

LICENSING SUB-COMMITTEE

Monday, 3rd February, 2014 at 10.30 a.m.

In a Conference Room, Council House, Walsall

Present

Councillor Clarke (Chairman)
Councillor Sarohi
Councillor Anson

In attendance

Stephen Knapper – Principal Licensing Officer, Walsall MBC
Hazel Powell – Senior Licensing Officer, Walsall MBC
Paul Green – Legal Services, Walsall MBC
Michael Carey – Environmental Health Noise Abatement Team
Leigh Davy – Environmental Health Noise Abatement Team
Colin Simpson – Environmental Health Noise Abatement Team
P.C. Marriott – West Midlands Police
P.C. Gardiner – West Midlands Police
Mr. Harminder Singh Samra – Licence Holder
Mr. Suki Samra – Representing Samra's Nightclub

Appointment of Chairman

Resolved

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

Councillor Clarke 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 Rochelle.

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 – Samras, 24 Caldmore Green, Walsall, WS1 3RN

The report of the Interim Regulatory Manager was submitted:-

(see annexed)

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

The Principal Licensing Officer (Mr. Knapper) enlarged upon the report for the benefit of the Sub-Committee and indicated that the review application had been made by the Chief Officer of the Police, West Midlands region. He drew attention to the background information and stated that the current premises licence was attached as Appendix 1 to the report. The licence holder and Designated Premises Supervisor was Mr. Harminder Singh Samra. The review application had been received on 12th December, 2013 (Appendix 3 refers) and had claimed that all four licencing objectives were not being promoted. The Premises Licence Review Notice had been displayed for 28 days at the premises, on the Council's website and at the Council's offices. The Notice displayed outside the premises had been replaced three times. The period for written representations had expired on 9th January, 2014. The Council's Environmental Health Team had submitted a noise history document in respect of the review application (Appendix 4 refers) on 30th December, 2013. No other representations had been received from other responsible authorities or other persons. In conclusion, Mr. Knapper drew the meeting's attention to Paragraph 4.2 of the report.

None of the parties present had any questions for Mr. Knapper on the report.

P.C. Gardiner (West Midlands Police) was invited to present his case and reported that it was quite common for violence to occur around licensed premises but the Police did their best to keep it to a minimum because of the adverse impact such behaviour had on Walsall. He referred to the incidents listed in Appendix 3 to the report between 23rd June and 6th December, 2013 and drew the Sub-Committee's attention to disclosure statements and call logs which had been circulated. In view of the problems he asked the Sub-Committee to consider revoking the premises licence for Samras.

Leigh Davy (Environmental Health Noise Abatement Team) drew the Sub-Committee's attention to Appendix 4 of the report which contained a history of noise nuisance associated with Samras between 14th July and 7th September, 2013. He also referred to the letters sent by Environmental Health Officers to the Manager of Samras dated 14th July and to the Noise Abatement Notice which was served on Mr. S. Samra at his home address regarding amplified music from the premises dated 12th August, 2013.

Mr Davy added that there had been three complaints of noise nuisance emanating from Samras on 7th September, 2013. These were investigated by officers, confirmed as nuisance and a Breach of Notice letter was posted at Mr. S. Samra's address on 8th September, 2013.

Mr. Samra was invited to present his case and indicated that his father, Mr. Harminder Singh Samra, was the premises licence holder and Designated Premises Supervisor for the premises. He referred to the Police call logs of events and in particular to those for 23rd June, 2013 which he felt could have been a malicious call. P.C. Marriott replied that on that morning the Police had been unable to attend Samras because of a lack of resources so had referred the noise nuisance complaint to the Environmental Health Department. Mr. Davy indicated that Council Officers were not available after 3.00 a.m. so the complaint would have been dealt with on the following day. He added that for a statutory nuisance to be proved noise levels would have to be taken at the property from which the complaint had arisen.

Mr. Samra then referred to an incident on 20th July, 2013 when a woman was attacked by another female in the ladies toilet. Mr. Samra stated that the Police had attended the premises at 02.57 a.m. five minutes after the 999 calls were made. The injured female had not made herself known to the Police so it was possible that the assault had not occurred at Samras.

P.C. Marriott referred to the Police call logs which indicated that an injured person had contacted the Police from Samras requesting that she be taken to hospital to have the wound to her head attended to.

Referring to the incident occurring on 17th August, 2013 where four males were supposedly smashing glasses and bottles inside the premises, Mr. S. Samra stated that when Police attended everything was quiet. He felt that this again could have been a malicious call. P.C. Marriott referred to the call logs and indicated that the telephone number shown was for Samras premises. Mr. S. Samra replied that there is a payphone in Samras so anyone could have made the call.

With regard to the pool table incident on 7th September, 2013, Mr. S. Samra confirmed that there had been a confrontation in the premises but staff had intervened and it had been resolved quickly. He referred to the Police log of the incident and to a comment from the ambulance service that the head injury had occurred in Torquay Road. P.C. Marriott indicated that the call logs were cross referenced so there could be discrepancies arising from live commentary from several sources.

Mr. S. Samra referred to the fact that the victim had stated that he had lost a mobile phone and £30.00 in cash during the incident. He stated that he had checked the incident book and although the altercation had been logged there was no mention of any injuries. He added that as far as he was aware the victim was uninjured when he left Samras. Mr. S Samra continued that CCTV footage had been checked and there was no sign of any theft.

Mr. S. Samra referred to the statement made by Mr. Benjamin Williams, a drunken man who had been assaulted outside Samras and had had his jaw broken, who referred to Samras being near the town centre. He stated that Samras was well

away from the town centre of Walsall and that the Council's on street CCTV cameras had failed to show the incident. He asked if officers had had contact with Mr. Williams that night. P.C. Marriott stated that Mr. Williams had left Samras extremely drunk and was attacked opposite the premises. He felt that Samras had not upheld their duty of care to a drunken individual.

P.C. Marriott referred to the incident on 2nd November, 2013 when two gangs had been involved in a fight in Samras. He reported that West Midlands Police were aware that criminal gangs were visiting Walsall from Birmingham and Sandwell and meeting up in Samras. He reiterated the fact that Mr. Williams was extremely drunk in Samras but staff had done little to protect him. Mr. Samra replied that there was no evidence to show that Mr. Williams had been drinking in Samras.

Mr. Samra referred to the alleged noise nuisance which had occurred on 14th July, 2013 and asked what time officers from Environmental Health had attended the site. Mr. Carey (Environmental Health – Noise Abatement Team) replied that officers had received the complaint call at 12.47 a.m. and had attended the scene of the disturbance at 1.30 a.m.. Mr. Samra asked which doors had been left open. Mr. Carey replied that the doors at the rear of the premises were open. He added that officers had gone round to the rear of the premises to confirm that the noise was coming from Samras.

Mr. Samra commented that there were two entrances to Samras. The main entrance in Caldmore Green and the rear entrance in Spout Lane. As far as he was aware the rear doors to the premises in Spout Lane could not be seen from the roadway. Mr. Carey reiterated the fact that he and a colleague had visited the rear of the premises to confirm that the noise was coming from Samras. If the doors had been closed then the noise would have been considerably reduced in volume.

Mr. Samra referred to the noise complaint on 10th August, 2013 and asked which officer was in attendance. Mr. Simpson replied that he was the officer attending. Mr. Samra continued that there was no statutory nuisance on this occasion because the noise had been reduced and the complainant had confirmed this to the Council's officers. Mr. Simpson confirmed that this was correct.

Mr. Samra referred to the Noise Abatement Notice served on him on 12th August, 2013. He asked why it had been served on him when he was neither the premises licence holder nor the Designated Premises Supervisor for Samras.

Referring to the incident on 16th August, 2013, Mr. S. Samra asked if a statutory noise nuisance had occurred. Mr. Davy replied no. With regard to the barbecue smells, Mr. S. Samra stated that these could not have emanated from Samras as they did not provide hot food at the premises.

Mr. S. Samra referred to the incidents on 7th September, 2013 and again asked if there had been a statutory noise nuisance. Mr. Davy confirmed that there was no statutory noise nuisance on this occasion. Mr. S. Samra asked if there had been any complaints of noise nuisance since 7th September, 2013. Mr. Davy replied no.

Councillor Anson asked about Operation Snowdrift. P.C. Marriott replied that it was a Police operation aimed at preventing organised gangs from coming into Walsall.

Councillor Anson asked if there had been any statutory noise nuisances before July, 2013. Mr. Davy replied that there would have been but complainants would not let officers into their homes to take readings so they could not be confirmed.

Councillor Sarohi asked if Samras had cooperated with the Police over these incidents. P.C. Marriott confirmed that Samras had cooperated.

Councillor Sarohi asked how Samras could be responsible for incidents occurring outside their premises. P.C. Marriott replied that Samras had a duty of care to persons who were inebriated on their premises and should not continue to sell alcohol to them.

Mr. Carey asked if Samras staff walked the boundary of their premises on a regular basis to ensure that there was no noise nuisance emanating from the premise. Mr. Samra indicated that this was being done. As a result there had been no complaints of noise nuisance from Samras since September, 2013.

Mr. Samra was invited to present his case and submitted documents in support of his remarks. Members agreed to consider them but asked for an adjournment to examine them. The meeting was adjourned at 12.05 p.m. and reconvened at 12.33 p.m..

Mr. S. Samra reported that his father, Mr. H. Samra, had been in licensing for 30 years. He was the longest serving licence holder in Walsall. He stated that until the letter had been received in November, 2013 staff had been unaware of any problems concerning the running of Samras. He continued that the club had had no dealings with the Police and it was felt generally that it was a well run establishment in a difficult area. He added that his father could have transferred the licence to another Designated Premises Supervisor to avoid any criticism from responsible authorities but he had chosen not to do so. He added that Mr. H. Samra ran a good club in a difficult area and there had been no further noise problems since September, 2013. He stated that sound monitoring now took place at the premises and staff had portable sound meters that they carried with them when they walked the boundary of the property.

With regard to the serious incident involving the pool table referred to by Police, Mr. S Samra stated that there was no proof that the person had been injured on the premises. However, all the people involved had been banned to prevent a reoccurrence of trouble.

Regarding the problem of gangs fighting on 2nd November, 2013, Mr. S. Samra stated that it began as a normal evening. There had been no information from the Police that there could be a situation arising so door staff and bar staff could not have known what would happen. He added that staff had called Police as soon as the fighting broke out. The club had provided CCTV information to assist the Police with their enquiries.

Referring to Police concerns that door staff were too familiar with customers, Mr. S. Samra reported that this had been put right by changing the door staff and introducing a last entry policy. Large groups were not allowed into the premises and

individuals were vetted before being allowed to enter. These policies seemed to have resolved the problem.

Mr. S. Samra then drew the Sub-Committee's attention to the letters of support for the club and the petition containing 150 signatures in support of the nightclub.

Referring to the underage sale of alcohol, Mr. S. Samra admitted that he was disappointed that this had happened and confirmed that the member of staff responsible had been sacked. All bar staff had received retraining to comply with the Challenge 25 Policy.

In conclusion, Mr. S. Samra stated that Samras was an important part of the Caldmore community and to revoke the licence would have an adverse impact on the area. Policies had been put in place to ensure these problems did not happen again. He asked the Sub-Committee to take no action or issue a warning against Mr. H. Samra.

Mr. Knapper asked when door staff were on duty at Samras. Mr. S. Samra replied on Friday and Saturday evenings. Mr. Knapper asked if CCTV had been provided. Mr. S. Samra confirmed that it was in place and working properly.

Mr. Knapper asked why the Challenge 25 Policy had failed. Mr. S. Samra replied that a part time staff member who had only been employed at the club for two weeks had made the mistake and had been removed. He added that Samras had been tested several times over the years and this was the only time they had been found wanting.

Mr. Knapper asked if doors and windows were kept closed to limit noise emanating from the premises. Mr. Samra confirmed that they were.

Mr. Knapper asked if door staff carried out random searches on customers. Mr. S. Samra confirmed that they did.

All parties were invited to sum up and Mr. Knapper drew the Sub-Committee's attention to Paragraph 4.2 of the report. P.C. Gardiner commented that there appeared to be a lack of responsibility over the sale of alcohol to customers over the last six months at Samras. He indicated that there was evidence to show that drunken people had been allowed to enter the premises and had been served more alcohol. Noise nuisance had occurred on at least three occasions and patrons had been injured on the premises. The test purchase had shown bad practice at Samras.

The Environmental Health Team confirmed there had been noise nuisance noted some distance from the club's premises and double glazing in complainants' homes was vibrating from the bass. A Noise Abatement Notice had been served and a Breach Notice had also been served and Samras had not appealed either of them.

Mr. S. Samra reiterated the fact that Samras was part of the community of Caldmore. He reminded the meeting of the petition signed by 150 residents in support of the nightclub and reminded the meeting that Samras was a well managed premises and all the problems had been rectified. However, if further problems did arise then a further review could be undertaken.

Councillor Clarke asked if all parties were satisfied that they had had the opportunity to air their views fully. This was confirmed then all parties withdrew from the meeting at 1.20 p.m..

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

Resolved

That the Sub-Committee has decided to issue a formal warning to the premises licence holder and Designated Premises Supervisor, Mr. Harminder Singh Samra, because Members felt that licensing conditions had not been applied rigorously enough during the period June to November, 2013. It was noted in mitigation that changes had been made to address the concerns of the responsible authorities. However, should a further review be called for in respect of Samras then the Sub-Committee reserves the right to take sterner action.

All parties were re-admitted to the meeting at 1.45 p.m. and advised of the Sub-Committee's decision and informed of their right of appeal to the Local Magistrates Court within 21 days of the receipt of the decision letter.

Termination of meeting

The meeting terminated at 1.50 p.m.

Chairman

Date