

LICENSING SUB-COMMITTEE 5

Tuesday, 31st, March, 2009 at 10.00am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman)
Councillors Cotterill and Vickers

Officers

Principal Solicitor (Legal Advisor), Mrs J Elliott (Licensing Officer) and
Ms K Farrington (Directorate of Law and Property).

9 DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code of Conduct.

10 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 24th February, 2009 be approved as a correct record and signed.

11 REVIEW OF PREMISES LICENCE – STEVE JAMES SNOOKER CLUB

A report of the Interim Director of Law and Property was submitted on a review of the premises licence, in respect of Steve James Snooker Club, 5a High Oak, Pensnett, Brierley Hill.

Mr S James, Licensee, was in attendance at the meeting, together with Mr J Singh.

Also in attendance were Mr C Whittington and Mr G Hickman, representatives of the West Midlands Fire Service, together with PC D Smith, representative of the West Midlands Police and Ms K Richards, Solicitor.

It was noted that two representatives from Trading Standards were in attendance at the meeting as observers only.

Following introductions, the Chairman outlined the procedure to be followed.

Mrs J Elliott, Licensing Officer, Directorate of Law and Property, presented the report on behalf of the Council.

Ms Richards, Solicitor acting on behalf of the West Midlands Police, then gave a brief explanation as to the reasons why the West Midlands Police had requested a review of the premises. She mentioned, in particular, a number of incidents reported, which involved Class A drugs being discovered at the premises, late night parties taking place at the premises, causing noise nuisance and anti-social behaviour to residents, disregard to the membership conditions by allowing non-members access to the Snooker Club and the total lack of control of the establishment by Mr James, the Designated Premises Supervisor. She then called on PC Smith to present his evidence.

In presenting his evidence, PC Smith provided a brief account of the incidents, which had occurred at Steve James Snooker Club over the past eight months. He stated that on Friday 15th August, 2008 at 02.13 hours, a call had been received reporting disturbance at the premises. Officers had attended the establishment and on entering the premises, loud music could be heard and approximately twenty customers were still drinking alcohol. He further stated that Mr James had been advised of the complaint and requested that all customers leave the premises immediately.

On 9th September, 2008 at 02.33 hours, PC Smith informed the Sub-Committee that a customer of the Snooker Club had been arrested. Officers had visited the premises to find customers still drinking alcohol. He further stated that Mr James had been advised to clear premises of customers. He also mentioned that officers could smell cannabis but that no evidence could be found.

PC Smith then informed the Sub-Committee that during 27th October, 2008 and the 9th November, 2008, the Pensnett Neighbourhood had been targeted in an operation involving the Police and partner agencies. He stated that the operation involved a 'walk through' of the licensed premises in the area to monitor their compliance with the Licensing Act and the individual premises complying with the conditions of their premises licence.

During the operation, it was considered that Mr James and his business partner had not been complying with their conditions of licence. It was reported that on 31st October, 2008 at 19.50 hours, officers had attended the premises, when a business partner of Mr James at the time, had been present at the premises. PC Smith stated that a disco had been in operation, which consisted of amplified music being played through a professional deck system, and there were between twenty to thirty people (including young children and toddlers) present at the premises. The business partner was advised that the only licensable activities permitted at the premises were the sale of alcohol and indoor sporting events; therefore, he had been in breach of his licensing conditions. He was further advised at the time that he must comply with the conditions of his premises licence.

PC Smith continued by stating that on 7th November, 2008 at 21.40 hours, officers visited the Snooker Club with passive drug dogs. On arriving it was noted that there had been between thirty and forty customers in the premises. Officers had noticed that the room to the rear of the establishment was being used and upon entering they discovered cocaine and discarded bags on the floor and well as some bags still containing traces of cocaine. He further stated that the passive drug dogs indicated that three persons, of which, only one was a member of the premises, may have been in possession of cannabis, however, these people were searched under the Misuse of Drugs Act and no illegal substance was found in their possession.

On 10th November, 2008, PC Smith informed the Sub-Committee that Mr James had been invited to attend Brierley Hill Police Station to discuss concerns in relation to the incidents reported and the breaches of conditions of licence, in particular, the non-operation of an adequate membership system and allowing non-members entry to the Snooker Club. During that discussion Mr James accepted that the incidents which had occurred at the premises had been unacceptable and indicated that in relation to the drugs incident, he had no idea what had been happening as no 'walk rounds' had taken place by either himself or his staff on that evening.

On 14th November, 2008, as part of a licensing operation, officers had visited the premises. On entering the establishment, officers had noticed that Mr James had been intoxicated and that non-members had been drinking alcohol in the premises after the permitted hours.

In concluding, PC Smith stated that officers had attended the Snooker Club at 23.25 hours, following a report of a distressed female. On arrival at the premises, it was noted that the shutters had been pulled down, however, when entering the establishment, there had been a number of customers drinking alcohol after the permitted licensing hours and having a private gathering.

In responding to a question from Ms Richards in relation to incidents that have been reported since 23rd November, 2008, PC Smith reported that only two incidents had been received, however, these had not directly affected the way in which the premises had been operating.

In relation to the incident on 14th November, 2008, Mr James reported that he had been diagnosed as a Type 1 Diabetic and stated that the medication that he had been taking, sometimes made him appear to be drunk but assured the Sub-Committee that he had not been drunk.

In responding to a question from the Sub-Committee in relation to the incident on 31st October, 2008, PC Smith reported that there had been approximately half a dozen children under the age of fourteen, some in pushchairs, in the Snooker Club.

In responding to a question from the Sub-Committee in relation to the incident on 7th November, 2008, PC Smith confirmed that cocaine had been the only illegal substance found at the establishment, however, there had been evidence that smoking had taken place inside the premises. In responding, Mr James stated that the incident had occurred when his business partner had been part owner of the premises and confirmed that no further complaints had been received since he had left the establishment.

Mr Whittington, in presenting the case on behalf of the West Midlands Fire Service emphasised on the representations set out at Appendix 3 to the report submitted. He stated that following a full audit of the safety arrangements at Steve James Snooker Club on 22nd, January, 2009, completed by himself and Mr Hickman, it had been apparent that the premises had ineffective fire safety management and poor maintenance of the fire prevention and protection measures in place. He reported that the deficiencies would be dealt with by using the Fire Authorities primary legislation, the Regulatory Reform (Fire Safety) Order 2005. He further reported that the licensing objective, public safety, had not been adequately promoted and that the public had been placed at increased risk due to the lack of fire safety management.

It was noted that a letter dated 27th January, 2009 had been dispatched, together with a full report of deficiencies identified at the premises and any action required in order for the premises to comply with the fire safety regulations and that a follow up assessment would be made after 27th March, 2009 to ensure that the deficiencies identified had been remedied to the satisfaction of the Fire Authority. It was also made clear in the letter that failure to comply with legislation may result in an Enforcement Notice being issued. He reported that on 26th March, 2009, a call had been received by Mr Singh stating that the work had not been carried out at the premises and an extension was requested. In responding to the request, it was mentioned that the next step would be for an Enforcement Notice to be issued and it was explained that the Notice would allow Mr James and Mr Singh more time to arrange for the required work to be carried out at the establishment but gives a legal requirement to complete the work by a certain date and failure to comply would result in a criminal offence being committed.

In responding, Mr Singh stated that he had been unaware that the document had been issued until he had found the letter in the Snooker Club on 25th March, 2009 and informed the Sub-Committee that he did contact the Fire Authority on 26th March, 2009 to request an extension for the work to be completed by. He also stated that he had arranged for the alarm system to be fixed and assured the Sub-Committee that most of the deficiencies would be completed in the next two to three weeks. In responding, Mr Whittington reported that Mr James had also been sent a copy of the document.

Mr James then referred to the incident involving Class A drugs being discovered at the premises. He stated that if he had have been aware of such activity taking place in the room at the rear of the premises, he would not have allowed it to happen.

In responding to a question from the Sub-Committee in relation to what measure were in place to prevent illegal substances being bought into the premises, Mr James confirmed that they monitor the behaviour of customers and if they appeared to be under the influence of drugs or in possession of drugs, they would refuse entry into the premises or if already inside the premises, they would be asked to leave. He stated that there had only been one incident involving drugs at the premises and mentioned that once the money was available, CCTV would be installed.

Mrs Elliott then referred to the operating schedule whereby it clearly stated as a condition included in the premises licence requested by the original applicants that no children under the age of fourteen must be allowed entry into the premises. In responding, Mr James stated that he had not read the conditions of licence and had been unaware of the condition.

In response to a question from the Sub-Committee, Mr James confirmed that a membership book was in operation at the premises and the clientele consisted mainly of the more mature adults.

In response to a question from the Sub-Committee, Mr James confirmed that Steve James Snooker Club was his only form of employment and Mr Singh confirmed that he owned another snooker establishment.

Questions were then asked by Ms Richards, with particular reference to Mr Willetts's employment at the premises and queried whether any disciplinary action had been taken against him regarding the drugs incident on 7th November, 2009. In responding, Mr James stated that Mr Willetts had not been employed at the premises but had been a partner. He further stated that he had discussed the incident with his business partner but that no disciplinary action had been taken as Mr Willetts had later emptied the business account and disappeared and had not been seen since.

In responding to a question from PC Smith in relation to the membership system, Mr James confirmed that ID badges had now been issued to members of the Snooker Club but that no proper database or signing in book was in operation at the moment. At this juncture, Mrs Elliott directed the Sub-Committee to the original operating schedule and stated that an adequate memberships scheme had been attached as a condition of licence and confirmed that by not operating the system, they were in breach of their conditions of licence. In responding, Mr James and Mr Singh stated that they were not aware of the conditions of their licence.

Concerns were then raised by the Sub-Committee in relation to the layout of the premises and how the interior had been altered since submitting the original plan of the Snooker Club with no variation of the premises being applied for. In responding, Mr Singh reported that they had made no alterations to the premises since they had taken over the licence. In response, Mrs Elliott confirmed that it had been Mr James and Singh's responsibility to make sure that the premises licence had been varied, when the licence had been transferred into their names, to take into account the alterations that had been made.

In summing up, Ms Richards stated that there had been immense evidence that there had been a lack of control of the premises since Mr James and Mr Singh had taken over as licence holders, in particular, Class A drugs being discovered at the premises; alcohol being served after the permitted hours and a lack of disrespect of the licensing objectives. She further stated that in view of the evidence given at the meeting, she requested that the Sub-Committee consider revoking the premises licence.

In summing up, Mr Whittington stated that it had been evident that Mr James and Mr Singh had a disregard for their customers and The Regulatory Reform (Fire Safety) Order 2005, in that they had failed to remedy the deficiencies identified following a full audit of the premises within the specified timescale. He further stated that the licensing objective, public safety, had not been adequately promoted and that the public had been placed at increased risk due to the lack of fire safety management.

In summing up, Mr Singh acknowledged the concerns raised and stated that CCTV would be installed at the premises to prevent any future problems. He mentioned that locks would be attached to the room at the rear of the premises to stop customers from accessing it and confirmed that in regard to the fire hazards, the deficiencies specified by the Fire Authority would be remedied in the next few weeks. He further stated that they had only owned the Snooker Club for twelve months and were committed to making the premises a success.

Mr James accepted that he had made a mistake by allowing children under the age of fourteen into the premises and stated that he would like to amend the condition of licence to allow him to be able to teach young children how to play snooker.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

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

RESOLVED

That, following consideration of the information reported at the meeting, the premises licence, in respect of Steve James Snooker Club, 5a High Oak, Pensnett, Brierley Hill, be revoked.

Reason for Decision

The Sub-Committee heard representations from the West Midlands Police and from the West Midlands Fire Service, and evidence from the joint premises licence holders, Mr Steve James and Mr Jarnail Singh.

The Sub-Committee considered all of the steps open to it, including modifying the conditions of the licence and suspension for up to three months.

The Sub-Committee has had regard to the licensing objectives, and to the specific conditions attached to this premises licence.

The Sub-Committee found that there had been no organised and consistent membership scheme, that the licence holders were not aware at all times who was on their premises (including children under the age of fourteen) and they admitted that Class A drugs had been found on their premises.

The Sub-Committee concluded that the premises had not been managed properly and safely, and that the licence holders, including Mr James as the Designated Premises Supervisor, had not read their licence and its conditions. They had not taken steps to comply with the conditions of their licence and fulfil the licensing objectives. The Sub-Committee is satisfied that the mismanagement has been ongoing and was not a single incident and revokes the premises licence.

The meeting ended at 12.05pm

CHAIRMAN