

SPECIAL LICENSING COMMITTEE

WEDNESDAY 16 DECEMBER 2015 AT 2.30PM

PRESENT: Councillor Bell (Chairman), Bowman S, Cape, Ms Franklin, Layden, Morton, Mrs Parsons, Shepherd, Miss Sherriff, Stothard, Mrs Warwick and Wilson.

OFFICERS: Assistant Solicitor
Licensing Manager
Licensing Officer

ALSO

PRESENT: Ms Payne, Solicitor
Mr Ruddick, Chairman of Upperby Men's Institute
Ms Baker, Secretary of Upperby Men's Institute
Mr Brown, Secretary for Cumbria Club Institute Union
PC Brooks
Sergeant Campbell

LC.21/15 APOLOGIES FOR ABSENCE

There were no apologies for absence submitted.

LC.22/15 DECLARATIONS OF INTEREST

Councillors Cape and Wilson declared a registrable interest in accordance with the Council's Code of Conduct in respect of agenda item A.1 – Withdrawal of Club Premises Certificate due to the Club ceasing to be a qualifying Club. The interest related to the fact that they were Ward Members for the Upperby Ward and ex Members of the Upperby Men's Institute.

Councillor Mrs Warwick declared a registrable interest in accordance with the Council's Code of Conduct in respect of agenda item A.1 – Withdrawal of Club Premises Certificate due to the Club ceasing to be a qualifying Club. The interest related to the fact that she was a Ward Member for the Upperby Ward.

Councillor S Bowman declared an interest in accordance with the Council's Code of Conduct in respect of agenda item A.1 – Withdrawal of Club Premises Certificate due to the Club ceasing to be a qualifying Club. The interest related to the fact that he knew the Chairman of Upperby Men's Institute.

All four Members left the meeting and took no part in the item.

LC.23/15 UPPERBY MEN'S INSTITUTE – WITHDRAWAL OF CLUB PREMISES CERTIFICATE DUE TO CLUB CEASING TO BE A QUALIFYING CLUB

The Chairman welcomed everyone to the meeting and introduced the Committee and Officers.

Ms Payne, representing Upperby Men's Institute asked the Committee to consider an adjournment of the meeting for at least four weeks to allow for further preparation.

Ms Payne was concerned that her client had only seven working days to consider the report, give her instructions about its contents and consider and obtain evidence required to refute the contents of the report as required. She added that the report was lengthy and contained many serious allegations and raised several issues. She felt it was unrealistic and contrary to the interests of fairness for her client to be given such a short period of time to deal with the report and be ready for the meeting.

The Chairman asked the Committee to give consideration to Ms Payne's request for an adjournment and asked Members to consider if they refused the request would it prejudice the Upperby Men's Institute.

The Committee discussed the request in detail and

RESOLVED – that the meeting be adjourned until Tuesday 5 January 2016 at 10.00am at Morton Community Centre.

(The meeting ended at 2.49pm)

**SPECIAL LICENSING COMMITTEE - RECONVENED
TUESDAY 5 JANUARY 2016 AT 10.00AM**

PRESENT: Councillor Bell (Chairman), Councillors Ms Franklin, Layden, Morton, Mrs Parsons, Shepherd, Miss Sherriff and Stothard.

OFFICERS: Assistant Solicitor
Licensing Manager
Licensing Officers x2

ALSO

PRESENT: Ms Payne, Solicitor
Mr Ruddick, Chairman of Upperby Men's Institute
Mr Brown, Secretary of Cumbria Club Institute Union
PC Brooks, Cumbria Police

**LC.01/16 UPPERBY MEN'S INSTITUTE – WITHDRAWAL OF CLUB PREMISES
CERTIFICATE DUE TO CLUB CEASING TO BE A QUALIFYING CLUB**

The Chairman reminded the Committee that the reconvened meeting was to consider the Club Premises Certificate for Upperby Men's Institute following a request for an adjournment on 16 December 2015.

The Assistant Solicitor outlined the procedure the Committee would follow.

The Licensing Officer submitted report GD.88/15 which asked Members to consider whether Upperby Men's Institute continued to satisfy the conditions of a qualifying Club and if not, withdraw their Club Premises Certificate.

The Licensing Officer reported that Club Premises were issued with a Club Premises Certificate under the Licensing Act 2003 and were afforded certain key benefits, as detailed in the report, as opposed to other licensed premises. The Licensing Act 2003 prescribed the conditions and determinations which needed to be considered for a club to qualify as a club premises, in particular Sections 62, 63 and 64 as set out in the report.

The Licensing Officer emphasised that to remain a qualifying club a club had to meet all of the required criteria.

Upperby Men's Institute had been issued with a Club Premises Certificate in November 2005. In 2007 they had applied for a variation to their Club Premises Certificate to extend the licence to the boundaries of the Club property which included the car park and, due to representations from local residents; the application was heard and rejected by a Licensing Sub Committee. In 2009 the Club made an application to extend the area for licensable activities to the outside smoking area. Due to representations from local residents the application was considered by a Licensing Sub Committee and granted with the imposition of additional conditions.

From December 2014 the Licensing Authority had received correspondence from local residents, club members and ex club members detailing various concerns regarding the operation of Upperby Men's Institute. Details of all correspondence received including letters from the Licensing Authority to the Club Committee had been included in the report.

The Premises were entered on 11 September 2015 under Section 97 of the Licensing Act 2003 which allowed a constable to enter and search club premises if it was suspected that an offence under the Misuse of drugs Act 1071 had been, was being or was about to be committed. The report detailed the findings from 11 September which included no entries in the visitors' book for the previous two days, the main doors to the premises were open and there appeared to be no control of entry, all which breached club rules and conditions.

The Chairman of the Club allowed the removal of the Club's Committee Minutes and the minutes revealed no entries regarding acceptance of new members or minutes of a meeting in relation to changing club rules. The Licensing Officer reminded the Club Committee that should a club breach the club rules or chose to disregard the rules they would then be at risk of losing the Club Premises Certificate.

Officers from Cumbria Police and the Licensing Authority held a prearranged compliance visit to the Club on 16 October 2015 and met with the Chairman, Secretary and a Committee Member. The meeting was to establish their understanding of the Club Premises Certificate and attached conditions. The Police made comment that it was evident that no one on the Committee had any understanding of club rules or the Club Premises Certificate and it was openly admitted that committee allowed the Concert Room to be hired and used by non members which was a clear breach of the Club Premises Certificate. A detailed overview of the meeting and the Police concerns had been included at appendix 5 of the report.

The Licensing Officer stated that the Clubs method of operating was that of a commercial club and not a Members Club and therefore should not have the key benefits granted to a members club. The supply of alcohol within the premises required a responsible person in place in order to ensure unlawful activities did not take place. The existing club management appeared to breach their own club rules as well as breach conditions attached to the Club Premises Certificate.

The Licensing Officer detailed the breaches:

Admission of Members

Upperby Men's Institute Club Rules, rule 7, stated that a nomination could be received by two members who had been members for at least six months. The nomination was required to be prominently displayed in the premises for at least 7 days prior to the name being submitted to the Committee for election.

As stated the Committee minutes showed no entries regarding acceptance of new members and during visits to the Club no evidence could be found regarding the prominent display of nominations despite evidence that new members were being accepted at the time.

Rule 8 stated that the Club must hold a fully paid share in the Working Men's Club and Institute Union Limited. The Club was not a fully paid member and therefore the members of the Club may not be entitled to the privileges of a union.

The Club must be established and conducted in good faith

Due to mismanagement the Club was restricted as to whom it could purchase alcohol from as it had substantial debts with three major alcohol suppliers. The Committee's attempts to obtain loans in order to pay off existing loans resulted in greater debt was not beneficial to the Club or its Members. The Club Institute Union agreed that the Club was operating in breach of the condition if they failed to honour their trading agreements and loan repayments with the suppliers of alcohol.

A further example of mismanagement was the stock shortage of four hundred pints of beer together with a shortage of £2,500 in the float. Every Member of the Club had a share in the Club and the value of that share was being continuously eroded by the mismanagement of the Club.

Supply of alcohol to Members

During the combined Police and Licensing visit to the Club a non member was observed drinking alcohol whilst playing pool, the visitors book had not been signed and there was evidence that the Club hired out the function room to non members. The Club's Facebook page openly invited anyone to attend bingo nights and advertised the function room's availability for hire to the public.

A legitimate members club would not advertise in that way as club members would be aware of any activities displayed in the club premises. Members of the public would not be openly invited to members clubs.

In order for members of the public to have use of a function room the club would have to apply for a Temporary Events Notice (TEN). Upperby Men's Institute had not applied for a TEN since July 2014.

In conclusion the Licensing Officer reported that the Licensing Authority had serious concerns regarding the management of the Upperby Men's Institute and reminded the Committee that a Club must meet all of the conditions to retain its Club status.

In response to questions from Ms Payne and Members of the Licensing Committee the Licensing Officers and Licensing Manager clarified the following points:

- There had been investigations into other Club Premises in the City.
- Licensing Officers had suggested to unhappy members that they change the Committee of the Club at the next AGM but they had been too frightened to do so.

- When Cumbria Police and the Licensing Officers entered the premises on 11 September they had spoken to Mr Crangle. Mr Crangle was managing the bar and had no knowledge of procedures for visitors entering the Club or who the steward was. He eventually contacted Mrs Ruddick who came to the premises with Mr Ruddick.
- When the Licensing Officers had entered the premises they had not been aware of the date for the next Committee meeting, no nominations had been on display that day. The visit was a snap shot of the premises on that date.
- The Licensing Officers had been provided with the Committee minutes of 13 May which showed that Mr Ruddick would receive an honorarium for the work he had undertaken in the absence of the secretary and custodian. The minutes stated that he would be 'remunerated at his rate of pay'. It was against Club rules for the Chairman to be paid.
- It was confirmed that the rules allowed for each member to sign in three non members by way of an introduction to the Club, however, the non members should be known to the member and should not be members of the public.
- The Licensing Office had not received any completed TENs from Upperby Men's Institute over the Christmas period despite sending forms to them.

Ms Payne then addressed the Committee on behalf of Mr Ruddick, Chairman of Upperby Men's Institute. Ms Payne asked the Chairman of the Licensing Committee for permission to circulate additional documentation.

The Chairman agreed that the documentation be circulated to Members and gave a ten minute adjournment to allow Members to read the documents.

The meeting resumed at 10.30am.

Ms Payne informed the Committee that the Upperby Men's Institute had been established in the 1960s and had 650 – 700 members. The Club catered for the older age group with activities such as bingo and table bowls and had a number of special interest groups such as the knitting group. The Club was an important community focal point which allowed for locals including young people to socialise as there was a lack of pubs in the area. Concerns had been raised about the conditions but she had seen no evidence of significant concerns or any that impacted on the four objectives of the Licensing Act 2003.

The Club had been through a difficult period and some of the letters received should be viewed in that context. The previous secretary had left over a year ago following concerns regarding financial irregularities. The situation led to a split of loyalties within the Club and some of the letters referred to the treatment of the stewardess, Ms Payne felt those issues were outwith the matters being considered. She highlighted that letters of complaint had begun when the stewardess left the Club.

The Club had received visits from Cumbria Fire Service, Health and Safety and Trading Standards and no issues had been raised. The letter which reported that the new pool room was not safe was incorrect, the room had been inspected by Cumbria Fire Service and they were happy with the room.

Within the documentation circulated Ms Payne drew the Committee's attention to the payslip which had been included as evidence that the secretary was being paid through the correct channels and not cash in hand as suggested in the complaint letters.

The Club had appointed a new secretary in April and a new Custodian had also been appointed and just started work and the Club needed some time for the regime to work. The first focus had been for the Club to focus on the financial paperwork, the new Secretary had moved all of the paperwork from hard copy paper to electronic format.

Ms Payne highlighted the number of objections received in both 2007 and 2009 when the Club applied to change its licensable activities, there were a number of residents who would prefer the Club to not be there, there were a number of people who had not been prepared to put their name on the letters or to attend the meeting.

It was accepted that in the early days Mr Ruddick and Mrs Baker had not had a good grasp of the Club Rules and Club Premises Certificate rules but they had been educating themselves and there was no evidence that the Club was being run as a commercial enterprise.

With regard to Members, an application form would be completed and two committee members would interview the applicant before they were proposed and seconded and agreed by the Committee. It was accepted that there were no minutes showing new members but nominations were advertised seven days before the meeting. Licensing Officers conceded that their visit had been a snap shot of the Club on a particular day and did not know when the next committee meeting was. The Club did have a problem with the operation of the doors to the premises and the issue had been fixed and members had to use their fob to access the building.

The Club did provide function rooms for members and it was within the Club rules for each member to invite three guests. The application form showed what members had to do if they wanted to hold a function and the suggestion that the Club was operating commercially was disputed. Mr Ruddick had been unaware of the Facebook page and it had been removed. The Chairman and the Secretary had no part in the Facebook page.

Ms Payne reported that the Club was in a difficult financial position. The previous secretary had over ordered by £11,000. The Club had applied for a grant from the National Lottery and the Club owned the premises which were valued at approximately £500,000 all of which was included in the accounts. With regard to payments to the Secretary and Chairman, payment was allowed to the Secretary and the rules allowed Mr Ruddick to receive an honorarium via weekly payment for the work he was covering in the absence of a secretary and steward. This had been a temporary position which had been agreed by the Committee. The new steward was an experienced personal licence holder who had ran similar premises. He would be made aware of the differences between licensed premises and club premises.

Ms Payne accepted that the Club had had a difficult time but every effort had been made to get the Club back on an even keel. She highlighted the Police statement which had been included in the report and drew attention to concerns they raised regarding Clubs in general. She reiterated that the Club had no issues with the four Licensing Objectives. The Club only allowed children on the premises in the function room. Mr Ruddick had taken his children to the Club to hand over to his wife and on one occasion a member had been allowed to bring their child in whilst they played pool.

Ms Payne asked the Committee to consider a three month adjournment period for monitoring to allow the Club to tighten up on the rules, be educated and operate in a lawful manner.

In response to questions from the Licensing Committee and Officers, Ms Payne and Mr Ruddick clarified the following points:

- An honorarium was generally a payment for work in a volunteer capacity and a weekly payment was generally not considered to be an honorarium payment.
- The Club purchased alcohol from Carlsberg and the Cash and Carry.
- When the contract was finalised with Carlsberg the Club would be able to purchase alcohol from the cash and carry but only one brewery.
- The suggested three month adjournment period was to enable monitoring of the Club to be carried out. The Club had asked the Licensing Office for a member of staff to visit the Club one evening to educate the committee but this had not taken place. There were a lot of concerns raised and they had only been brought to the Club's attention when they received the Licensing Officer's report.
- It was not known if the financial deficit had improved as the accounts run up to December so they were not yet available.
- The stock take was being carried out today.
- The National Lottery grant money would be used to refurbish the Club.
- The ex-custodian had established the Facebook page and no bookings for the function room were taken through the site. The page had been updated by a Member but it had been taken down.
- Each member had a fob to enter the premises and the door had been open as there were issues closing it.
- The loan from Carlsberg would tie the Club in to the brewery for all beer and spirits.

The Licensing Officer reported that the door to the premises had been open on two separate visits to the premises six months apart. The Licensing Officer drew attention to the application to hire the concert room which Ms Payne had circulated. The application form stated that disco music would cease by midnight however the Club's licence only allows music to 11.30pm which made events unlawful between 11.30pm and midnight.

PC Brooks then addressed the Panel. He reported that the Police had received an anonymous letter in May 2015 which highlighted concerns regarding how the Club was being managed by the Chairman and indicated that drug misuse may be prevalent at the premises. In June 2015 an anonymous letter had been received by the Licensing Authority which also highlighted concerns about how the Club was being managed in the absence of the stewardess, low untrained staffing levels, drunkenness amongst staff members, the premises being run like a pub and not closing on time with alcohol being supplied after hours.

As a result of the information and in line with Section 97 of the Licensing Act 2003 a team of specialist officers conducted a search of the premises for illegal drugs on 11 September 2015 utilising a trained scanning dog capable of detecting both Class A and Class B drugs. PC Brooks highlighted the relevant legislation and guidance that covered the search and reported that the search revealed no drugs located within the premises despite indications being displayed by the drugs dog in a private secure office located within the premises on the first floor that had to be unlocked and opened by the Chairman. The indications provided by the drugs dog were consistent with the information contained within the anonymous information received surrounding suspected drugs misuse.

Following the joint enforcement action a meeting was arranged at the premises on 16 October by the Licensing Authority. Sergeant Campbell and PC Brooks met with the Chairman, Secretary and a Committee Member. On arrival the Police and Licensing Officers were able to enter the premises through the main entrance doors that were insecure at the time despite secure access facilities provided, it was established that the door was deactivated. The Chairman had initially outlined that the front door was broken but after trying to establish how long it had been broken the Chairman activated the system enabling access to be controlled. The Chairman provided a working demonstration of the controlled entry utilising his key fob that appeared to work correctly. However, the main entrance door when opened remained wedged open and did not close thereby permitting entry to anyone.

The Club Premises Certificate and club rules had been available for examination and it was established from the outset that no one appeared to have any understanding of their club rules or the conditions attached to the Club Premises certificate. The Club appeared to be openly used for functions where members of the public were going to be freely allowed entry.

Advice was given in respect of the rules of the club regarding guests and in respect of TEN procedures to facilitate members of the public.

PC Brooks drew Members attention to appendix 5 of the report which detailed the findings of the meeting and all of the advice given.

On 14 November 2015 at 3am the Police received an anonymous call from a resident of Lamb Street informing them that the Club was serving alcohol to customers and the customers were keeping the resident awake. The resident was of the opinion that the Club was supplying alcohol after permitted hours. The Club Premises Certificate authorised the sale of alcohol on Friday from 11am to Midnight and the premises could remain open 24 hours a day.

PC Brooks had searched the Constabularies control and command systems and confirmed that the premises did not have a history of crime and disorder associated with licensable activities taking place at the premises. However, an investigation was taking place surrounding financial irregularities associated with the Club.

PC Brooks acknowledged that the Committee had not been called following a review application submitted by a responsible authority but he found it disturbing that despite no illegal drugs being found in the premises there were positive indications of drugs displayed by the search dog within an office utilised by club management. He added that the Club would appear to have a blatant disregard to not only how the premises were managed but also to the licensing objectives.

In response to questions from Ms Payne, PC Brooks clarified the following:

- There had been no further visits or follow up visits to the premises by the Police at this time.
- There had been no further action following the call in November.
- CCTV footage and had not been viewed or seized from the premises to the knowledge of PC Brooks.
- Test purchases had not taken place

- The new custodian was not known to PC Brooks but being a personal licence holder did not make the new custodian experienced.
- Enforcement for Clubs was different to other premises. The Police or Licensing Authority cannot enter the premises without permission; they had to inform the Club of any visits to the premises.
- All members of the Club, not just the Committee, had responsibility for the running of the Club.

The respective parties then withdrew from the meeting whilst the Committee gave detailed consideration to the matter.

RESOLVED – The Members of the Licensing Committee have read the report and considered the evidence presented by officer, Upperby Men's Institute and Cumbria Constabulary.

The Licensing Act 2003 sets out certain criteria that a Club must follow to qualify as a Club Premises and prescribes that if a Club fails to meet one of the criteria it will have its Club Premises Certificate withdrawn by the Licensing Authority.

The Licensing Committee resolved to withdraw the Club Premises Certificate from Upperby Men's Institute with immediate effect as the Club did not meet the following conditions:

Admission of Members

- The Licensing Committee saw no evidence of applications for membership being displayed within the premises or considered by the Committee in line with Club rules
- The continued non-use of door fobs and security to the premises and admittance of non-members

Establishing and Conducting in Good Faith

- Upperby Men's Institute was committed to Carlsberg for the supply of beer and spirits which limited the Club's ability to freely purchase alcohol for the benefit of its Members
- The Licensing Committee felt that a weekly payment of up to £100 was not the nature of an honorarium

Supply of Alcohol to Members

- Upperby Men's Institute advertises its venue to members of the public and on inspection non-members have been seen to be using the Club and allowed free access.

The decision of the Committee will be sent to Upperby Men's Institute along with their right of appeal.

(The meeting ended at 11.54am)