

LICENSING SUB-COMMITTEE 1

Tuesday 25th April 2006 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Mrs Ameson and Tomkinson

Officers

Assistant Director of Legal and Democratic Services (Legal Advisor) and Mrs J Rees for the morning session only, and Mrs K Farrington for the afternoon session only - Directorate of Law and Property

96

DECLARATIONS OF INTEREST

Councillor Ryder declared a personal interest in Agenda Item 5 (Review of a Premises Licence) in view of his being a member of the West Midlands Fire and Rescue Authority.

97

MINUTES

It was noted that the minutes of the previous meeting of the Sub-Committee held on 18th April, 2006, would be submitted to the next meeting of the Sub Committee.

98

REVIEW OF A PREMISES LICENCE THE ROCK CAFÉ 2000 MILL RACE LANE STOURBRIDGE

A report of the Director of Law and Property was submitted on an application made by the West Midlands Police, supported by West Midlands Fire and Rescue Authority, to review the existing premises licence in respect of The Rock Café, Mill Race Lane, Stourbridge.

Mr M Ellis, the Designated Premises Supervisor and licensee of the Rock Café 2000, was present at the meeting.

Police Constable Turley and Woman Police Constable Hale, representing West Midlands Police, together with Station Officer Whittington, representing West Midlands Fire and Rescue Authority, were also in attendance.

Following introductions, the Legal Advisor outlined the procedure to be followed. He also advised on the severity of the concerns raised by the Police and Fire and Rescue Authority, in particular with regard to public safety and on the range of options open to the sub committee, from imposing conditions on the current premises licensee to the withdrawal of the whole premises license.

In response to questions from the Chairman, Mr Ellis confirmed that he had not been present on the premises on either of the occasions when the Police, representatives of Trading Standards and the Fire and Rescue Authority had attended the Club. However, his wife was on duty on the evenings in question. He confirmed that he did not have a substitute Designated Premises Supervisor or Personal Licence holder. He also confirmed that he would be representing himself.

The Legal Advisor commented that the report of the Directorate of Law and Property, was self explanatory, setting out the background of events, which had led to the request by West Midlands Police, and supported by the West Midlands Fire and Rescue Authority, for a review of the Premises Licence for the Rock Café 2000, in March 2006. Videotape evidence was to be shown, if required, illustrating the concerns of West Midlands Police and the Fire and Rescue Authority's concerns regarding incidents of alleged breaches in conditions of the Premises Licence. Photographic evidence was also to be circulated. The Legal Advisor confirmed to Mr Ellis that the Committee had not viewed either the video or photographic evidence prior to the meeting. The Legal Advisor asked Mr Ellis if he had previously seen either the videotape evidence or the photographic evidence. Mr Ellis stated that he had not but agreed that he had no objection to it being shown at the Review Hearing.

The video tape footage was then shown and showed scenes of excessive numbers of young people inside the club, empty bottles, cans and other debris on the floor of the club and on the floor of the ladies' toilets; a young girl on the floor of the ladies' toilet, clearly suffering from excessive amounts of alcohol and/or drugs and being attended to by a young man, in a state of half undress. Exits from the Club were also blocked by rubbish and empty bottles and cans.

In presenting his evidence, PC Turley advised the Sub Committee that the Police had begun making enquires into activities at the Club, particularly with regard to the Wednesday evening discos, after Christmas 2005, following complaints by parents, that their under 18 year olds were returning home on Wednesday evenings from the Rock Café 2000 suffering from the effects of alcohol. Police officers had visited the premises, in plain clothes, in February 2006, at which time a large number of 14 – 18 year olds were on the premises. There was also evidence of under age drinking of alcohol; insufficient supervision staff within the club; no door staff in attendance; evidence of Cannabis use and that of other illegal drugs, and there was an intoxicated young person.

As a result of the findings, a joint visit was made by representatives of the Police, Fire and Rescue Authority and Trading Standards, during which a video was made which indicated that the event was difficult to control and gave rise to concerns for public safety. Due to current restraints it was agreed to request that the Club be voluntarily closed and evacuated.

Following discussion, with the licensee, regarding the concerns, a voluntary contract was drawn up between Mr Ellis, on behalf of the Club, the Fire and Rescue Authority and the Police. The Contract would enable the club to continue to operate until the Police were in a position to request a review of the Club's premises license, as they did not have the power to close the Club.

WPC Hale then gave verbal evidence and circulated photographs which supported her statement, contained as appendix 2 of the report. She confirmed that on her first visit to the club on 22nd February she found the Club did not have an age limit and that the age range attending was 10 – 18 years. She was not requested to provide proof of age, when requesting an alcoholic drink at the Club, even though there was a sign over the bar clearly indicated that proof of age would be requested.

During her visit she had also been aware of a very strong aroma of a controlled drug, which she believed to be Cannabis. During her visit to the Club, she was in plain clothes and accompanied by a member of the Trading Standards. Both had witnessed a couple of young people aged 10, and others between 14 and 18 years, many of whom appeared to display actions indicative of being under the influence of alcohol and/or drugs, (glazed eyes unsteady on their feet and lying or sitting on the floor). Furthermore young people were sitting on top of each other; there were open condom packets scattered; no supervision and the place appeared dirty and hazardous.

In the ladies toilets, there were a large number of empty bottles of alcohol, which were not sold in the club. She also witnessed a large number of small pieces of silver foil (often used as a means of taking drugs) and a number of open packets of condoms, some of which appeared to have been used.

In answer to Mr Ellis' questions regarding her evidence, WPC Hale confirmed that she had not witnessed very young people being served alcohol at the bar, although she had witnessed alcoholic drinks being passed from one person to another. She confirmed that there were trays of soft drinks at the bar. WPC Hale confirmed that she had not found any drugs on the premises, but that it was her professional opinion that a number of the young people displayed erratic and excitable behaviour, which was indicative of being a result of alcohol and/or drugs.

In answer to Mr Ellis' comments that the condoms could have been given out free of charge by staff on the Cyber Bus outside of the Club, the Legal Advisor advised that the origin of the condoms was not in question, rather the fact that they were being used inside the club by very young people.

In answer to questions from the Sub Committee, WPC Hale explained that small pieces of silver paper were often used as a means of taking the drug heroin by drug users. She also confirmed that on her second visit to the Club she could smell evidence of Cannabis on the premises.

WPC Hale confirmed that she had seen one female member of staff behind the bar, one female member of staff at the Club entrance and one female member of staff in the covered outside area together with a male disc jockey. She also confirmed that she had seen no evidence of any checks being taken of the number of young people entering the Club, or confirmation of their ages. There was also no security check carried out on handbags being carried into the club.

In answer to questions by the Legal Advisor, PC Turley advised that although the Wednesday evening discos at the Rock Café 2000 were locally considered as a youth disco, the event was not advertised as being specifically for under 18 year olds. He believed that the event usually finished between 10 pm and 10.30 pm, as evidenced by the number of cars in the area, arriving to collect the young people.

WPC Hale advised that in her opinion 75% of the young people in the Club on both Wednesday evenings were under 18, at least 2 were aged about 10 years of age.

Station Officer Whittington advised that the Fire Officers who had attended the Club on the dates in question and had given written evidence as set out in appendix 3 of the report, were unable to attend the meeting due to pre arranged commitments elsewhere. He confirmed that the concerns of the Fire and Rescue Authority related to public safety in respect of breaches in the premises licence granted in 2005.

Concerns focussed on overcrowding; the Club's failure to use the "clicking" machine to ensure that the limit of 240 was not exceeded; the lack of knowledge, by Mrs Ellis, who was on duty on the nights in question, as to the upper limit of admission to the club and the excessive number of young people in the covered area, which blocked the exits to the premises. A basic head count conducted by the Fire Service at the time of their visit indicated in excess of 400 young people present on the premises with little supervision.

The Chairman requested that in future, wherever possible, every effort should be made to ensure that Fire Officers involved in reviews for premises licenses should be in attendance at meetings.

In response to a request by the Legal Advisor, the Licensing Officer read out the key conditions of the premises licence granted to the Rock Café 2000.

In giving his evidence in answer to the allegations of breach on conditions of his premises licence, Mr Ellis advised that he had been the Designated Premises Supervisor and licensee of the Rock Café 2000 for six years. During this time there had been no problems regarding the Club and its activities. He admitted that there had been difficulties with the Wednesday evening discos, attributable in part to inexperience of such event, but that no problems had been encountered with the core operations of the Club. He had willingly entered into the voluntary agreement between himself, on behalf of the Club and the Police and Fire and Rescue Authority. He was working with both Authorities to address concerns.

In response to questions from the Police, Mr Ellis advised that the Police had first visited the Club in 2002, following concerns regarding the sale of alcohol to under aged young people.

Reference was also made to the large numbers of young people who had visited the Club following an incident when a wall in close proximity to the Club had fallen down. During the incident a number of young people had been injured.

Mr Ellis advised that the reason for the excessive numbers in the club on the 22nd February was due to an excessively large number of young people turning up and requesting admission. He and his wife were worried that if they refused entry to the young people, they would be in danger due to a hole in the wall in close proximity to the club. Mr Ellis accepted that the club had not been properly run on Wednesday evenings. In particular, he had breached conditions of licence in respect of maximum occupancy limits and failure to count numbers of customers into the premises. In addition, exits had been blocked by customers and rubbish.

Mr Ellis had no comment to make to a comment by a member of the Sub Committee, that the excessive numbers inside the club were a bigger danger.

Mr Ellis confirmed that he did not have any other member of staff who was licensed under the Licensing Act 2003. He also advised that he believed that one bar staff member was sufficient, as the club did not sell large amounts of alcoholic drinks.

In response to questions from the sub committee, Mr Ellis advised that although his four adults on duty had been SIA trained they had not received their badges. He understood that this was not a breach of the law as there was no need for them to be trained until 20th March. The Club employed external door supervisors, whom he presumed would be SIA trained. He would ensure that in future he was on duty on Wednesday evenings and request confirmation that door staff were SIA trained.

Mr Ellis confirmed that it was the duty of the supervisory staff to clear up the rubbish in and around the Club. He had already undertaken not to sell bottled drinks in future to ensure there was no danger to visitors to the Club from broken glass.

Mr Ellis further advised that there were four cubicles in the ladies toilets and five urinals and one cubicle in the gents toilets, and that it would be the job of the supervisors to clean up the toilets when they were on duty.

He also confirmed that the large numbers, which turned up to, the club on 22nd February was not the usual number, which attended, but clearly from interest in the fallen wall incident previously referred to.

He agreed that staff should have requested proof of age of the WPC when requesting alcoholic drink.

Members of the sub committee expressed concern that Mr Ellis did not seem to be abiding by the conditions of the voluntary agreement, despite being made aware of concerns for public safety by the Police and Fire and Rescue Authorities.

In response to questioning from the Legal Advisor, PC Turley confirmed that conditions of the Voluntary agreement had been complied with, although there had been an incident at the Club on 17th April, which was still under investigation.

Mr Ellis advised that this incident had taken place at a private function held at the Club, but not organised by the Club.

In summing up, the Legal Advisor stated that Mr Ellis had admitted that he had not managed the Wednesday evening discos correctly since Christmas. He was in breach of conditions of his licence in that the maximum occupancy had been exceeded; there had been failure to use the clicker machine to control numbers and staff were not SIA trained. He also advised that there could be a danger to under 18's in that none of the supervising staff had been CRB checked.

In summing up his case, Mr Ellis advised that he would ask that the sub committee take into account the number of years the Club had been operating without any problem and the fact that the core operation of his business had never caused any problems.

Prior to their withdrawal, the legal advisor indicated to the parties the details of the legal advice to be given to the Sub-Committee, which related to legal aspects of the application.

The Sub-Committee having made their decision all the remaining parties were invited to return and the Chairman then outlined the decision and the reasons for the decision.

RESOLVED

That following the Review of the Premises Licence for the Rock Café 2000, Mill Race Lane, Stourbridge the following additional conditions be applied to the existing licence, with immediate effect:

- 1) That no children under the age of 14 years to be permitted on the premises. Children aged 14 years and over to be permitted to the premises only if accompanied and supervised by a parent on the ratio of 1 parent to 2 children. Such children must leave the premises by 12 midnight.
- 2) That the capacity of this venue is to remain 240. This figure is the combined total of persons admitted to the whole site, including the outside “covered” area. (This condition remains in force 7 days per week).
- 3) Door staff are to be employed at the venue on Wednesday evenings and as all other evenings they are to be SIA trained and registered.
- 4) Door staff are to ensure that the 240 capacity is not exceeded and are to maintain a “head count” of persons admitted.

REASONS FOR DECISION

There have been serious breaches of conditions of licence, in particular relating to significant overcrowding and failure of staff to monitor and count numbers of young people entering the premises.

Failure to properly supervise the children on a Wednesday evening has led to some teenagers present being under the influence of alcohol and/or drugs. The Fire Authority video clearly showed a teenage female in a collapsed state in the toilet area being attended to by a young male, partially clothed.

The Licensing objective relating to the protection of children from harm has clearly been breached. The main access and egress to the premises via the caged area was effectively blocked by large numbers of young people congregating in that area.

99

APPLICATION TO VARY A PREMISES LICENCE, THE WHITE SWAN,
HOLLAND STREET, DUDLEY

It was reported that the application to vary a premises licence in respect of The White Swan, Holland Street, Dudley had been withdrawn by the applicant.

100

APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT
FOR A FRENCH MARKET IN STOURBRIDGE TOWN CENTRE

A report of the Director of Law and Property was submitted on an application received from Ms Marjorie Vincent, for the grant of a street trading consent for a French Market in Stourbridge Town Centre on Friday 28th and Saturday 29th April 2006.

Ms Marjorie Vincent was in attendance at the meeting. Also in attendance was Mr Matthew Caddick, Town Centre Manager for Stourbridge, who was in support of the application and his comments were attached at Appendix 3 to the report submitted.

The Legal Advisor advised that Julie Jones, Commercial Operations Manager, who was also in support of the application, but was not in attendance at the meeting, had made comments attached at Appendix 2 to the report submitted. No objections or comments had been made by any other agencies.

Ms Vincent then informed the Sub-Committee that the market had toured the country for seven years. She also stated that the market would be good for the town as it would increase footfall and create a positive atmosphere.

RESOLVED

That the application received from Ms Marjorie Vincent, for the grant of a street trading consent for a French Market in Stourbridge Town Centre on Friday 28th and Saturday 29th April 2006, be approved.

The meeting ended at 2.20 pm

CHAIRMAN