received including three last weekend when music was being played. This had not been verified by officers.

There were no questions to Mr. Davy from the objectors or the applicant.

Ms. Boothman then addressed the Sub-Committee and outlined the objections from Trading Standards. She indicated that three complaints had been received during the current week including one that, on 26 April, music was being played loudly and people were congregating outside the Club premises. There were no questions to Ms. Boothman from any of the parties.

The interested parties were then invited to address the Sub-Committee. The first, Mr. Perry, indicated that he was also speaking on behalf of Mr. and Mrs. Barnard who had objected to the application. He advised the Sub-Committee that there was no apparent monitoring of activities at the Club by the Club management. At the review in October 2008, four conditions were imposed, one of which was that 'no person shall be allowed to congregate outside the premises', which included children. Mr. Perry advised the Sub-Committee that, on Mothering Sunday, children were playing football outside the Club and there was no apparent monitoring of the noise nuisance. It had happened subsequently when Mr. Perry had phoned the Club and spoke to a bar person who said he was unaware of the restrictions. On asking to speak to a Committee Member, Mr. Perry heard someone in the background saying 'tell him there is no-one here'. He questioned who was monitoring noise nuisance on that occasion? On another day there was a football match on the television and another event was taking place at the Club. Both children and smokers were allowed to congregate outside the Club but no management was in evidence to monitor the situation. He advised that last weekend there was music coming from the Club. It was very audible to all residents and was a clear breach of conditions. He suggested that if the extension of hours was agreed, this, together with poor management at the Club, would only make the situation worse. Mr. Perry referred to paragraph 8 of the decision notice of October 2008 which made reference to problems caused by members and smokers. He made the point that, if the extension of hours was agreed, residents would have no relief from the problems. He went on to say that all of the promises made by the Club had meant nothing. There was no management of the problems. If live and recorded music had been excluded, dancing still remained and this would be anomalous. The lack of management meant that problems had persisted, music was continuing and there had only been marginal improvement since the licence was issued and multiple breaches were being investigated.

Mrs. Levesley then addressed the Sub-Committee and referred to a notice which was pinned on the door of the Club in February. She made the point that the quiet period has now gone and that residents could expect a raucous and anti-social summer.

At this juncture, the time being 11.50 a.m., Mr. Moore asked for an adjournment to allow him to discuss the issues raised by Mr. Perry, with his client. The Sub-Committee reconvened at 12 noon.

Mr. Moore had no questions to ask of the interested parties.

Councillor Sarohi asked the residents if they had seen any of the Committee Members at the Club supervising children. Mr. Perry indicated that he had not and that the children were seen to play in both the car park and the grassed area at the Club. In answer to a further question from Councillor Sarohi, Mr. Perry advised that signs were displayed asking smokers and club patrons to keep the noise down, but they were not being enforced. By way of explanation, Mr. Moore pointed out that a notice was displayed on the front door of the Club asking customers to respect neighbours. Mr. Perry concurred with this but expressed the view that the signs were never enforced. Mr. Moore explained that the grassed area at the rear of the club was such that there were no restrictions on who could gain access to the land. Mr. Perry agreed with this but children had been seen leaving the grassed area and entering the back door of the club. Mr. Perry went on to say that there had been trouble with foul language, noise and raucous behaviour.

Mr. Moore then addressed the Sub-Committee and explained that there were shortcomings in the way things were carried out. The Club had a membership of about 400. It was in an urban conurbation and was a facility enjoyed by a large number of people. He went on to say that when the Licensing rules changed, the hours on the conversion were not included to mirror the hours of operation the Club had previously enjoyed. The current application was designed to rectify that anomaly. He said that the Committee did not wish to reintroduce music and was anxious to show that the Club would work with the community. The Club was run by volunteers and a number of new members had been placed on the committee to ensure that the Club operated within the conditions of the certificate. He pointed out that, if the current application was agreed, residents would have the right to call for a review of the licence. With regard to the issue of serving alcohol outside agreed hours, Mr. Moore indicated that the alcohol was actually given to members while their subscriptions were being collected. He went on to say that, in the circumstances, the concerns of everyone should be taken into consideration. The Committee should be trusted to rectify the problems. Mr. Moore asked the Sub-Committee to consider granting the application on the basis of the circumstances previously outlined. The Committee at the Club was receptive to the original purpose of the Club. Mr. Moore accepted that the Club was being prosecuted and pointed out that a fob system had been introduced for members and notice's had been displayed.

Mr. Moore then responded to questions.

In answer to a question from Mr. Perry, Mr. Moore confirmed that the hours currently serving alcohol were those that the Club had originally sought.

Mr. Perry explained that residents had been invited to discuss their problems with the Club by way of an unaddressed flyer. This had been done at the time the appeal was proceeding. The residents had been advised that it would be subjudicy to participate and therefore gave details of their concerns to the Council and not the Club. Mr. Perry referred to the membership of the new committee and sought confirmation that

Mr. Hough, his son, Mr. Carter and Mr. Blakemore were all members of the previous committee, and where guidance for the new committee came from. Mr. Blakemore confirmed the membership of the new committee and added that guidance was given by the more experienced committee members. Mr. Perry made the point that the Club premises were so limited that it was important to carry out functions without being aware of noise from smokers. He asked if anything was being done about this. Mr. Moore replied that the club was planning to include a structure for this purpose.

Mr. Perry then referred to the membership and asked how many of the 400 members attended the club regularly. Mr. Moore indicated about 250 plus family members. Ms. Boothman then asked what structure had been established to ensure that committee members complied with the conditions on the licence. Mr. Blakemore indicated that this was done within the bar management and there were defined roles for committee members and bar management including himself and Mr. Carter.

Mr. Moore had referred to an historical problem regarding operating hours of the club. Ms. Boothman sought clarification. Mr. Moore explained that under the previous licensing regime the Club operated different hours. Those hours were not reflected in the application to convert the licence to a new licence under the new licensing regime and the new application was designed to rectify that.

Mr. Knapper confirmed this to be the case.

Mr. Davy accepted that there were shortcomings at the Club but suggested that these should have been addressed before applying for the licence. Mr. Blakemore accepted that the new committee should have looked at this and pointed out that Mr. Carter had met with Mr. Knapper before the review in October 2009.

Mr. Davy asked how many changes there had been in the Clubs committee since the review last October. Mr. Blakemore indicated that there were new members in February and that would have been the second change since October. Mr. Davy referred to emails he had received from one of the 'new' members, Mr. Carter, who had known the acceptable noise levels. There had been subsequent breaches. Mr. Davy questioned whether the committee could be trusted to sort out the problems at the Club. In reply, Mr. Blakemore pointed out that there were no actual noise levels set and this was very difficult to work to. Mr. Davy explained that advice had been given for a representative of the Club to walk the perimeter of the Club grounds. If no noise was audible, it was unlikely to cause problems to local residents. There was no legal need for noise levels to be set.

In reply to questions from P.C. Doyle, Mr. Blakemore confirmed that he was a committee member, the Chairman, he thought, was Mr. Morris who was a regular visitor to the Club. P.C. Doyle asked Mr. Blakemore if he was aware of the need to display a summary of the licence and the person responsible, and asked who was responsible for the staff at the Club. Mr. Blakemore replied that the bar manager was responsible for the staff and confirmed that the licence was displayed and the staff fully understood the terms of the licence.

In answer to a question from Mrs. Levesley, Mr. Blakemore confirmed that committee members were aware of the situation which existed at the Club. Mrs. Levesley advised the Sub-Committee that she had spoken to a committee member recently who had questioned why the Club was being taken to Court.

Mr. Blakemore responded to further questions and indicated that the church was aware of the problems at the Club but was letting the Club fight its own cause. The current capacity of the function room was 150. Mr. Blakemore advised that he had been a committee member for 6 to 8 months and meetings were held every month. Mr. Blakemore accepted that there had been incompetences but the Club was trying to grab the bull by the horns and sort out the problems. Each weekend there were about 100 members attending the Club but the membership had decreased from the 2008 figure of 600.

All parties were invited to make a final statement. Mrs. Levesley, on behalf of the residents expressed the view that the application for the increase in hours was premature. Mr. Moore declined to make a final statement.

All parties withdrew from the meeting at 12.35 p.m.

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

Resolved (Unanimously)

That the application be refused on the basis that the Club has manifestly failed to comply with the current conditions of its licence.

In reaching its decision, the Sub-committee agreed that the application to increase the hours at the Club was premature.

All parties were readmitted to the meeting at 12.41 p.m. and advised of the decision.

The objectors and the applicant were advised of their right of appeal. The appeal lies to the Magistrates' Court and must be commenced by notice of appeal within the period of 21 days beginning with the day on which they are notified by the Licensing Authority of the decision appealed against.

Termination of meeting

The meeting terminated at 12.43 p.m.

Chairman

Date