

Licensing Sub Committee

Wednesday 27 August 2025

PRESENT:

Councillor Hendy, in the Chair.
Councillor Lugger, Vice Chair.
Councillor McNamara.

Also in attendance: Jake Metcalfe (Democratic Advisor), Marie Price (Senior Enforcement Officer) and Will Tomkins (Environmental Health/Trading Standards Officer).

The meeting started at 10.00 am and finished at 12.13 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

89. **Appointment of Chair and Vice-Chair**

The Committee agreed to appoint Councillor Hendy as Chair and Councillor Lugger as Vice-Chair for this meeting.

90. **Declarations of Interest**

There were no declarations of interest.

91. **Chair's Urgent Business**

There were no items of Chairs urgent business.

92. **Variation of Premises License - Plymstock Inn**

The Committee having heard from the applicant's representative as follows:

- a) The history of the premises and the license attached to it.
- b) That the Applicant agreed to all the conditions proposed by the Environmental Health Department, at pages 15 and 16 of the Report, except Condition 1 and Condition 4 (relating to the requirement of a noise-limiting device);
- c) Play Area:
 - i. The premises had CCTV that covered the outside area as well as inside and included sound which allowed active supervision and remote monitoring of the premises;

- ii. The play area was constructed in Germany and complied with all safety requirements. Its use would only be during good weather and in daylight;
- iii. The children would be supervised. Its use will be di minimis. The Applicant would agree to it closing at 9pm. There was little evidence of “significant” issues during sensitive times;
- iv. The applicant provided a complaint telephone number so if there were any issues regarding the play area, it could be reported to management and dealt with.

d) Noise Limiting Device:

- v. The Applicant had not put on any regulated entertainment. The music had been “background” music which was not a licensable activity;
 - vi. The Premises’ target audience was families and diners. The Applicant did not intend it to be a live music venue;
 - vii. There were financial implications for putting in noise limiting equipment. It was disproportionate and expensive to install. Mr Semper read paragraphs 2.23 and 9.44 of S182 Statutory Guidance to the Committee;
 - viii. There were three complaints since the Applicant took over, but he had not been aware of the details, and they were not served prior to the hearing. As soon as the Applicant was aware, he turned the music down or off;
- e) The concern of the Environmental Health (EH) Department that the Applicant would not comply with the conditions (page 14 of the Report) was unfounded. He had accepted 11 of the 13 conditions proposed by the EH Department. If he was not trusted, why propose the conditions? The Applicant gave assurances that he would comply;
- f) The Applicant did not work full time on the Premises. He could be elsewhere provided what was in place was sufficient to promote the Licensing Objectives;
- g) There were four undated videos. The use of the garden had been dealt with as part of the conditions relating to the outside area which was already agreed;
- h) This was an application for a variation, not a premises review. The Applicant was asking for a relaxation of what was in place before. There was legal provision if there were issues through a review under s.51 Licensing Act 2003. Case referred to: Taylor v Manchester City Council [2012] EWHC 3467 (Admin);
- i) Children playing in the play area was not a licensable activity. Noise nuisance would fall under the statutory nuisance regime;
- j) As noted at paragraph 1.3 of the Report, live and recorded music between 8:00am and 11:00pm was not licensable and “The majority of the conditions in annex two were

outdated and would require an update”;

- k) The Applicant had agreed to a condition requiring a noise management plan. He had removed two outside speakers and fitted them at waist level on the patio.

The applicant further advised:

- l) That he had not used the noise limiting equipment because he believed the music to be background music and therefore, he didn't have to use it;
- m) The play area was for “low level stuff”, for 3 – 10-year-olds;
- n) The garden was in three areas; patio, grass and play area. The smoking area was a hexagon opposite the play area, at a distance of 15 metres. There were tables beside the play area so parents could eat next to their children.

The Committee heard from Will Tomkins (Environmental Health/Trading Standards Officer) on behalf of Plymouth City Council Environmental Health Services who advised the following:

- o) Read out the conditions agreed by the Applicant (found at page 15 of the Report), namely paragraph two to six under the heading “Prevention of Public Nuisance – Use of the outside seating area” and paragraph one to three and five to seven under the heading “Prevention of Public Nuisance”;
- p) Each application was considered on its own merits;
- q) A brief history of the licence and the conditions added to the licence by the committee in 2017, including the “noise limiter condition”;
- r) The Environmental Health Department received three complaints about breaches of the existing conditions. All complainants were residents who lived near the pub;
- s) A meeting took place at the pub on 21 July 2025 following the submission of complaints. The Applicant turned on the music and Mr Tomkins established that it was in breach of the licence, namely it should not be heard 1 metre from the façade of the nearest residential property. The music was not just background music and would fall within the definition of regulated entertainment. The Applicant turned the music off immediately;
- t) Four videos were shown, the dates of which were:
 - i. Video 1: 8:50pm **12/07/2025**
 - ii. Video 2: 10:20pm **01/08/2025**
 - iii. Video 3: 08:25pm **19/08/2025**
 - iv. Video 4: [no time] **22/07/2025**

- u) The play areas was within the licensable area and was having a negative impact on the public nuisance licensing objective;
- v) The condition relating to the noise limiter was added in 2017 and was considered relevant to the Public Nuisance Licensing Objective;
- w) There had been complaints of music being played before 11:00pm. The music was not considered background music and was considered regulated entertainment;
- x) The Applicant was not required to be there full time. A noise limiter could be used all the time and would assist staff to maintain the level of the music;
- y) The Environmental Health Department considered the necessity of a noise limiter remained relevant to the public nuisance licensing objective. It was the Environmental Health Department's view that with the conditions set out in the report were necessary to promote the Licensing Objective and to grant the variation;
- z) Mr Tomkins acknowledged that the premises have not had a live band or entertainment but that the level of music in the garden of the Premises breached the current conditions and was regulated entertainment;
- aa) The proposed conditions attempted to balance a thriving business with the needs of local residents. The licence was attached to the Premises and applied even if the Applicant was no longer the licensee.

The Committee heard from one local resident who advised the following:

- bb) Concerns arose regarding "piped music" when the Applicant took over;
- cc) The music was loud in his garden to the extent that he did not want to go into it;
- dd) When the place was empty, it made the music even louder;
- ee) He accepted that he lived next door to a pub and there would be a general "hubbub" and is okay with that. However, music should blend in and not be louder than the noise from those in the garden;
- ff) Once the Applicant was aware of the issue, he turned it off;
- gg) This last weekend, the music was loud again on Saturday and Sunday but was off on Monday;
- hh) He was happy with the conditions proposed by the Environmental Health Department;
- ii) The play area was behind his next-door neighbour's garden. He thought that some parents did not supervise their children and if they did, it might've been okay. There was a play area in the past. He does not understand why it needs to be open beyond 7pm as it could cause a "break-out";

- jj) He has found that parents sit on one side and the children make noise on the playground;
- kk) He had been a resident there for 30 years;
- ll) He “noticed” the issue since 30 May 2025. The noise had increased due to “piped music”.

The Committee took into account the following:

- mm) Licensing Act 2003, S182 Licensing Act Guidance and Plymouth City Council Licensing Policy, to provide statutory and local guidance in relation to the relevant licensing objectives when considering the application and the range of powers available to promote the Licensing Objectives on an application to vary a licence;
- nn) That the Applicant took over the Plymstock Inn on 07 May 2025 and that it was taken on with the existing conditions in place;
- oo) The representations that the current premises licence had been breached since Mr Fry took over the premises licence;
- pp) The agreed modifications to the application between the Environmental Health Department and the Applicant on all the conditions proposed by Mr Tomkins at page 15 of the Report except Condition 1 and Condition 4 (relating to the noise limiting device);
- qq) The Applicant’s engagement with the Environmental Health department, including in agreeing 11 of 13 conditions and turning off the loud music when requested;
- rr) The representations by both Mr Semper, Will Tomkins and Marie Price on the meaning of regulated entertainment and whether in this case, the music played in the garden was regulated entertainment;
- ss) That there was existing noise limiting equipment, although conflicting evidence was presented to the Committee as to its functionality. The cost of formal noise-limiting equipment was around £1,500;
- tt) That the current licence included conditions inserted under s.177A(4) Licensing Act 2003 relating to the Licensing Objective of Prevention of Public Nuisance on a review as a result of historic complaints of noise nuisance;
- uu) The layout of the outside space, the play area, dining areas the play area and smoking area;
- vv) The S182 Guidance regarding noise limiting devices;
- ww) The availability of a statutory route to review the licence should problems occur in the future;

xx) The availability of enforcement powers if a statutory nuisance occurred.

The Committee disregarded the following:

yy) The issues and/or breaches of the licence at the premises prior to the Applicant taking over the licence;

zz) The cost of the play area.

The Committee considered the Prevention of Public Nuisance Licensing Objective:

aaa) Members noted that representations that were received totaled five local residents;

bbb) The Committee took time to consider the representations of both the applicant, the relevant authority and local residents to reach a decision that ensured that the variation to the licence would not undermine this objective and balanced the rights of all parties. The Committee was satisfied that the conditions set out were appropriate and proportionate for the promotion of this Licensing Objective in light of the representations and the facts of this licence and application;

ccc) The representations from the Environmental Health Department and the residents, at the hearing and in writing, outlined issues with the running of the Premises which postdated the Applicant taking over the premises and which, in their opinion, were having a negative impact on the Public Nuisance Licensing Objective. In particular these included complaints of: (i) loud music being played in the beer garden and (ii) noise from children utilising the play area;

ddd) The Committee determined that the representations by the Environmental Health Officer and the local residents concerning noise nuisance, from both the outside area and the play area were relevant under this licensing objective.

eee) The Committee determined that given the number and nature of the complaints before the committee, specific conditions beyond those proposed by the applicant and the proposed management plan requirement were needed to promote this licensing objective.

fff) The representations included four video recordings, the evidence in person of one of the residents, evidence from the other residents in writing and evidence of Mr Will Tomkins of the Environmental Health Department. The Committee was satisfied that the music played into the outside space was loud enough to be heard outside the premises and to be a nuisance to residents in the locality on a number of occasions, including those reported by residents and at the time of Mr Tomkins' visit on 21 July 2025. The Committee considered the music to be excessive;

ggg) The Committee was also satisfied, having considered the statute and S182 Statutory Guidance, that, on the facts in this case, the playing of recorded music into the outside space was not incidental music due to its volume which the committee found to predominate over the other activities on the Premises and to cause disruption in the locality. It therefore did not fall within the exemptions under Licensing Act 2003;

- hhh) The Committee was satisfied, having considered the other activities that took place at the premises and the facts above, that the addition of music without the conditions applied in the licence below had the potential to undermine the promotion of the Public Nuisance Licensing Objective;
- iii) Due to the representations made to the Committee by both the Residents and the Environmental Health Department, the committee was satisfied that it was necessary to keep the condition on the current licence relating to a noise limiting device (subject to the change set out below) to promote the Public Nuisance Licensing Objective. This was proportionate given the representations from the Applicant that there already was a noise limiting device at the Premises and the ability to agree the “specification and design” with the Environmental Health Department, and the representations from the residents as to the disruption the music was causing to them. The Committee wished to highlight that the conditions applied to the licence below did not preclude the Applicant from using the existing noise limiting device provided the condition relating to the noise limiting device was complied with in full, including the provision that it was “fully functional and in proper working order at all times during performance of live and recorded music”;
- jjj) The Committee accepted that it was reasonable and proportionate for the play area to remain open until 21:00 hours given the conditions proposed by Environmental Health and agreed with the Applicant about the hours of use of the outside space in general. The Committee was satisfied that this would not undermine this Licensing Objective;
- kkk) The Committee was satisfied that the conditions that the Applicant was prepared to accept (those set out at page 14 of the Report) together with the condition regarding the play area closing at 21:00hrs, the modified condition relating to noise monitoring equipment and the requirement of a Management Plan addressed the concerns of this Committee regarding the risks to the promotion of this Licensing Objective.
- III) The Committee was not satisfied that the conditions proposed by the Applicant alone or with a Management Plan, would be sufficient to promote the Public Nuisance Licensing Objective. It therefore considered it necessary to modify the conditions suggested by the applicant, the majority of those modifications having been agreed by the Applicant in advance of this hearing.
- mmm) Due to the evidence of noise in the form of loud recorded music, the Committee was satisfied that the conditions imposed under s.177A(4) in 2017 that were agreed by the Applicant and are set out in the decision below, remain necessary to promote the Licensing Objectives and should not be removed from the licence. The Applicant agreed to the conditions under s.177A(4), except the condition relating to the noise limiting device.
- nnn) The conditions imposed balanced the various public interests in this case based on the evidence before the Committee and the requirement to promote the licensing objective. The Committee believed that they promoted social cohesion whilst enabling the Applicant to continue to build his thriving business which was clearly part of this community.

The Committee agreed to:

- I. Vary the licence in respect of the Plymstock Inn, 88 Church Road, Plymstock, Plymouth Devon PL9 9BD as follows:

Current Licensable Activities:

Subject to the conditions below, the Current Licensable Activities and hours to remain the same as the existing licence namely:

Current Licensable Activities	
<u>(c) Indoor sporting event</u> Sunday to Wednesday 08:00 to 00:00 Thursday to Saturday 08:00 to 01:00 Non Standard Timings: New Year's Eve: 0800hrs to 0800hrs New Years Day	
<u>(e) Live Music</u> (Indoors and Outdoors) Monday to Sunday 08:00 to 23:00 Non Standard Timings: Christmas Eve Until 0100hrs. New Year's Eve: 0800hrs to 0800hrs New Years Day	
<u>(f) Recorded Music</u> (Indoors & Outdoors) Monday to Sunday 08:00 to 23:00 Non Standard Timings: Christmas Eve Until 0100hrs New Year's Eve: 0800hrs to 0800hrs New Years Day	
<u>(h) Anything of a Similar Description to that falling within (e) (f) or (g)</u> Monday to Sunday 08:00 to 23:00 Non Standard Timings: On Christmas Eve to 01:00hrs New Year's Eve: 0800hrs to 0800hrs New Years Day	
<u>(i) Late Night Refreshment (Indoors)</u> Monday to Wednesday 23:00 to 00:00 Thursday to Saturday 23:00 to 01:00 Sunday 23:00 to 00:00 Non Standard Timings: Christmas Eve to 01:00hrs New Year's Eve: 0800hrs to 0800hrs New Years Day	
<u>(j) Supply of Alcohol for consumption On & Off the premises.</u> Sunday to Wednesday 08:00 to 00:00 Thursday to Saturday 08:00 to 01:00 Non Standard Timings: Christmas Eve to 01:30hrs New Year's Eve: 0800hrs to 0800hrs New Years Day	
<u>(l) Hours premises are open to the public</u> Sunday to Wednesday 08:00 to 00:00 Thursday to Saturday 08:00 to 01:30 Non Standard Timings: Christmas Eve to 02:0hrs New Year's Eve: 0800hrs to 0800hrs New Years Day	

Conditions:

Prevention of Public Nuisance – Use of the outside seating area

1. The children's play area to be closed to all customers at 21:00hrs.
2. No drinks are to be taken outside after 21:00hrs on Sunday – Thursday and 21:30hrs on Friday and Saturday.
3. The outside seating area to be closed to patrons at 21:30hrs Sunday – Thursday and 22:00hrs Friday and Saturday.

4. Signage is to be placed in the outside rear area specifying that;
 - No drinks are to be taken into this area after 21:00 Sunday – Thursday and 21:30hrs on Friday and Saturday
 - The area to be closed to patrons at 21:30 Sunday- Thursday and 22.00hrs on Friday and Saturday.
 - Please keep noise levels to a minimum to respect nearby residential properties.
 - Any customer causing a disturbance will be asked to leave.
5. Any patrons found to be causing unreasonable disturbance in the outdoor area will be ejected from the premises.
6. Suitable receptacles must be provided for smoking related litter.

Prevention of Public Nuisance

7. Between the hours of 23:00 and 08:00 there must be total sound containment within the premises.
8. Before 24 September 2025, the Applicant must submit to the Licensing Authority a Management Plan for the Premises which contains procedures to minimise disturbance to local residents and to ensure that any licensing objectives or other controls at the premises to control public nuisance are being upheld including a suitable complaints procedure. The Management Plan must be approved by the Licensing Authority. Once approved, the Premises is required to comply with the contents of the Noise Management Plan at all times.

The following conditions are applied in accordance with Section 177A (4) of the Licensing Act 2003

9. After 21:00 hours all music, including background music is prohibited in the outside areas.
10. The performance of regulated entertainment will cease by 23.00hrs.
11. No regulated entertainment will take place until a noise limiting device (the specification and design to be agreed with Environmental Health Service) is fitted so that all regulated, live, karaoke and recorded music (including the Juke Box) is channelled through the device(s).

The maximum noise levels would be set by agreement with the Environmental Health Service and would be reviewed as appropriate.

The noise limiting device must be fully functional and in proper working order at all times during performance of live and recorded music. If the noise limiting device breaks down the council's Environmental Health Service must be informed as soon as reasonably practicable and in any event within 24 hours of the device breaking down. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay.

No performance of live and recorded music shall proceed if the noise limiting device is not in proper working order.

12. Noise emanating from the premises must not be heard above background levels 1 metre from the facade of the nearest residential property.
13. The PLH shall nominate a senior member of staff as the person responsible for the management, supervision, compliance with licensing conditions and general control of regulated entertainment. This person will also be responsible for instructing performers on the restrictions and controls to be applied.
14. The PLH or nominated person shall be available at all times during regulated entertainment and who is responsible for co-operating and liaising with any relevant responsible authority. A contact telephone number will be made available to local residents to contact the nominated person.

Whilst not a specific condition, the Committee would expect the Management Plan in Condition 8 to include details of how the play area would be managed and monitored to ensure that it closed at 21:00 and did not undermine the Public Nuisance Licensing Objective. The Committee hoped that the Applicant would use the conditions of agreeing the Management Plan and the noise limiting device to develop a good working relationship with the Environmental Health Department.

93. **Exempt Business**

There were no items of exempt business.