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Licensing Sub-Committee - 23/06/14

LICENSING SUB-COMMITTEE

Monday, 23rd June, 2014

Present:- Councillor Mrs Winfield – in the Chair

Councillors Eastwood and Hambleton

1. APPLICATION FOR A REVIEW OF A PREMISE LICENCE - THE CREWE ARMS HOTEL

Having taken into account the Licensing Act 2003 and the guidance issued under section 182 of the Act, the Council's statement of licensing policy and also the fact that Environmental Health have requested a review of the premises licence to promote the licensing objective relating to public nuisance and Staffordshire Police have made representations to promote the objective relating to the prevention of crime and disorder and other persons have also made representations to promote the objective relating to public nuisance.

The Committee has considered those licensing objectives in the light of what has been said and has listened to the arguments and is persuaded that, in the light of the evidence before it, it is appropriate to take steps to ensure that the licensing objectives are promoted. In considering which of its powers to invoke the Committee had regard to the guidance at 11.19 and 11.20 which indicates that the Committee should seek to establish the cause of the concerns that the representations identify and that the remedial action taken should generally be directed at the causes and be no more than appropriate and proportionate. In particular where the cause of the identified problem relates to poor management decisions the Committee may consider appropriate action.

Environmental Health brought the review on the basis that the premises had contravened the requirement of the Licensing Act by playing amplified live music and recorded music at an excessive volume both before 2300 hours and on a number of occasions after midnight and into the early hours of the morning in contravention of the times that the premises licence authorised the carrying out of licensable activities, and also issues relating to the management of patrons using the exterior parts of the premises in connection with noise, litter, glass and vomiting. Other persons residing in close proximity to the premises supported these assertions. Staffordshire Police similarly became involved after having received a complaint in July 2013 concerning an allegation that the premises was carrying out licensable activities in breach of the premises licence.

Environmental Health stated in evidence that from as early as April 2013 they had been in discussions with the tenant of the premises (**redacted information**) regarding the soundproofing of the Crewe Arms and also the installation of a noise limiter. Following an event which took place in May 2013 which went on until 23.30

hours and a subsequent complaint which was received regarding noise nuisance the tenant was advised that live music was only permitted from Sunday to Thursday until 22.00 hours and on Friday and Saturday until 22.30 hours with recorded music to terminate at 23.00 Monday until Sunday and that if additional hours were required then an application to vary the licence would need to be made. The tenant stated that the premises licence holder (**redacted information**) would be attending to this. No application was received and noise control proposals were not implemented.

There followed a catalogue of complaints from residents concerning amplified and recorded music after licensed hours from the premises and nuisance being caused by patrons in the car park. At this point noise monitoring equipment was installed in nearby residential premises and the tenants were again informed of the problems. A number of meetings were arranged with the tenants in order to try to resolve the issues where promises were made by the tenants but were not adhered to. Complaints continued to be received by Environmental Health throughout 2013 regarding very loud music played on occasions until the early hours of the morning, despite the terminal hour for licensable hours for entertainment which, it was accepted, had been amended by the Live Music Act 2012 which had created changes to the regulation of entertainment and which allowed live music to be performed in the premises until 23.00 hours. There were no records concerning the issue of temporary event notices for any of the occasions where music continued past 23.00 hours. Noise control proposals had still not been implemented and no action had been taken by the tenants to alleviate noise or to control the public disorder occurring in the car park despite the Police having been advised of the situation and their monitoring the premises. During 2013 the designated premises supervisor who had been appointed by the tenant changed 3 times. The tenant had also been advised that the premises licence was not visible in the bar area. On the 24th December 2013 Environmental Health served a noise abatement notice on the tenant following consideration of recorded evidence. By this time the noise monitoring equipment had been installed into a number of residential properties which had produced evidence of excessively loud amplified and recorded music and patron noise into the early hours. No contact had subsequently been received from the tenants concerning this.

Following complaints of excessive noise and nuisance, noise monitoring continued throughout the period until the date of the review hearing with complaints continuing to be received from local residents about amplified and recorded music emanating from the premises which was clearly audible in their properties until times in excess of the licence terminable hour and also noise from patrons outside the front of the premises. During this time the licence holder had been kept fully informed of the problem. Environmental Health produced two CDs which contained recorded noise, from noise monitoring equipment that had been installed in residential premises as a sample of all of the recordings that had been made. Unfortunately, these two CDs were the only ones that would play on the Committee's equipment and whilst the Committee was informed that the music and noise was louder on other CD's it was still audible. The property windows were open but the Committee was informed that the World Health

Organisation had confirmed that people in the enjoyment of their properties should be entitled to enjoy fresh air throughout the year. The solicitor acting for the licence holder alleged that the noise was only modest but compelling evidence had also been given by the residents who were personally affected by the noise and other nuisance each of whom explained the impact of the nuisance on their personal lives and how it made them feel.

Staffordshire Police also gave evidence that, following complaints that they had received in 2013, they had witnessed activities at the premises which amounted to breaches of the premises licence. The Police had contacted the premises licence holder with their concerns and had been advised that (**Redacted Information**) were already aware of the breaches and that the DPS would ensure that all staff at the premises were aware of the licence conditions and that they would be adhered to.

Following these promises the Police attended the premises at 00.40 hours following receipt of a complaint on 12 October 2013 and they witnessed a number of people drinking outside the venue and witnessed people dancing to loud recorded music and about 15 people sitting around the tables drinking.

On the 19th October 2013 Police officers again visited the venue at around 00.30 hours and found numerous persons sitting inside the venue drinking and music could be heard playing. This visit had been recorded on DVD. The CCTV unit for the premises was found to have no monitor and this was seized by the Police. The Police requested the then DPS to attend a meeting to discuss the rise in recorded incidents at the venue and also to discuss the two visits by the Police. The DPS had cancelled the meeting and no further meeting had been offered by the DPS.

On 7th February 2014 the Police attended the premises at 23.27 hours. Upon arrival loud recorded music could be heard emanating from the venue. This visit was also recorded on DVD. Staffordshire Police formed the view that the premise was having a serious negative impact upon crime and disorder.

The recorded DVD's were presented to the Committee to view. Unfortunately, the quality was not as good as it could be and the Police intimated that the wind noise had partially drowned out the noise that could be heard from the premises. The DVD's did show though that the premises were in breach of licensing hours and also it was established that the premises till receipts was just over one hour slow, the till receipts for a specific period had been removed by the Police. Again the Committee gave weight to the evidence given by local residents as to the noise nuisance emanating from the premises.

For themselves, local residents, some of whom only lived 20 or so metres from the premises, gave evidence that they had been disturbed at night mainly on Fridays and Saturdays by noise coming from discos and heavy rock bands, sometimes until the early hours of the morning, and disturbance from patrons of the premises, sometimes in large numbers, shouting and swearing. Residents had also witnessed patrons fighting, smashing glass, urinating and vomiting and

in some cases had had to move bedrooms. Despite complaints made to the DPS, the Tenants and Licence holder nothing had been done.

The Licence holder gave evidence that money had been spent on insulating the roof over the bar, but clearly that had been inadequate, and that recently a noise limiter had been installed at the premises. The solicitor for the licence holder put forward the argument that as dancing had been deregulated by the Live Music Act the music played at the premises was incidental to a deregulated activity and therefore the performance of live music or the playing of recorded music was not regulated entertainment. The Committee was referred to paragraph 15.41 of the Section 182 guidance dated June 2013.

The police produced evidence to the fact that the entertainment which had been and was to be held on the premises had been advertised on the premises Facebook page and therefore it was the main attraction.

Having had regard to the guidance and specifically paragraph 15.42 to 15.44 the Committee do not accept the argument put forward by the solicitor for the licence holder and considered that the entertainment provided is not exempt entertainment. The licence holder also stated that they do not have control over the activities at the premises. Those activities are controlled by their tenant, (**Redacted Information**) who are also responsible for appointing the DPS. No assurances could be given by the licence holder that their tenants could or would comply with their licensing obligations and in particular the licensing objectives relating to the Prevention of Public Nuisance and the Prevention of Crime and Disorder.

The Committee were concerned by the fact that there had been no meaningful compliance with the attenuation of noise levels by the premises despite a number of approaches by both the Police and Environmental Health and that noise and nuisance issues have continued up to the date of this hearing. In fact the tenants appeared to be operating the premises to the detriment of the community.

In view of the above the Committee has considered the steps available to it to promote the licensing objectives and in accordance with the guidance at 11.18 has noted that where responsible authorities such as the Police and Environmental Health Officers have issued warnings requiring improvement - either orally or in writing that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

In accordance with paragraph 11.19 the Committee firstly considered the modification of the conditions of the premises licence. In view of the fact that the premises licence holder did not appear to have any significant control over the activities being carried on at the premises by its tenant or to substantially be able to influence any outcomes the Committee had no confidence that any such modification would be effective or that (**Redacted Information**), the Tenants, would comply with any such modification in view of the previous history and also the fact that a resident had given evidence to the fact that the only company

accounts returned (up to 30/07/2013, submitted April 2014) described the tenant as a dormant company.

Similar consideration was given to the exclusion of the licensable activity for the performance of live music or playing of recorded music from the scope of the licence. The Committee again felt that as these activities were being currently carried out in contravention of the premises licence the Committee had no confidence that the activities would cease.

The Committee also considered removing the designated premises supervisor because it considered that many of the problems were the result of poor management. The Committee discounted this however because it was the tenants who appointed the DPS and it would appear from the evidence that the DPS's were removed whenever there was a problem and replaced by others who merely continued with the same practices. The licence holder gave evidence to the fact that they had nothing to do with the appointment of the DPS. Indeed the frequent removal of the DPS's by the tenant gave to the committee a clear indication of deeper problems impacting on the licensing objectives.

The Committee then gave serious consideration to the suspension of the premises licence but felt that in view of the fact that noise and nuisance has continued to emanate from the premises up to the date of the review hearing there was no certainty that it would cease after the premises began trading again. From the evidence given it would appear that the licence holder was not taking a pro-active role in this connection.

Regrettably therefore the Committee felt that, in view of the persistent and blatant disregard of the provisions of the Licensing Act by the licence holder and its tenant and, as little had been done to put strategies in place to remedy the nuisance being sustained by members of

the public and also stopping the premises from operating beyond its licensed hours, in order to promote the licensing objectives relating to the prevention of public nuisance and the prevention of crime and disorder the premises licence should be revoked.

A notice will be given to this effect.

Chair

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