

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Tuesday 18 December 2012 at 10.00 am**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors J Shiell and B Graham

Also Present:

Councillor B Arthur
C Greenlay (Principal Solicitor),
H Johnson (Licensing Team Leader)
K Monaghan (Senior Licensing Officer)
Sgt Tim Robson (Durham Constabulary)
Inspector Colin Dobson (Durham Constabulary)
Ms Smith (Solicitor to the Premises Licence Holder)
Mr Gill (Premises Licence Holder)
Mr Richards (Area Manager for G. Gill Leisure Ltd)
Mr Dixon (Owner of the Door Company)

1 Declarations of Interest

There were no declarations of interest received.

2 Application for Expedited Review of a Premises Licence - Red Velvet, Front Street, Consett

Consideration was given to an application and supporting certificate required under s53A of the Licensing Act 2003 from Durham Constabulary for an expedited review of Red Velvet, Front Street, Consett, Durham (for copy see file of minutes).

The Licensing Team Leader advised Members that they needed to consider whether any interim steps were necessary pending determination of the summary review application which would be considered by 14 January 2013.

The interim steps to be considered were Modification of the conditions to the premises licence, Exclusion of the sale of alcohol by retail from the scope of the licence, Removal of the Designated Premises Supervisor from the licence, Suspension of the Licence.

If the Committee took interim steps then the Licence Holder had an opportunity to submit representations which would require another hearing to be held within 48 hours.

Durham Constabulary indicated that the application was sought after a magistrates warrant was executed at the premises on 14 December 2012, where a search was conducted of the premises and the persons within the premises. Drugs were found on staff and empty plastic bags in the dancers changing rooms which had been swab tested and turned blue which confirmed it was cocaine. Surfaces had also been swab tested and indicated the presence of cocaine. It was believed that staff were working as a group to supply drugs. As a result the Designated Premises Supervisor (DPS) and three other members of staff were arrested on suspicion of being concerned in the supply of controlled drugs. Two members of staff were released with no further action taken, two dancers accepted a caution in relation to the possession of cocaine whilst the DPS and the House Mother were released on Police bail pending further enquiries.

Sergeant Robson circulated photographs of the bags containing cocaine, surfaces and swabs to Members of the Sub-Committee and those representing the Premises Licence Holder.

Sergeant Robson asked that in accordance with section 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public (including parties to the hearing and their representative) be excluded from the hearing to enable him to share intelligence information with Members which was linked to an ongoing active investigation.

He indicated that the supply and possession of controlled substances was a serious crime that warranted the use of the summary review process and requested that the Sub-Committee suspend the licence pending the hearing of the summary review.

Ms Smith who was acting on behalf of the Premises Licence Holder indicated that she was not aware of any evidence that serious crime was taking place. Only 1 member of staff had been arrested as the House Mother and Dancers were self employed and not employees of the Premises Licence Holder. It was her understanding that no charges had been made in relation to the supply of drugs only possession and that her clients business was at stake.

Members sought clarification on why the House Mother and Dancers were not employed by G. Gill Leisure Ltd.

Ms Smith responded that this was standard practice amongst this type of establishment. At her clients establishment the dancers paid £10 per night to dance then 10-20% commission of their nightly earnings was paid to the premises. They were required to comply with a set of house rules. The House Mother paid the Premises a fee to manage the dancers as well as receiving a commission from the dancers. She had only ever come across one establishment where dancers were paid employees of the premises and she sought clarification from Durham Constabulary on the charges that had been made.

She also indicated that her client had not been arrested and the review should be considered based on the information in front of everyone.

Inspector Dobson explained that the intelligence information was concerning the premises, which was a complex issue which could not be released to the public as it could jeopardise the investigation, and was the reason why they were asking for exclusion of the public under Section 14.

Members withdrew from the meeting at 10.25 am to consider the request from Durham Constabulary to exclude the public from the hearing. After returning at 10.40 am the Chair advised the Sub-Committee that they did not feel that it was appropriate to have information without all parties being in attendance.

Ms Smith then made representations on behalf of the Premises Licence Holder, stating that her client was part of a family business that had in excess of 35 years experience of fish and chip shops and been involved in running licensed premises since 2004. The family and company are well respected in the community and in November 2012 they received winner and runner up in Best Bar None for two of their licensed premises. As this was a Local Authority and Police scheme, Members would be familiar with the criteria used to obtain one of these awards.

Ms Smith stated that Mr Gill had no criminal convictions with the exception of motoring offences. The businesses were running well under management and in April this year they were granted a Sexual Entertainment Licence for Red Velvet. Mr Gill oversees the whole business and has an Area Manager and DPS on site who have worked for him for some time without any problems.

Her Client had not been arrested, his premises had not been searched and they were not made aware of any concerns or issues prior to the search of the premises. She asked if it was necessary to take interim steps and if so what was appropriate. She referred to the Home Office guidance and asked why other powers had not been considered more appropriate instead of seeking suspension as the course of action. In her view there was insufficient evidence so the matter could be dealt with differently. Once Mr Gill was made aware of the situation he suspended the DPS pending an internal investigation and he had submitted a variation application to remove him from the position and premises. The House Mother and Dancers had also been removed from the premises and they had no intention of allowing them to return to the premises. As a company they were going to review their policies and procedures particularly in respect of these premises.

Door Staff at the premises were all male so they were unable to search the dancers. If the premises were to close over the busy period this would also impact on the local people who were employed and she suggested that other measures short of suspension of the premises licence would be sufficient, i.e remove the DPS and exclude other activities, which they had already done.

Her Client was happy to be on the premises at all times and withdraw the sexual entertainment until the summary review. She went on to say that it was difficult to find the right dancers and house mother and they wanted to ensure this was properly addressed so proposed that the premises operated as a bar/nightclub to allow staff to remain in employment.

Mr Gill had already voluntarily closed another of his premises on a weekend even though a DPS was on site but he complied with a notice issued by Durham Constabulary.

The Chairman sought clarification on what steps had been taken in the past in relation to drugs.

Mr Gill responded that when he was the DPS of the premises, regular checks were made but he had not been on site for a while but he did check them now and again. Moving forward he would speak to the door company and he had already had staff meetings and he would discuss in detail with his staff about drugs. They did check the toilets regularly and people coming into the premises but he never thought staff would be an issue. In view of this the company were going to have to start from scratch and look at their policies and procedures including the door staff.

The Chairman sought clarification if they checked the surfaces of the premises and if they kept records to show that they had carried out checks. Mr Gill responded that they carried out checks in the toilets but not every venue had issues but it was down to the staff and managers to carry out the checks.

Ms Smith indicated that the drugs were found in the changing rooms which were not accessible to the door or other staff as they were for the exclusive use of the dancers. She also indicated that they were happy for the sexual entertainment licence to be suspended to allow time for them to review this policy which would include looking at the installation of additional CCTV cameras and regular check of all staff.

The Chairman sought clarification on why females were not searched as it was females who were found with drugs.

Mr Dixon, owner of the company providing door staff, advised that employment of female staff was by the request of the client. He had discussed this with his client this weekend and it had been agreed that female door staff would be employed. He went on to say that when his door staff arrived at the premises the dancers were already in their dressing room so would not have been searched as a matter of course.

Members sought clarification on the procedure if female customers attended the premises.

Ms Smith advised that they could search females as long as a female member of staff was present, but most customers were male and they had an element of trust with their staff.

Members asked if they had any suspicion that drugs were on the premises.

Mr Dixon indicated that it was a shock as they were very stringent and had just achieved Best Bar None. He was going to have a meeting with all staff and step things up as a company.

Sergeant Robson summed up on behalf of Durham Constabulary expressing disappointment that he had not been able to supply information privately to the Sub-Committee. He stated that empty plastic bags had also been found in the cistern in the male toilets but had been contaminated so were not presented in his evidence. He also stated that the Best Bar None award would be revoked. He confirmed that the Police had previously held meetings with Mr Gill to resolve issues with his premises. They had concerns regarding the management of the premises which could be clearly evidenced. Cocaine was a controlled substance and evidence suggested that dancers often turned to alcohol or drugs due to the nature of the job. This was not an issue that could be fixed overnight and was a concern of the police. The premises had not been without problems and offences involving drugs were serious. He reiterated his request that the premises licence be suspended pending the hearing of the summary review.

Ms Smith then summed up for the Premises Licence Holder and indicated that any drugs found on the premises was unacceptable and contrary to the policies in place. She accepted there was a failing in the policies in relation to employees but there had been no previous indication of concerns over the premises, which had won Best Bar None six weeks earlier. She asked that the empty bags found in the toilets be dismissed as this had not been raised in the hearing prior to the summing up of the Police representations. In the past any concerns raised had been addressed - such as 2 years ago when the company changed the Door Staff provider to address concerns raised by the Police, which resolved the problems. She referred to the interim steps necessary and confirmed her client had already removed the DPS, Dancers and House Mother and was happy to suspend the sexual entertainment licence pending the hearing of the summary review. In her opinion no further steps were necessary and if the licence was suspended then it would impact on the reputation of her client and staff would be out of work. She felt this would be a step too far.

The Sub-Committee left to deliberate in private at 11.15 am. After reconvening at 11.30 am the Chairman delivered the Sub-Committee decision that, having carefully considered all of the information presented to them, and being conscious of the need to consider whether any interim steps were necessary for the promotion of the Licensing Objectives, they did not consider that it was appropriate to take no action. The Sub-Committee noted that the DPS who had been found in possession of a controlled substance at the premises on 14 December 2012 had already been suspended by the Premises Licence Holder, however the removal of the DPS would not allay their concerns in respect of the premises. The alleged criminal activities were not connected with the sale of alcohol and therefore it was not appropriate to remove the sale of alcohol by retail from the licence.

The most appropriate interim steps open to the Sub-Committee were the modification of the conditions of the premises licence or the suspension of the licence.

Given the acceptance by the Premises Licence Holder of systemic failings in the management of the premises, the Sub-Committee did not consider that any modification could be made to the conditions attached to the premises licence to deal with their concerns as to crime within the premises. There was uncontested

evidence of drugs being sold to patrons within the premises over a period of time. The supply of drugs could attract a maximum sentence of life imprisonment, while the offence of possession of a Class A drug could attract a maximum sentence of seven years. Accordingly, the criminal activity which had taken place within the premises was serious. In these circumstances, the Sub-Committee considered it both necessary and appropriate to suspend the premises licence pending the conclusion of the summary review, which had to take place by 14 January 2013.

Resolved:

That the premises licence be suspended pending the conclusion of the summary review.