

DURHAM COUNTY COUNCIL

At a Meeting of the **General Licensing and Registration Sub-Committee (3)** held in Council Chamber, Council Offices, Chester-le-Street on **Tuesday 24 April 2012 at 10.00 am**

Present:

Councillor D Marshall (Chair)

Members of the Committee:

Councillors B Arthur, D Brown, B Graham and K Holroyd

Apologies:

Apologies for absence were received from Councillors B Alderson

Also Present:

H Johnson – Licensing Officer (DCC)
C Greenlay – Principal Solicitor (Litigation)
S Mooney – Deputy Force Solicitor, Durham Constabulary
Sgt T Robson – Durham Constabulary
J Turnbull – witness for Durham Constabulary
M Cullen – witness for Durham Constabulary
P Glass MP – objector
Councillor C Robson – objector
Capt M Sellers – Salvation Army, objector
A Shaw – objector
R Arnott – Applicant's Solicitor
S Singh Gill – Applicant
D Bartley – Manager, Red Velvet
L Richards – Area Manager, GG Leisure Ltd

1 Declarations of Interest (if any)

2 Application for the Grant of a Licence for a Sexual Entertainment Venue - Red Velvet Private Gentleman's Club, Consett

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the grant of a licence for a sexual entertainment venue in respect of Red Velvet Private Gentleman's Club, Front Street, Consett (for copy see file of minutes).

A plan showing the location of the premises and a copy of the application had been circulated to Members together with copies of representations which had been received from the Objectors. A bundle of documents which had been received from

Ward Hadaway the Applicant's Solicitor had also been circulated to Members prior to the meeting.

Prior to hearing the submissions of both parties, consideration was given to the acceptance of additional information received from Objectors. The Chairman explained that they had been submitted outside of the proscribed timescale for submission of information and, as they contained nothing new, would not be considered by the Sub-Committee. The documents were returned to the Objectors.

Stephen Mooney the Deputy Force Solicitor spoke on behalf of Durham Constabulary and indicated that they had 3 grounds of objection which were that the licence would be inappropriate: having regard to the character of the relevant locality, the use to which the premises in the vicinity are put, and the layout and character and condition of the premises. They had submitted 6 statements from Police Officers and residents, provided photographs of the premises and nearby streets, listings for the nearby theatre and a DVD which contained CCTV footage.

He went on to say that the area was a residential area for families and a place of religious worship, there was also a Theatre and College in close proximity.

They had no objections to the layout of the premises but objected to the character and image of the premises as there were women outside in revealing clothing.

He referred to the bundle submitted by the Applicant's Solicitor and events leading up to the application in particular Mr Gills' statement which suggested that Sgt Tim Robson had been acting as a paid consultant for Mr Gill. Sgt Robson denied receiving any payment and the lack of evidence to support the claim was noticeable. He also referred to Mr Gill's comments with regard to Sgt Davis who he had spoken to and stated that Mr Gill had twisted his words and a statement could be obtained or Sgt Davis would be available to attend if required. He referred to the opening times of other premises in the vicinity which overlapped the opening times of Red Velvet. The photographs produced by the Applicant showing how females dress which were in the bundle should be given little weight, as it was not clear when and where they were taken and in what circumstances.

Sgt Robson confirmed that his statement was a true record and that he had nothing to add. He referred to the comments made by Mr Gill and advised the Sub-Committee that all Responsible Authorities help applicants with applications which was lawful and accepted.

Sgt Robson played a DVD to the Sub-Committee which showed people leaving Red Velvet at various times in the morning. He stated that this supported the statement of J Turnbull.

R Arnott the Applicant's Solicitor asked Sgt Robson why the Police had not objected to the original application which was made in 2006 and what thought process did he use. Sgt Robson replied that Durham Constabulary based their response on the legislation at the time.

R Arnott and Sgt Robson discussed the creation of the plan attached to the licence which showed the layout of Red Velvet and Sgt Robson's involvement in the operating manual. Sgt Robson confirmed that he had amended the plan which was supplied by Mr Gill and he had made suggestions in respect of the operating manual in relation to CCTV and door staff. In response to questions from R Arnott, Sgt Robson confirmed that there was no evidence to suggest that there was a risk to children from Red Velvet which was less troublesome than night clubs, the issue was the location of the premises.

R Arnott referred to Division 21 of his bundle which was an e-mail from the Senior Fire Safety Officer who confirmed that they had never served a Prohibition Notice or taken any enforcement action, in respect of Red Velvet and that he had always found Mr Gill to be responsive to the advice of the Fire Authority. Sgt Robson confirmed that his statement contained the information he was given at the time.

R Arnott asked if Durham Constabulary had objected to any of the temporary event notices. Sgt Robson confirmed that they had not objected, but they had asked for extra conditions to be included. They had objected to one TEN in December 2011, which objection was upheld.

R Arnott and Sgt Robson discussed whether any residential properties had a clear view of Red Velvet and referred to photographs which had been taken which were included in the papers.

R Arnott referred to Division 20 of his bundle which was correspondence from the Empire Theatre and Cinema. They confirmed that they had not experienced any difficulties attributable to Red Velvet. Sgt Robson indicated that the Theatre were not responsible for customers once they had left the premises. R Arnott also referred to Division 19, which confirmed that the Local Safeguarding Children Board had received no complaints in relation to Red Velvet. He asked Sgt Robson if there was any evidence that people had not been able to express their faith due to the premises. Sgt Robson confirmed that there was no evidence but the premises did have an impact on individuals. R Arnott stated that this was morality and not harm.

R Arnott spoke in relation to the list of incidents which were referred to in Sgt Robson's statement on Pages 87-88 of the papers, and stated that Durham Constabulary had not spoken to Mr Gill regarding these incidents and that the door team had been removed after one of the incidents.

S Mooney referred to the minutes of the meeting between the Police and G Gill Leisure held at Consett Police Station on 9 November 2011, and stated that they had an issue with these minutes as it was a without prejudice meeting. R Arnott sought confirmation that the Police had made notes during the meeting and that only one reference was made to Red Velvet at this meeting. Sgt Robson confirmed that Mr Gill's staff took the minutes of the meeting and the Police made notes during the meeting and that the meeting was held to prevent any future problems with CCTV.

R Arnott referred to CCTV footage that was requested by the Police for an incident on 24 December 2011. The footage was deposited at the Coach and Horses Public

House for collection as requested by the Police but was not collected until 29 December 2011. The disc contained footage of the times requested by the Police. Sgt Robson responded that the footage did not cover everywhere that was required and was cut short and did not show staff giving first aid. R Arnott advised the Sub-Committee that additional footage was requested on 7 January 2012, but footage was only kept for 5 days.

Members sought clarification if the area was predominantly residential or commercial. Sgt Robson confirmed it was residential.

S Mooney referred to the location plan on page 90 of the papers which had been prepared at the request of Sgt Robson's so had the initials TJR in the corner.

Janice Turnbull, a witness called by Durham Constabulary, confirmed that her statement was a true record and stated that in the 6 weeks holidays the area is used by young children and she had witnessed boys and young girls talking to the door staff at Red Velvet.

S Mooney asked J Turnbull if she had any comments regarding staff and customers leaving the premises. She responded that she was kept awake until 5.00 am and that you could clearly see who dancers were and who customers were and that they were definitely coming from Red Velvet as it was the only premises open after 3.00 am and she could still hear music from the club. She also referred to fighting in the alleyway as this was the only place that was not covered by CCTV cameras and that the door staff would leave the door to referee the fights.

She referred to the statement by Shaun Zima who had only lived in the premises for weeks, she had lived in her property for 7 years and she believed that Shaun Zima had now been evicted from the premises.

R Arnott confirmed that Mr Zima had not been evicted and had left the premises due to complaints made against him. J Turnbull responded that this was not true.

R Arnott asked J Turnbull why she had not objected to the application and how did she get involved. She responded that she did not know about the application until she saw the notice on the lamppost. She mentioned it to the Anti Social Behaviour Officer, who contacted the police on her behalf. Sgt Robson and PCSO Williamson then took her statement.

J Turnbull was asked by R Arnott to confirm what premises were located near her property and if Time Nightclub was in close proximity which was open until 3.30 am. He also asked if she had complained to Mr Gill about the noise from the speakers located on the door, and she confirmed he had removed the speakers following this complaint. He asked if she had previously complained to Environmental Health. She responded that she had complained to Environmental Health in 2007 about another premises, but not about Red Velvet. R Arnott asked if Time was a loud premise and whether the Fish and Chip remained open after Red Velvet had closed, so people could be customers from the Fish and Chip Shop and not Red Velvet. J Turnbull confirmed that Time could be noisy when the doors were open

and that people got into cars and if these were customers they would be drink driving so in her opinion it was the dancers leaving the premises.

R Arnott asked J Turnbull if she had any photographic evidence of fights taking place in the alley. She responded that she had no evidence of fights but the police had evidence of drug taking.

Members sought clarification if drug taking in the alley way was an isolated incident or a regular occurrence and if she had asked for a camera to be placed in this area. She responded that incidents had taken place since Shaun Zima had moved into the flat and that she had requested a camera after she had been assaulted.

Malcolm Cullen, a witness called by Durham Constabulary, confirmed that his statement was a true record. He stated that Red Velvet was affecting their health and they suffered from sleep deprivation and that the premises were open on a Wednesday. They could hear the DJ announcing the next act and Red Velvet was the only premises that were still open at 5.00 am - they could occasionally hear noise from Time but 95% of the time it was from Red Velvet.

S Mooney asked about an incident where men were shouting at one of the dancers. Malcolm Cullen confirmed that a group of women who were dressed very scantily came out of Red Velvet and went into the side door which led to the Coach and Horses Public House and gentlemen followed them into the premises.

R Arnott asked if Malcolm Cullen had objected to the application as an individual and how did he know they were dancers or customers as they don't wear a uniform. He also advised the Sub-Committee that there were 2 flats above the Coach and Horses Public House and both occupants worked at Red Velvet and they could have had friends round. In response Mr Cullen indicated that he had not objected to the application and yes it could be friends going for a drink.

The Meeting adjourned at 12.15 pm and re-convened at 1.05 pm.

Captain Mark Sellers, representing the Salvation Army, who objected to the application, stated that they had a moral objection to the establishment on the grounds of location and the feelings of the church community. He referred to an interview he had undertaken with Radio Newcastle and a listener contacted the station to say that when they thought of Consett they thought of Polish Dancers which saddened him. Existing legislation allowed the Sub-committee to take the make up of the area into consideration. He also stated that if the application was for a club within 200 yards of Durham Cathedral he didn't think it would take long to make a decision.

Events took place on an evening during the week at nearby places of worship and Front Street already had a large volume of drunks. Red Velvet added to the feeling of intimidation. He stated that the Empire Theatre was not affected by the Club but those using it would be and the Salvation Army had concerns for children leaving the Theatre when Red Velvet was open. He asked the Sub-Committee to consider that the area was a place of worship which gave a real sense of belonging and the Salvation Hall was a spiritual home.

R Arnott stated that there was a lap dancing club in the alley way leading to Newcastle Cathedral and that his objection was on moral grounds which were not relevant. He also asked if in the last 5 years Red Velvet had prevented them from carrying out any of their activities.

Captain Mark Sellers advised the Sub-Committee that the application for a sex establishment in Durham was refused and that they had been able to carry out their activities but it was the general feel and make up of the area that he was concerned about.

County Councillor C Robson stated that residents had objected to the application granted in 2006 by the former Derwentside District Council. He objected to this application on the grounds that the granting of the licence would be inappropriate having regard to the character of the relevant locality.

The Masterplan for Consett set out a vision for the town and central to this was the creation of a vibrant, accessible town centre. On the edge of the town was Derwentside College and a retail park, which were accessible by pedestrian routes, including the Front Street.

Projects within the Masterplan were now being implemented. These included a Customer Access Point which was no more than 50 yards from the Club, a One Point Hub providing facilities for children and public realm improvements. A new Academy school was proposed and children would walk from the Academy to Front Street.

The character of the town centre and community spirit of local people were self-evident and whilst residents felt let down by the decision made in 2006 they hoped that their objections were valid.

R Arnott asked if Red Velvet had prevented any of the projects coming forward. Councillor Robson responded that he did not know if any of the projects had been affected but that the image portrayed by Red Velvet had an impact on the Town Centre. Image was important to the community and residential properties surrounding Red Velvet.

P Glass MP for North West Durham spoke on behalf of constituents and asked Members to focus on her submission that it would be inappropriate to grant the licence having regard to the character of the relevant locality.

She referred to legislation and discussions in Parliament but was reminded that as this had not been presented as part of her submission reference should be limited to Home Office Guidance which was included in the documentation.

Consett was a mid-size market town, proud of its industrial heritage which had now gone, leaving a largely residential area surrounded by small industry and commerce. The town had a number of well-attended places of worship in the town centre which were close to Red Velvet. These hosted groups and organisations such as Guides, Brownies and Boys Brigade meetings. She herself had attended a

Sunday night bingo and events on a Friday evening. The Salvation Army in Sherburn Terrace was within direct sight of the club and hosted visiting groups. The close proximity of so many places reflected the compact nature of the town centre.

There were 26 residential streets in close proximity excluding accommodation attached to commercial properties, amounting to over 500 residential properties and 100 commercial properties within 440 yards of Red Velvet.

Thousands of people lived in Consett, including impressionable young people. The YMCA was 400 yards away providing youth services and specialist educational provision. Troubled young people with problems such as substance misuse and homelessness used the YMCA and they needed good role models. Red Velvet sent the wrong message and undermined what they were trying to achieve. There was also a Counselling Advice service nearby.

Consett had a thriving town centre and night time economy. Food places close to Red Velvet were frequented by families and groups of young people on an evening and the Empire Theatre catered for all age groups.

She had personally walked past the club on 3 separate occasions and had witnessed girls from the Club smoking outside which had attracted a group of males. This could be intimidating for passers by. On Sunday evening she had noticed that the doors to the premises were open but there were no door supervisors outside.

Derwentside College's main campus was on the same side of the road and courses were held up to 9pm at night. There were also bus stops situated outside Red Velvet and elderly people were reluctant to use them because they felt intimidated.

The Council was currently delivering investment in the town and the presence of the club changed how people felt about Consett.

R Arnott asked if she accepted that if a large number of constituents were against the club then it would have closed some time ago and also asked if the premises had prevented her from going to bingo.

P Glass responded that local people who spoke to her did not want Red Velvet in their area and that most customers were from outside Consett. Whilst it had not prevented her from going to events she was not as easily intimidated as other people may be.

In response to a further question she confirmed that she had read the policy document in the applicant's bundle. R Arnott pointed out that it was forbidden for staff to smoke outside and on the night that there were no door staff present the premises had been closed. He asked how she was certain that the girls were dancers to which she was unable to explain how she knew this. She also accepted that the reference to local residents witnessing public disorder and anti-social behaviour was based on comments made by local people to her about general rowdiness etc but that she had not witnessed that behaviour herself.

Mrs A Shaw, objector stated that the concerns of local people related to the location which was not appropriate for this type of premises. There were a number of premises in the vicinity used by both young and old who often left at the time Red Velvet was open. Other pubs and clubs experienced drug and alcohol related problems but she was concerned that customers would leave Red Velvet sexually aroused and this could pose a danger to women. Whilst nothing had happened to date they should not have to wait until an incident occurs before action was taken. Over 400 people had stated that they were against the application and this should be taken into account.

In response to a question from R Arnott she confirmed that there had been no incidents but that the premises should be risk assessed.

R Arnott addressed the Sub-Committee. He stated that this form of entertainment was legal as long as it was carried out in line with any licence and associated conditions. He referred to the Home Office Guidance and reminded Members to consider only those grounds that were relevant. Objections should not be based on moral grounds as reflected in 3.4 of the Council's Licensing Policy. He also referred Members to the Christian Institute case in the Applicant's bundle of evidence which confirmed that moral opinion could not be taken into account.

It was not a debate about whether these clubs should exist but about administering the role under the Act. It was also not about a local referendum – i.e. how many people wanted it. If there was a large body of opinion against the club it would have closed years ago. It was a small venue that thrived because local people used it.

The Christian Institute case also clarified that this type of premises may attract a particular clientele whose presence may not be considered desirable in some areas and could be taken into account but this had nothing to do with the morality of such clubs. There was no evidence of this in this case. People had been coming to the club for 5 years without problem and there were no instances which pointed to Red Velvet having a negative impact.

This was not a residential area. There were a lot of people living nearby but were residing within a commercial centre boundary. A key consideration was the impact of the club. The applicant was able to demonstrate that there had been no impact in the last 5 years with the exception of a minor complaint about noise. There had been no complaints from the local churches, residents, Police and local businesses. This showed that the concerns expressed as part of the 2006 application had not materialised.

R Arnott discussed each of the divisions within their bundle of evidence and highlighted a number of matters, as follows:-

- The applicant had never traded before 9pm contrary to what was stated in the application. The opening hours were as reflected in Mr Gill's statement and he offered to amend the application to reflect this. He gave a brief description of the outside of the premises which was discreet with no advertising or graphics to alert passers by as to the nature of the club.

- Inside the premises there were no hidden corners, CCTV was installed throughout and there were 2 doormen located inside. Customers were seated with waitress service. Reference had been made to the rear of Palmerston Street being in direct line of sight of the club. He disputed this but nevertheless questioned what anyone would be able to see.
- The times that other organisations met within the vicinity did not coincide with Red Velvet, and even if they did they were not preventing them carrying out their activities in any way nor were they affecting the good work of organisations in the area.
- It had been suggested that performers were exploited and the profiles of the dancers had been included in their bundle to demonstrate that this was not the case. Research at Leeds University had shown that 1 in 4 dancers had degrees.
- With regard to the comments relating to customers leaving the premises sexually aroused, statistics had been provided by the Police that sexual offences had reduced from 18 in 2005 to 13 in 2011.
- Local Member Councillor Owen Temple referred to Red Velvet in his blog and had stated that in the five years 'he had read and heard little about it'.
- The Local Safeguarding Children's board had confirmed that no complaints or issues had been received and the photographs of customers within their bundle demonstrated that it was difficult to distinguish between dancers and customers.

At this point R Arnott provided a commentary to the DVD shown by the Police. He stated that at the time of day the clips were taken (early morning) the streets were quiet with few vehicles and no other pedestrians. He also pointed out the surrounding buildings which were largely commercial.

S Gill, D Barclay and L Richards all confirmed that their statements were correct and responded to questions.

S Gill advised that the club had received an accreditation in the Best Bar None Scheme operated by DCC and the Police. In response to S Mooney that this was the lowest form of award he advised that Red Velvet was in the nightclub category and that this was a good endorsement of how they operated.

In response to further questions he advised that he did not put a banner in the window when the premises opened and that the image on the flyer within the bundle could be on any of their flyers. The leaflets promoting 'Midnight Mass' were for Decades, not Red Velvet.

He was not aware that Christine Redshaw was Shaun Zima's aunt but she had been managing The Turf for longer than he had been living in Consett.

S Mooney asked if S Gill could recall any other occasion when he had spoken to Mr Cullen about noise. He apologised that he could not recall speaking to Mr Cullen although Mr Cullen acknowledged that at the time S Gill had complied with his request.

D Barclay was asked how he knew that customers were professional people and he advised that this was because meeting and greeting patrons was part of his day to day running of the premises. The photographs circulated represented Consett on a night out and those labelled 'Caught Out' were taken with the consent of customers by a firm in Sunderland who published the photographs on-line.

P Glass MP asked L Richards about his employment at Meridian School which she had not heard of. L Richards stated that it was a charity and that he had been employed as a support worker to children up to GCSE level.

At this point each party was given the opportunity to sum up.

S Mooney stated that the Sub-Committee had heard from credible witnesses and Mr Cullen's evidence emphasised the dramatic effect Red Velvet was having on their lives. S Zima had only lived there for 9 weeks and his aunt C Redshaw did not attend so he had been unable to question her statement. The Police also believed that the girls outside the club with a group of males were dancers.

There were lots of people living nearby and in terms of impact he referred to the number of people at the hearing giving evidence. He urged the Committee to take into account Section 7.6 of the Councils' Policy and the strong body of feeling there was in relation to the premises.

Councillor C Robson stated that 18 objections had been submitted although 9 were considered to be irrelevant. Presentations from the Police, the MP and others had been comprehensive and relevant. Red Velvet had a negative impact on Consett. There had been a significant change in legislation since the 2006 application and this was not an urban or metropolitan area, but a semi-rural town, supported by its own community.

P Glass MP referred to the strength of feeling in relation to this application. R Arnott had made the case that there was no impact but clearly the Police felt that there was. It was a huge stretch to say that there had been no problems in the last 5 years. This was a small residential town and it was for the Committee to decide whether the area was residential or not. The premises were close to 5 places of worship, the College and YMCA and the closest resident lived 55 yards away. She questioned R Arnott's submission that customers were mainly from Consett and considered that an accreditation award as part of Best Bar None was not a ringing endorsement of how the premises were run.

R Arnott stated that the application should be determined in the light of the Christian Institute Case. Customers supported the club every weekend or it would have closed. There had been a groundswell of objections for the original application but those fears had not come to fruition. No-one had stated that they had been

prevented from doing what they wanted as a consequence of Red Velvet. This was a good application from a good operator with a really good track record.

Members retired to deliberate the application in private at 3.25pm and returned at 4.25pm when the Chair delivered the decision.

In determining the application Members had taken into account the provisions of the Local Government (Miscellaneous Provisions) Act 1972, Home Office Guidance, the Council's Licensing Policy and the written and verbal representations of all parties to the hearing.

RESOLVED

That the Premises be granted a licence as a Sexual Entertainment Venue in accordance with the amended terms requested by the applicant, for the following times:-

21.00 to 02.00 Sunday to Wednesday

21.00 to 03.30 Thursday

21.00 to 04.30 Friday and Saturday