

Licensing Sub-Committee

Monday, 21st March, 2011
10.00 am - 12.02 pm

| Attendees | |
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| Councillors: | Garth Barnes, Diggory Seacome and Jon Walklett |
| Also in attendance: | Louis Krog Senior Licensing Officer, Sarah Farooqi Solicitor and Rachael Sanderson Democracy Assistant |

Minutes

5. ELECTION OF CHAIRMAN

Councillor Seacome was duly elected as Chairman.

6. APOLOGIES

None.

7. DECLARATIONS OF INTEREST

None.

8. HILLVIEW COMMUNITY CENTRE

Louis Krog, Senior Licensing Officer introduced the report as circulated with the agenda. An application to review the Premises Licence & Club Premises Certificate in respect of Hillview Social Club had been made by Gloucestershire Constabulary on 25 January 2011. Appendix A of the report showed the application.

Louis Krog, Senior Licensing Officer outlined that the application by Gloucestershire Constabulary explained that on 17 April 2010 a public dance event was held at the premises which resulted in the bar remaining open for an extra hour under a Temporary Events Notice. Mr Nigel Russell attended the Club and consumed an assortment of alcohol, including high alcohol spirits. Some of the alcohol was served directly and some by participation in a drinking game with four other members.

Mr Russell drank to the point of being so intoxicated that he collapsed in the bar. He was carried outside and then carried home but, sadly, never regained consciousness and died in hospital the following day.

Mr. Krog explained that Gloucestershire Constabulary in their application stated that in the absence of positive action by the Committee/Club that such a tragedy could be repeated in the future.

Louis Krog, Senior Licensing Officer detailed the premises current permitted licensable activities and conditions under its Premises Licence as shown in part 2.1 and 2.2 of the report.

Louis Krog, Senior Licensing Officer detailed the premises current permitted licensable activities and conditions under its Club Premises Certificate as shown in part 2.3 and 2.4 of the report.

Copies of both the current premises Licence and the Club Premises Certificate were attached to Appendix C of the report.

Louis Krog, Senior Licensing Officer confirmed that no representations had been received from any other Responsible Authority.

Representations had been received from the following Interested Parties:-

Mr Stuart Fowler (chairman of Up Hatherley Parish Council on behalf of the Parish Council) and Councillor Roger Whyborn (in the capacity of a ward Councillor). Appendix D of the report showed the representations.

Councillor Whyborn also enclosed a letter sent to Norman Adlam dated 13 May 2009 in which he highlighted a number of concerns relevant to his representation. The letter is attached to appendix D of the report. A copy of the licence agreement referred to in Councillor Whyborn's representation was attached to Appendix E of the report.

Louis Krog Senior Licensing Officer, detailed Licensing comments from part 7 of the report. He stated the Club Premises Certificate authorises the supply of alcohol to members of the club and their guests therefore, the club required a premises licence to enable it to hold events that are open to the public.

The sale of alcohol under a premises licence must be authorised by a Designated Premises Supervisor (DPS) who holds a personal licence. The Act does not require a DPS to be present on the premises at all times when alcohol is sold. However, the DPS and the premise holder remain responsible for the premises at all times.

Louis Krog, Senior Licensing Officer detailed that the Sub Committee must take such action as is necessary to promote the licensing objectives which are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. For the Premises Licence, this includes:

- (i) Taking no action;**
- (ii) Modifying the conditions attached to the licence on a permanent or temporary (up to 3 months) basis;**
- (iii) Excluding a licensable activity from the scope of the licence;**
- (iv) Removing the Designated Premises Supervisor**
- (v) Suspending the licence for a period not exceeding three months; or,**
- (vi) Revoking the licence;**

and for the Club Premises Certificate:

- (i) to modify the conditions of the certificate;
- (ii) to exclude a qualifying club activity from the scope of the certificate;
- (iii) to suspend the certificate for a period not exceeding three months;
- (iv) to withdraw the certificate.

Louis Krog Senior Licensing Officer, confirmed that Ms Sally Curry had been the DPS since 14 May 2010 and had replaced Louise Hingley who had been the DPS at the time of the incident involving Mr Russell.

Louis Krog Senior Licensing Officer, advised Members that with regard to comments made by Mr Fowler on behalf of Up Hatherley Parish Council, Members were to note that comments relating to the late filing of audited accounts and annual reports with the Charity Commission was not a relevant consideration under the Licensing Act as it did not relate to any of the licensing objectives. Members were also to note that since the application must be determined on its individual merits, Mr Fowlers comments relating to other premises in the vicinity of the premises was not a relevant consideration.

The representation made by Councillor Whyborn provided Members with information on the management arrangements between the association and the club. It highlighted the intrinsic difficulties created by this relationship especially in relation to the role the supply of alcohol plays in funding the association. Members must decide what weight to add to the comments made by Councillor Whyborn and seek to address the issues raised accordingly with the view of promoting the licensing objectives.

Appendix F of the report showed a plan of the location of the premises.

PC Andy Cook attended the meeting and spoke in support of Gloucestershire Constabularys application. PC Cook said he understood that Members of the Sub Committee had read the review application that he had made on behalf of Gloucestershire Constabulary, along with the accompanying papers, so stated Members would be familiar with the tragic case which resulted in the untimely death of Mr Nigel Russell.

PC Cook read out the following to the Sub Committee;

“There is no incident more serious than one which caused or directly contributes to the death of a person, so you will, I hope, appreciate the reasons for the Constabulary submitting this application following a thorough investigation.

The facts of this case speak for themselves. I will therefore summarise and wish to add very little.

On the evening of Saturday 17 April 2010, a 51 year old man, Nigel Russell, a member of the Hillview Social Club, consumed a small amount of alcohol in the Greatfield Public House and then attended the Hillview Social Club nearby, where he was permitted to consume a considerable additional quantity of alcohol in the Members bar. This led to him collapsing into unconsciousness through intoxication, and from which he never recovered.

It was a busy evening at the bar due to an additional community dance taking place in the adjoining hall.

The drinks were served by three staff working behind the bar before, during and after the playing of a drinking game with a small group of friends, a game known as spoof, where the participants make guesses in an attempt to win the round and avoid payment for their drink.

Nigel Russell won each of the five rounds and was therefore treated to five drinks purchased for him by others within the group, who incidentally were all standing alongside the bar.

Whilst several of the drinks purchased during the evening were not purchased directly by Mr Russell, but were purchased by Nigel's friends, it is appropriate to remind the Committee that a premises can commit the offence of knowingly selling alcohol to a person who is drunk, or allowing alcohol to be sold to a person who is drunk which are offences under Section 141 of the Licensing Act, despite the fact that the person is not served directly.

There are two previous stated cases dealing with this matter:

Radford V Willimas 1914 when a sober customer orders two glasses of liquor, it may be a reasonable step for preventing drunkenness for the barman to ascertain for whom the second drink is intended, and if he fails to do so, and it is in fact intended for a drunken person, a conviction may be justified.

Scatchard v Johnson 1888 where a drunken man and a sober man enter together and the latter orders liquor for both, this will be deemed as selling to the drunken man.

The premises has a responsibility to check who is consuming alcohol it supplies and to monitor the sobriety of customers no matter where they may be situated within the premises and whether they come to the bar personally or not.

It is also appropriate to remind the Committee that Section 142 of the Licensing Act creates an offence of obtaining alcohol for a person who is drunk, so it might be considered that Mr Russell's drinking partners committed an offence under this section, albeit they too had consumed a significant amount of alcohol so their judgement would have been impaired.

During the Police investigation several people were interviewed under caution with a view to possible prosecution. During these interviews it became apparent that:

- Knowledge of Licensing law was weak*
- Lines of responsibility were unclear*
- Training was poor*
- Insufficient attention had been paid to the sobriety or otherwise of the customers, despite the bar staff being aware that a drinking game was taking place and despite Mr Russell being positioned close to the bar.*
- That procedures for dealing with such events were poor, in particular first aid.*

- *The lack of CCTV.*

Unfortunately, many Members Clubs are weak on these issues as they are often run by volunteers or part time staff to a significant extent, and are being run on a low budget.

It is however extremely pertinent that just eight weeks prior to this tragedy, the DPS and the Chair of the Committee were both warned directly by the Police regarding allegations that they were serving alcohol to the point of members becoming drunk. Unfortunately, the issue was not adequately addressed and it appears that the consumption of the large amounts of alcohol on a regular basis had become the norm at these premises – not just by Mr Russell but by other members also.

It hardly needs to be said that the responsibility for judging whether someone has had sufficient alcohol rest not with the customer who has been drinking and whose judgement will inevitably be impaired, but with the premises that continues to sell. This is also the position in law.

In all the circumstances, the Constabulary takes the view that it would be appropriate for the Licensing Committee to:

- *Revoke or suspend either one or both of the two licences*
- *Curtail the licensable hours*
- *And/or impose robust conditions that will ensure it operates to a higher standard in the future.*

In the event that the Committee decides not to revoke the licences for these premises, the Constabulary would respectfully suggest that the terminal hour on both licences should be reduced from 1am back to midnight on Fridays and Saturdays. The premises would still be able to operate later on up to 12 occasions per year using a Temporary Event Notice, however, the Constabulary would of course have the opportunity to consider each of these applications and object as appropriate.

Some firm conditions should also be applied, in addition to the existing conditions that will ensure that the premises operate to a suitably high standard in the future. This may help prevent the repeat of such an occurrence.”

Members asked PC Andy Cook the following questions:

- A Member asked whose responsibility it was to ensure staff were properly trained and who was directly responsible for the premises.
- PC Andy Cook explained this was quite a complicated situation, as the premises held both a Premises and Club Premises Certificate as well as a Temporary Event Notice that was in place on that date. He confirmed the DPS was responsible for the Premise Licence, Mr Norman Adlam was responsible for the Temporary Event and the Social Committee as a whole were responsible for the Club Premises Certificate.

In response to these questions, Mr Turner the Club Secretary, stated he had read all the statements attached to the report and that he felt the wording was suggestive. Mr Turner detailed that he had only been in his position as

Club Secretary for two weeks and had only just learnt of the problems that had occurred prior to him being in the post. Mr Turner advised the Sub Committee that the previous evening he had booked a training course for five members of staff and had made lots of other changes.

Mr Tuner went on to say that most staff were unpaid and the premises was quite a caring club. Mr Tuner stated he did not have anything to do with the running of the bar prior to his new role and after the death no one else wanted to be in post for this role. The club was at risk of folding and stressed that the premises would succeed if it was given a chance.

When asked, Mr Tuner confirmed he had agreed to become Club Secretary at the AGM in June. Mr Tuner said there had been a number of resignations and no one else had volunteered for the role.

Mr Adlam, Club Chairman confirmed the annual fee for becoming a Club Member was £8.00 and £5.00 for senior citizens. When asked, Mr Adlam stated the cost of a pint of Carling was £2.35.

The Chairman asked Mr Adlam, Mr Turner and Ms Curry if they wished to make a statement or were happy to answer questions. All agreed they were happy to answer questions.

Members asked the following questions:

- A Member raised concern over the lack of staff training and that the training course had only been booked last night.
- Mr Turner confirmed he had booked the course last night and had got two new bar staff to work with Ms Sally Curry.
- Mr Adlam apologised for the delay in training and explained that his staff did not serve customers who are drunk or appeared to be drunk. He stated, when asked, that a notice had been put up in the club to advise customers that if they were drunk or appeared to be drunk they would be asked to leave.
- Ms Curry, when asked, confirmed she had not encountered any problems with scuffles or the police being called in the past.
- A Member asked about the signing in of members guests and if the Club had an incident book. PC Andy Cook advised it was good practice to have an incident book.
- Mr Adlam confirmed that the Club had been lax with regard to members signing in their guests and that they did not have an incident book.

Questions were asked about what the reaction to the event as far as the Social Committee was concerned and if a meeting had taken place to discuss going forward.

Mr Adlam stated that notices went up in the bar and on the Club Members notice board and said that he had had a word to Club Members advising them that if they appeared drunk or were drunk they would not be served at the bar. Mr Adlam confirmed there were about 300 total Club Members but between 30 and 40 of those Club Members used the bar area.

- When asked, Mr Adlam, had said he would not stand as chairman but had had a change of heart and wanted to stay on and deal with the challenge. He said he felt he had 100% backing from the Social Committee.
- A Member asked what the other general changes were to the premise.
- Mr Adlam confirmed the premises now closed at midnight on a Friday and Saturday night now rather than 1am and did not open until 16.45pm which cut out afternoon drinking. He also stated the closing time matched that of the Greatfield pub opposite so customers were unable to go from one pub to another after closing time.
- When asked Mr Adlam confirmed that Ms Sally Curry was in charge of the bar and two more bar staff had been employed.
- Ms Curry stated that if she said no to customers who appeared drunk and wanted serving it meant no. Ms Curry also advised the Sub Committee that shots were not served at the bar now.
- Ms Curry confirmed that she worked between 16 and 17 hours a week and was now the DPS. Ms Curry confirmed that neither her son nor Craig Easton who were working on the night of the incident were working for the Club.
- Ms Curry confirmed that the two new bar staff had no previous bar experience but would receive the training. Ms Curry also confirmed that contact telephone numbers for herself, Mr Adlam and Mr Turner were available. Ms Curry stated she only lived two minutes walk away from the premises.

The Chairman then asked if Parish Councillor Stuart Fowler and Councillor Whyborn, who had made representations, wished to speak.

Parish Councillor Fowler said he had received second and third hand information about various issues but he wanted to raise the issue of underage drinking.

The Chairman also mentioned that reports of drug taking had been mentioned in the Police report.

Mr Adlam said that the premises were a victim of a lot of people trying to put the club down. Mr Adlam said that he was present at all functions that took place at the premises and detailed one occasion where an adult had brought their child half a cider, Mr Adlam explained that staff had removed the drink and the adult was told not to do this again. Mr Adlam went on to say that in his previous 15 years working at the premises, he had not seen any evidence of drug taking and felt this comment was purely malicious.

Councillor Whyborn said he wanted to draw attention to the last year and in that period corrective action had resulted in a marked reduction in the number of incidents at the premises. Councillor Whyborn then referred the Committee to comments made in his letter as shown in Appendix D of the report.

Members of the Committee retired and left the Chamber to consider their decision at 10.54am

Members return to the Chamber with their decision at 11.59am.

The Chairman read the following decision:

Resolved that;

We have considered all the evidence, and listened to comments, and answers to questions and as a result we don't feel that enough of the issues which led to the tragic incident on 17 April 2010 have been addressed.

Consequently we have decided to remove the sale of alcohol from the premises licence and the club premises certificate. We feel this would temporarily assist in the achievement in the licensing objectives, particularly crime and disorder and public safety.

The committee will then have time to put in place procedures to ensure there is no repeat of the incidents last year and also to promote the licensing objectives. These procedures could include; review of the committee structure and implementation of any necessary changes in its composition, the training of staff and better record keeping. We would also suggest the DPS be the bar manager and is employed full time.

When negotiations with the Police are completed to the satisfaction of the Police then the social club committee can reapply for the licences.

Chairman