

## **LICENSING SUB-COMMITTEE**

Thursday, 22nd January, 2015

**Present:-** – in the Chair

Councillors Eastwood, Mrs Williams and Mrs Winfield

### **1. REVIEW OF A PREMISE LICENCE - KING WILLIAM IV, HIGH STREET, TALKE PITS, STOKE ON TRENT**

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 objectives relating to the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. Representations having also been received from Staffordshire Police and other persons in that regard.

The Committee have considered those licensing objectives in the light of what has been said and have listened to the arguments and are 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 requirements of the Licensing Act by playing amplified live music and recorded music at excessive volumes both during licensed 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 and nuisance. Other persons living in close proximity to the premises supported these assertions.

Staffordshire Police similarly became involved after having received a complaint in April 2014 concerning an allegation of noise emanating from the premises. Environmental Health gave evidence that as from as early as 2 April 2014, when the premises had appointed a new designated premises supervisor, there had been discussions regarding non-compliance with the premises licence. In view of the number of complaints received letters were initially sent to the DPS and Premises License Holder inviting them to a meeting with both Environmental Health and the police to discuss the failings but the Premises Licence Holder failed to attend.

There then followed a catalogue of complaints from residents concerning amplified and recorded music after licensed hours from the premises and nuisance caused by patrons outside. Noise monitoring equipment had been installed in nearby residential premises on several occasions and the Committee heard a variety of recordings which had been calibrated to replicate the volume which had been would have been heard by residents. These recordings spanned a period between 4 July 2014 and 27 September 2014 when various types of entertainment had been provided at the premises and noise experienced from the patrons outside the premises. The volume was exceptionally loud and the Committee heard that such volume would be classed as a statutory nuisance. The noise from the premises was in fact found to be a major source of annoyance for those living nearby and was likely to cause sleep disturbance, affect the ability to listen to the TV and read or study in premises affected by the noise. The use of gardens in the evening for relaxation would also have been adversely affected. In fact evidence was given that one complainant had had to find

somewhere else to sleep at weekends and others reported that they had had to close their property windows and turn up their TV's to drown out the music. Others reported that they had had to sit up and wait until the noise stopped so that they could go to bed.

The DPS and Premises Licence holder had been advised regularly of complaints received and where there were breaches of Licence conditions. Further, they were repeatedly given advice regarding how noise nuisance could be abated and a noise abatement notice had been served. Despite this the nuisance continued and seemed to worsen following the service of the notice as additional complaints were received.

During the same time period, as part of the investigation of Staffordshire Police, complaints had been received that children were on the premises until 01:00 hours causing problems playing football whilst their parents were inside.

Police evidence also indicated that ion track drug swabs had been taken in the premises on a number of occasions indicating the use of cocaine in several locations of the premises. Further that no Security Industry Authority staff were employed on the premises.

On the 14 November 2014 the premises was also subject to a compliance test operation where a young person aged 16 was sold alcoholic drink.

Evidence was also given by Environmental Health that there had been inadequate staff training at the premises and there were little or insufficient records to show that the premises' Challenge 25 Policy was being adhered to.

The Committee were concerned by the fact that there had been no meaningful compliance with the attenuation noise levels by the premises despite a number of approaches by both the Police and Environmental Health and that the noise nuisance had continued despite the issue by Environmental Health of a noise abatement notice. In fact the premises appeared to be operating to the detriment of the community.

The Committee took into account the fact that there had been letters of support of the premises but in view of the evidence needed to consider the steps available to it to promote the licensing objectives and, in accordance with the guidance at 11.18, noted that where responsible authorities have issued warnings requiring improvement, either orally or in writing, that have failed as part of their own stepped approach to address the concerns, then 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 considered the poor management of the premises but were advised that the DPS had left the premises and that currently they were closed.

In view of the above, the Committee were informed that Environmental Health had provided a number of recommendations, having worked together with the Police licensing team, for consideration by the Committee which they believed to be reasonable and proportionate in the circumstances. These recommendations had been discussed with the Premises License Holder and been agreed.

The Committee considered the recommendations in line with the guidance at 11.20 and agreed that the agreed remedial action was, in the circumstances, appropriate and were disposed to make the following order.

Firstly, that the premises licence shall be suspended for three months in order to enable noise attenuation and sound proofing works at the premises to be completed.

Secondly, that no further entertainment be held at the premises until the noise attenuation works and sound proofing at the premises has been completed to a specification and standard agreed by the Environmental Health Department.

Thirdly, that the hours for carrying out of licensable activities be reduced to those hours set out in appendix 4 (page 37) of the licensing agenda.

Fourthly, that the conditions set out in pages 38-41 (annex 4) of the agenda be imposed to replace and amend as appropriate those in annex 3/4 of the premises licence.

And finally, that the Committee warn the licence holder that any further breaches of the licence conditions could result in a further review of the premises licence and possible revocation thereof.

A written decision will be issued to that effect.

**Chair**