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BARRY KEEL
Chief Executive
Floor 1 - Civic Centre
Plymouth
PL1 2AA

www.plymouth.gov.uk/democracy

Date: 22/01/10 Telephone Enquiries 01752 304022 Fax 01752 304819

Please ask for Helen Rickman,
Democratic Support Officer e-mail helen.rickman@plymouth.gov.uk

LICENSING COMMITTEE (MISCELLANEOUS)

DATE: TUESDAY 2 FEBRUARY 2010
TIME: 10.00 AM
PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Members –

Councillor Mrs Bowyer, Chair
Councillor Lock, Vice Chair
Councillors Bowie, Delbridge, Mrs Dolan, Drean, Gordon, Kerswell, Miller MBE,
Mrs Nelder, Mrs Nicholson, Rennie, Reynolds, Roberts and Mrs Stephens

Members are invited to attend the above meeting to consider the items of business overleaf

Members and Officers are requested to sign the attendance list at the meeting.

BARRY KEEL
CHIEF EXECUTIVE

LICENSING COMMITTEE (MISCELLANEOUS)

PART I (PUBLIC MEETING)

AGENDA

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. MINUTES

(Pages 1 - 18)

To confirm the minutes of the meetings held on the following dates:

Licensing Committee Miscellaneous -

- 8 December 2009

Licensing Sub Committee (Miscellaneous) -

- 24 November 2009
- 8 December 2009
- 11 December 2009

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. ENFORCEMENT ACTIVITY REPORT 2009

(Pages 19 - 26)

The Director for Community Services will submit a report on enforcement activity in 2009.

6. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE COMMITTEE)

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

Nil.

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Licensing Committee (Miscellaneous)

Tuesday 8 December 2009

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor Lock, Vice Chair.
Councillors Delbridge, Gordon, Rennie and Mrs Stephens.

Apologies for absence: Councillors Bowie, Mrs Dolan, Drean, Mrs Nelder and Mrs Nicholson

The meeting started at 10.00 am and finished at 10.45 am.

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.

20. DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the code of conduct.

21. MINUTES

It was resolved that the following minutes be approved as a correct record:

13 October 2009	Licensing Committee Miscellaneous
29 September 2009	Licensing Sub Committee
6 October 2009	Licensing Sub Committee
13 October 2009	Licensing Sub Committee
13 October 2009	Licensing Sub Committee
10 November 2009	Licensing Sub Committee
18 November 2009	Licensing Sub Committee

22. CHAIR'S URGENT BUSINESS

The Senior Lawyer informed the Committee that there were three items of chair's urgent business to be considered by the Committee regarding the draft consultation on Pedlars Laws, preliminary measures to be considered over the Christmas period for emergency Licensing Committee meetings and attendance at 11 December 09 Licensing Sub Committee.

It was highlighted that the Licensing Department had received its first Expedited Review, a procedure used by the Police in order to urgently bring matters to the Licensing Sub Committee in order for interim measures to be added to a premises licence. Expedited Reviews must be carried out within 48 hours of the application therefore it was emphasized that Members may be called upon over the Christmas close down period if an application was received; four Members must be made available in order to ensure that the meeting was quorate. The Senior Lawyer confirmed that a fourth Member was also required for the Expedited Review which was due to take place on 11 December.

The City Centre Street Operations Manager provided the Committee with information upon the Pedlars law and informed the committee that –

- (i) a consultation document regarding the potential to update Pedlar laws was being drafted;
- (ii) the current Pedlars Act was out-dated and difficult to enforce;
- (iii) it would be beneficial to allow the Local Authority to manage pedlars under street trading regulations;

- (iv) a national Pedlars database had the ability to track down Pedlars and their offences;
- (v) over the Christmas and holiday period Plymouth experienced an increase in problems regarding pedlars;
- (vi) the Police had supported the Council in requesting information from pedlars such as the means they took in transporting and displaying their goods;
- (vii) pedlars were moving back into popular positions having been moved on by officers as they preferred to stay in high population areas;
- (viii) she had received complaints from local businesses in the area regarding pedlars positioning themselves near doorways;
- (ix) it was important for the Committee to voice their opinions upon the Pedlars Act however it was highlighted that possible changes may not come into fruition until 2015.

In response to questions raised it was reported that –

- (x) the City Centre Street Operations Manager felt that an act of parliament had to be appropriated in order to make a designated trading area;
- (xi) Nottinghamshire had introduced their own Pedlars Act however it was not known if it was a Business Improvement District city; it was highlighted that it was expensive to introduce legislation;
- (xii) Big Issue sellers were not licensed as they were given designated areas to work in, were monitored by CCTV, followed a strict code of conduct and had an assigned PCSO;
- (xiii) the current Pedlars law could be easily misinterpreted;
- (xiv) large trolleys were likely to be in breach of the Highways Act;
- (xv) Trading Standards could be called if it was considered that illegitimate trading was taking place;
- (xvi) it would be difficult to gain access to criminal records checks if the Pedlars Law changed from the Police to Local Authorities;
- (xvii) street traders were not CRB checked;
- (xix) it was not known at this stage if measures put in place in the Pedlars Act would be compatible with EU consultation;
- (xx) there had been no complaints received from pedestrians regarding pedlars however some local businesses had complained that the pedlars were taking their trade;
- (xxi) the response to the consultation needed to be submitted by 29 January 2010;
- (xxii) the City Centre Street Operations Manager would email Members the draft response so that further comments to be added before submission if necessary

Resolved that

- 1) responses from Members of the Committee would be submitted to the City Centre Street Operations Manager before 29 January 2010;
- 2) Councillors Mrs Bowyer, Rennie, Delbridge and Lock would be available to attend an Expedited Review over the Christmas period if an application was received by the Licensing department;
- 3) Councillor Mrs Stephens would be available to attend the 11 December 2009 Licensing Sub Committee meeting as fourth member if she was required;

23. **INFORMATION REGARDING DELEGATED DECISIONS FOR APPLICATIONS FOR THE GRANT/VARIATION OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES.**

The Senior Licensing Officer provided the committee with an update on information regarding delegated decisions for applications for the grant/variation of premises licences and club premises certificates.

The committee noted the report and congratulated the Senior Licensing Officer on the positive results contained within it.

24. **EXEMPT BUSINESS**

There were no items of exempt business.

25. **MINUTES (CONFIDENTIAL) (E3 AND E7)**

Resolved that the minutes of the meeting held on 18 November 2009 be approved as a correct record.

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Licensing Sub Committee (Miscellaneous)

Tuesday 24 November 2009

PRESENT:

Councillor Rennie, in the Chair.
Councillor Gordon, Vice Chair.
Councillor Roberts.

Apologies for absence: Councillor Mrs Bowyer

The meeting started at 10.10 am and finished at 11.30 am.

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.

11. APPOINTMENT OF CHAIR AND VICE-CHAIR

Resolved that Councillor Rennie be appointed as Chair and Councillor Gordon be appointed as Vice Chair for this meeting.

12. DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the code of conduct.

13. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

14. MRS MARGARET WILLIAMS - TRANSFER OF PREMISES LICENCE - VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR

Mrs Margaret Williams did not attend and the Committee was informed that she had withdrawn her appeal against the revocation of the premises licence as a result of this there was no premises licence to transfer.

15. GRANT OF PREMISES LICENCE - MARINE BAZAAR, SUTTON WHARF, BARBICAN, PLYMOUTH

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the written representations from interested parties and heard from interested parties present;
- (iii) considered representations from Environmental Health;
- (iv) heard that following the agreement of conditions with the applicant, the Police representation had been withdrawn;
- (v) heard from the applicant and his legal representative in support of the application and in particular that following representations from responsible authorities and interested parties the application was amended so that the following was applied for:
 - Supply of alcohol both on and off the premises
Monday – Saturday 10.00 to 23.00
Sunday – 10.00 to 22.00

- Premises open to the public
Monday – Saturday 10.00 to 23.30
Sunday 10.00 to 22.30
- The application for late night refreshment was withdrawn
- That the amended schedule to the operating schedule should also have had the following boxes ticked:
Drug zero tolerance
Dress code for staff
- That the schedule should read that the maximum number of people on premises would be 150 persons

(vi) heard representations regarding –

a) Prevention of Public Nuisance regarding –

- the fact that even with the amended hours to 23.30pm there would still be a potential problem with noise from patrons and taxis;
- the fact that disruption would be caused by inadequate parking facilities with no public parking and only residents permit parking;
- the fact that Environmental Health stated that due to the proximity of the premises to a block of residential flats and history of complaints about other restaurants in the area, stringent conditions were put forward to ensure that nuisance was not caused to local residents and public safety maintained;

b) Prevention of Crime and Disorder regarding –

- the fact that the cumulative affect of granting the licence would make it difficult for the police to devote enough resources to prevent crime and disorder in the area in addition to policing the barbican bar and club area;

c) the Protection of Children from Harm regarding –

- the concern that an off licence for alcohol may lead to underage sales of alcohol;

d) Other representations regarding –

- other premises in the area that were only licensed until 2300hours

Resolved that –

(1) with regard to the Prevention of Public Nuisance, relating to –

- the fact that even with the amended hours to 23.30pm there would still be a potential problem with noise from patrons and taxis; was considered relevant, but Members felt the amended schedule provided by the applicant and conditions agreed with Environmental Health would address this potential problem;
- the fact that disruption would be caused by inadequate parking facilities

with no public parking and only residents permit parking; was not considered relevant;

- the fact that Environmental Health stated that due to the proximity of the premises to a block of residential flats and history of complaints about other restaurants in the area, stringent conditions were put forward to ensure that nuisance was not caused to local residents and public safety maintained; was considered relevant and Members felt that in order to avoid potential problems, the conditions put forward by Environmental Health would be applied to the licence;

(2) with regard to the Prevention of Crime and Disorder, relating to –

- the cumulative effect of granting licence would make it difficult for the police to devote enough resources to prevent crime and disorder in the area in addition to policing the barbican bar and club area; was considered relevant however Members noted that the Police had withdrawn their representations and with the proposed conditions did not perceive this to be a problem;

(3) with regard to the Protection of Children from Harm, relating to –

- the concern that an off licence for alcohol may lead to underage sales of alcohol; was considered relevant however Members felt the amended schedule which incorporates the conditions agreed with the police would address this potential problem;

(4) Other representations, relating to –

- other premises in the area were only licensed until 2300 hours; was not considered relevant to the licensing objectives.

Having taken into account all of the representations made, Members resolved to grant the application as amended by the applicant as follows:

- Supply of alcohol both on and off the premises
Monday – Saturday 10.00 to 23.00
Sunday – 10.00 to 22.00
- Premises open to the public
Monday – Saturday 10.00 to 23.30
Sunday 10.00 to 22.30

(1) subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the amended schedule to the operating schedule to submitted with the response to notice of hearing dated 17 November 2009 and amended during the hearing which includes the conditions agree with the Police and the following conditions agreed with Environmental Health;

(2) suitable signage will be displayed at the exit to request the cooperation of patrons, in particular to make as little noise as possible when leaving the premises;

(3) patrons will be asked not to stand around talking in the street outside the premises or at any car park and asked to drive away as quickly and as quietly as possible. This is to include patrons who go outside to smoke;

(4) the outside area will not be used after 8pm;

- (5) management will maintain control of the outside area and will take full responsibility for the noise caused by their patrons whilst outside the premises, whether this be for the purposes of smoking or any other activity;
- (6) if chairs and tables are to be provided outside the premises any alcohol served to them is to be as part of a meal only;
- (7) the deliveries of goods are restricted to after 0800 hours and before 2000 hours;
- (8) the movement of bins and rubbish outside the premises will not take place after 2300 hours;
- (9) all the rubbish produced by the premises will be stored securely in a designated area or in a bin with a tight fitting/lockable lid;
- (10) all commercial waste collection will be arranged for after 0800 hours;
- (11) where plant and machinery such as ventilation systems or air conditioning is installed it will be positioned in such a way that the building structure provides as much screening as possible for nearby noise sensitive properties. Additionally, any system to be installed will be approved by the public protection service prior to installation and control measures such as acoustic enclosures, acoustic louvers, silencers or additional acoustic screening will be considered;
- (12) patrons will not take drinks outside after 2000 hours whilst smoking outside the premises;
- (13) regular maintenance will be carried out on all plant and machinery to ensure that noise disturbance from such sources does not cause a nuisance;
- (14) all staff receive suitable training as to what to do in an emergency and in general safety precautions;
- (15) ventilation equipment will be regularly cleaned and maintained to control levels of odour generated by the premises;
- (16) a specific taxi operator be nominated for staff and customers use. The company's telephone number is advertised to customers. The operator and all drivers are made aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily. In addition, staff are required to leave as quietly as possible, particularly at night and early in the morning;
- (17) the handling of beer kegs, bottles and other similar items will not take place in the late evening, at night and during the early morning outside buildings.

16. **EXEMPT BUSINESS**

There were no items of exempt business.

Licensing Sub Committee (Miscellaneous)

Tuesday 8 December 2009

PRESENT:

Councillor Mrs Bowyer, in the Chair
Councillor Delbridge, Vice Chair
Councillors Rennie

Apologies for absence: Councillors Mrs Dolan

The meeting started at 11.00am and finished at 4.30pm.

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.

17. APPOINTMENT OF CHAIR AND VICE-CHAIR

Resolved that Councillor Mrs Bowyer be appointed as Chair and Councillor Delbridge be appointed as Vice Chair for this meeting.

18. DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the code of conduct.

19. CHAIR'S URGENT BUSINESS

There were no items of chair's urgent business.

20. VARIATION OF PREMISES LICENCE - CARPE DIEM, 50 NORTH HILL, PLYMOUTH

The Committee having –

- (i) heard from the applicant;
- (ii) heard from an interested party who had made a representation;
- (iii) considered the report from the Director of Community Services;
- (iv) heard from a representative from Environmental Health;
- (v) heard from a Licensing Officer;
- (vi) heard representations in relation to:
 - (a) Prevention of Public Nuisance:
 - noise from music played at the premises and disturbing a local resident; this was considered relevant and special conditions were imposed.
 - (b) Prevention of Crime and Disorder:
 - Members heard no concerns.
 - (c) Public Safety:

- Members heard no concerns.
- (d) The Protection of Children from Harm:
- Members heard no concerns.

In the applicants operating schedule it stated that a noise limiter would be in place and set to a level as agreed with Environmental Health. This is removed upon the request of the applicant and the advice taken from the Environmental Health Officer.

Having taken into account all the relevant representations made, the members resolved to grant the application subject to the applicants operating schedule and the following special conditions:

- 1 the designated premises supervisor or other nominated responsible person is to be on the premises at all times while live music is taking place.
- 2 a contact number is to be provided to local residents upon request.
- 3 a designated responsible person is to liaise with the Environmental Health Department to set appropriate noise levels and adopt mechanisms as necessary.

21. **VARIATION OF PREMISES LICENCE - THE DAIRY, 25 BRETONSIDE, PLYMOUTH**

The Committee having –

- (i) heard from the applicant;
- (ii) considered written representations
- (iii) considered the report from the Director of Community Services;
- (vi) heard how Environmental Health had withdrawn their representation following the applicant's acceptance to a schedule of conditions;
- (v) heard how Devon and Cornwall Constabulary had withdrawn their representation following the applicant's acceptance to their recommended conditions;
- (vi) considered two representations received from interested parties living within the vicinity;
- (vii) heard representations in relation to
 - (a) Prevention of Public Nuisance:
 - noise from people congregating outside the premises to smoke and drink disturbing local residents; This was considered relevant, however, members are satisfied the applicant will resolve these concerns by having door staff, not allowing patrons to take drinks outside and encouraging patrons not to congregate outside longer than necessary;
 - noisy revellers, loutish behaviour, shouting, swearing and vomiting; This was considered relevant, however, it

was felt to be a general problem and there was no evidence to link this to the premise.

- (b) Prevention of Crime and Disorder:
 - Members heard no concerns.
- (c) Public Safety:
 - Members heard no concerns.
- (d) The Protection of Children from Harm:
 - Members heard no concerns.
- (e) Other Considerations:
 - Planners to consider the well-being of residents and there being enough establishments in the area; this was not considered relevant.

Having taken into account all the relevant representations made, the members resolved to grant the application as applied for subject to the conditions agreed with the Environmental Regulation Service and Devon and Cornwall Police.

22. **REVIEW OF PREMISES LICENCE - DUCHY OF CORNWALL, 14 ANSTIS STREET, PLYMOUTH**

The Committee having –

- (i) heard from the premises license holders representative;
- (ii) heard from the designated premises supervisor;
- (iii) heard from a representative of the Environmental Health Department;
- (iv) heard from a representative of the Devon and Cornwall Constabulary;
- (v) considered all the written materials submitted;
- (vi) considered the report from the Director of Community Services;

Members heard from a representative of Environmental Health how a review of the premises licence had been sought under the licensing objectives the prevention of public nuisance and public safety.

Members heard how complaints had been received from a local resident regarding noise at the premises and of patrons drinking in the street.

Environmental Health attended the premises on the 2 August 2009 and witnessed excessive noise at the premises. The nominated deputy did not consider the noise to be excessive and was unwilling to reduce noise levels as recommended. Live music continued, windows and doors remained open and patrons remained outside drinking.

Environmental Health attended the premises on 16 August 2009 and found regulated entertainment was taking place contrary to the premises licence. The nominated deputy of the premises became aggressive, swore and made threats to the officers and did not stop the entertainment.

On 21 August 2009 three male patrons outside the premises exposed themselves to two female Council Officers. When the Officers returned some 30 minutes later the nominated deputy was seen to be staggering around outside believed to be under the influence of alcohol.

Members heard how Environmental Health Officers had written to the Designated Premises Supervisor (DPS) and met with her at the Civic Centre on 1 October 2009. Since the review application things had improved significantly and there was no live music on weekends

Members heard from a representative of Devon & Cornwall Police how they have received a complaint of noise and of patrons using window sills.

On Thursday 13 August 2009 at 10.30 p.m. the Police witnessed a group of 30 people drinking in the street outside the premises. They were using the window sills of local properties for their glasses and cigarettes.

The Police received reports of the staff abusing and threatening Council Officers and the breach of licence conditions on 16 August 2009. They had also received a report of three male offenders in drink exposing themselves to female Council Officers.

The Police have met with the DPS and outlined what they expect. A letter was received from the DPS outlining things she will put in place. These are:

- notices of no glasses or bottles to be taken outside;
- a notice to be quiet and orderly when leaving the premises;
- windows and doors to be shut at all times when carrying out live music;

She says drug use is not tolerated at the premises.

The Police have received the acceptance of the premises license holder to a number of proposed conditions. They say the acceptance of these conditions satisfactorily addresses their concerns.

Members heard from a representative of the premises license holder that they have voluntarily actioned the following measures:

- the designated premises supervisor has enrolled on a BIIAB course to achieve the National Certificate for Designated Premises Supervisor.
- notices have been put up reminding customers not to create a nuisance or drink outside the pub. Patrons will not be permitted to take drinks outside and crowds will be discouraged. A robust staff training regime will be put in place to ensure these controls are adhered to in the absence of the DPS.
- windows and doors will be kept shut whilst amplified music being played.

Members heard from the DPS that her partner deals with orders, the cellar and labouring duties. She said training measures had been introduced ensuring all staff are fully aware of their responsibilities.

Having taken into account all the relevant representations made, the members have resolved to:

- (1) Modify the conditions of the licence – with the addition of the following conditions -
 - (i) to prevent entertainment being intrusive, noise emanating from the premises will not be clearly audible one metre from the façade of the nearest residential

property.

- (ii) all regulated entertainment sources are to be channelled through a noise limiting device. Such a noise limiting device should be installed and set at a level agreed with the Environmental Health service.
- (2) issue an informal warning to the license holder that should she come before a future licensing sub committee the details of this committee will be brought to their attention.

23. **EXEMPT BUSINESS**

There were no items of exempt business.

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Licensing Sub Committee (Miscellaneous)

Friday 11 December 2009

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor Delbridge, Vice Chair.
Councillor Gordon.

The meeting started at 10.00 am and finished at 12.30 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.

24. APPOINTMENT OF CHAIR AND VICE-CHAIR

Resolved that Councillor Mrs Bowyer be appointed as Chair and Councillor Delbridge be appointed as Vice Chair for this meeting.

25. DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the code of conduct.

26. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

27. REVIEW OF PREMISES LICENCE - MAXINES, 89/91 UNION STREET, PLYMOUTH

The Committee having heard –

- (i) representations from Devon and Cornwall Police under the Crime Prevention objective that:
- on the 15 November 2009 there had been serious disorder at the premises and 3 people had been assaulted and door supervisors from the premises were involved;
 - the police felt there had been a lack of control at the front of house, club watch radio was not being used and there was a lack of communication with between the door staff;
 - there had been problems with people queuing outside the premises which had the potential to contribute to disorder;
 - there had previously been problems with downloading CCTV images;
 - there was a problem with a blind spot at the front of the premises not covered by CCTV;
 - there had been earlier incidents at the premises in the summer of 2009 where a gentleman was assaulted;
 - the police had concerns over the management of the premises during Mid October to mid November;

- most problems with the premises occurred from 0200 hours onwards and mainly on a Friday and Saturday;
- the police put forward a number of conditions which they confirmed addressed all of their concerns in relation to this review;

(ii) from the premises licence holder and his representative that:

- he had changed his door security company;
- he was in the process of ensuring that more staff were personal licence holders and had enlisted the assistance of other personal licence holders to work at the premises.
- he had updated his CCTV system and that the CCTV company were providing training in relation to the downloading of the images;
- polycarbonate drinking vessels were being used on a voluntary basis after 2300hours;
- Mr McTighe would be taking over as DPS within the next 7 days;
- all conditions imposed as interim conditions had been adhered to and procedures had generally been improved upon;
- there had been no further problems at the premises since the review proceedings were commenced;
- he was happy to accept the conditions put forward by the Police.

The committee considered that all representations were relevant and resolved that in order to promote the Crime Prevention Licensing Objective all conditions put forward by the Police and agreed with the premises licence holder would be applied to the licence.

The committee further resolved that on the coming into effect of these conditions the interim steps imposed on the 18 November 2009 would cease to have effect.

- 1 Whenever the DPS is not available, another person who must be a Personal Licence Holder will be nominated to supervise the premises at all times of trading;
- 2 All bottles and glasses will be removed from public areas as soon as they are finished with or empty;
- 3 Signs will be at the exits requesting persons leave quietly, have respect for the neighbourhood and in an orderly manner;
- 4 The DPS will provide CCTV images promptly requested by Police in the course of any criminal investigations;
- 5 An additional camera will be installed to cover the main entrance and exit of persons outside the venue;
- 6 The queuing of customers entering the premises will be managed to ensure orderly behaviour and in a way to allow free passage of pedestrians along the footpath;

- 7 No persons carrying open or sealed bottles or glasses will be admitted to the premises at any time during opening hours;
- 8 No customers will be permitted to take open containers of alcoholic or soft drinks from the premises;
- 9 A clubwatch radio will be used and monitored at all times of trading after 2300hrs;
- 10 Door supervisors and management will have a means of internal communication (radio) allowing staff contact with other staff whilst in different parts of the premises;
- 11 A minimum of two door supervisors will be employed from 2300hrs to 0200hrs. If capacity exceeds 100 persons a minimum of three door supervisors will be employed;
- 12 From 0200hrs a minimum of three supervisors will be employed until close of business. If capacity exceeds 125 persons, four door supervisors will be employed;
- 13 One door supervisor will remain in position at the entrance door at all times;
- 14 Capacity levels will be monitored by used of a clicker system;
- 15 There will be no admission to customers after 0400hrs to close of business. There will be no re-entry of any customers who have left the premises after 0400hrs under any circumstances.

28. **EXEMPT BUSINESS**

There were no items of exempt business.

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Subject: Enforcement Activity Report - 2009

Committee: Licensing Committee (Miscellaneous)

Date: 2 February 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: David Hughes, Senior Environmental Health Officer (licensing)

Contact: Tel. 01751 - 304742
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Part: I

Executive Summary:

This report has been compiled to give the Licensing committee (Miscellaneous) an overview of the various aspects of the work undertaken by agencies involved in regulating the evening & Night Time Economy during 2009.

It is anticipated that representatives from the Police Licensing Department and Fire Service will also be present to answer any questions.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate improvement priorities. In particular:

1. Informing and involving residents.
 2. Providing more and better culture and leisure activities.
 3. Keeping Children Safe
-

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

There are no financial implications associated with this report.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations:

That Committee note the attached report.

Alternative options considered and reasons for recommended action:

None

Background papers:

None

Sign off:

Fin	EM DevF9 100065	Leg	AG/7 349/1 8/1/10	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member : Carol Burgoyne											

Licensing Committee – 2nd February 2010

Enforcement Activity Report – 2009

1.0 Introduction

1.1 This report has been compiled to give the Licensing Committee (Miscellaneous) an insight into the work undertaken by agencies involved in regulating the Evening and Night Time Economy (ENTE) during 2009. The main policy initiatives conducted during 2009 have been

- The adoption of a DPPO covering the City Centre and Stonehouse Neighbourhoods effective from the 1st August 2009.
- Report detailing a 12 month review of the Cumulative Impact Policy covering five areas across the City, namely Union St (including Derry's Cross), The Barbican, Mutley Plain, North Hill, and Stoke Village considered by Scrutiny Panel.
- Review of The Gambling Statement of Policy with the revised version being adopted by Council on the 30th November 2009.
- Members considered a report giving officers delegated powers to grant or refuse minor variation applications. This is a procedure to streamline the application process whereby minor changes are requested to existing premises licences.

1.2 The debate over concerns surrounding pole/lap dancing premises has continued and proposals to amend the existing legislation (Local Government (Miscellaneous Provisions) Act 1982) to include these types of establishment to be known as 'sexual entertainment venues' are likely to be implemented this year.

2.0 Licensing

2.1 Licensing Officers with administrative support, undertake all aspects of the licensing function covered by the Licensing Act 2003. These responsibilities cover the regulatory process for premises and club premises certificates, personal licences, Temporary Events Notices (TEN's) and gambling establishments (casinos, betting shops, adult gaming centres, bingo halls)

2.2 During 2009 278 new applications, transfers, DPS variations, 204 TEN's and 216 personal licences were processed.

2.3 Statutory agencies, in particular the Police and Environmental Health continue to submit formal representations in respect of applications having regard to the four licensing objectives and in the majority of cases the applicant agrees with the officer's recommendations thereby enabling the representations to be mediated out. The committee are kept aware of the mediated applications by way of report.

Applications that are not mediated out with the statutory agencies (and local residents) have the opportunity to put forward balanced and reasonable reasons why Members should, for example attach additional conditions to the premises licence.

- 2.4 Licensing Sub Committee has held 22 meetings and has considered 26 licensing applications where representations have been made by statutory agencies and/or members of the public. Of these decisions 3 have been the subject of appeals to the Magistrates Courts.
- 2.5 During 2009 Members also considered 13 applications for review of premises licences 9 of which were submitted by the Police and 4 by Environmental Health (noise and public nuisance). Members also considered its first expedited review application submitted by the police on the grounds of series disorder, that resulted in interim steps being imposed on the premises to restrict hours of opening, prior to a full review hearing.

3.0 Gambling Establishments

- 3.1 Licensing Officers with administrative support, also undertake all aspects of the gambling function covered by The Gambling Act 2005, which became effective on the 1st September 2007. The Statement of Principles under the Gambling Act is also the subject of a 3 year review and the revised policy went out for public consultation during July/August 2009. On the 30th November 2009 the Council resolved to formally adopt the Statement of Principles which became effective on the 31st January 2009.
- 3.2 Licensing Committee also delegated responsibility for setting the annual fees payable by gaming establishments such as casinos, bingo halls, adult gaming centres and betting shops. A revised fee structure will be presented to Members in the near future. All establishments are the subject of routine inspection to ensure they comply with statutory obligations under gambling and associated legislation.
- 3.3 The City Council is also responsible for licensing sex shops, scrap metal dealers, motor salvage operators, street collections and house-to-house collections.

4.0 Noise and Public Nuisance

- 4.1 During 2009, 187 formal noise complaints were registered against licensed premises from activities such as live and recorded music i.e. bands, discos, karaoke and also noise and disturbance from patrons both on and off the premises. Three noise abatement notices were served on licensed premises as noise generated from these establishments was proved to be materially affecting the use and enjoyment of near-by residential property

- 4.2 Environmental Health Officers use an escalation process when investigating noise complaints and will discuss the cause of the complaint with the responsible person at the earliest opportunity in order to allow them the opportunity to resolve the matter quickly without the need for further formal action.

5.0 Enforcement

- 5.1 Agencies continue to use a number of enforcement strategies that contribute towards providing a well-regulated ENTE to create an environment that assists in reducing levels of crime and fear of crime. Premises operating in the ENTE continue to receive good constructive advice from enforcement agencies such as Licensing, Environmental Health, Fire Service and the Police.
- 5.2 Interventions include unannounced and announced visits to assess the working environment against licensing conditions and other workplace regulations. The licensees, managers and staff being encouraged to attend training events and to participate in community schemes for the licensed trade such as CitySafe, Pubwatch and Clubwatch.
- 5.3 Other enforcement options include service of formal abatement or improvement notices and in serious cases prohibition. These interventions contribute towards managing crime and disorder and public safety within the ENTE areas throughout the City.

6.0 Training and Awareness

- 6.1 Training seminars are a proven and cost effective method of providing information to licensed premises operating in the ENTE. Where appropriate training options focused at underage sales, noise at work, health & safety, licensing, trading standards and noise nuisance will continue to be targeted at licensed premises. Newsletters are produced to provide up to date information to operators of licensed premises and are of particular use to smaller independents that may not have the opportunity to be supported by trade bodies or organisations.
- 6.2 There are two key parts to the inspection of licensed premises. Firstly to assess the premises with the relevant legislation that applies and secondly to allow an opportunity to provide information and answer questions from owners, managers and staff on a one-to-one basis. This helps to ensure that the persons responsible are fully aware of their legal obligations that apply in licensed premises.
- 6.3 Joint visits are arranged between Environmental Health, Licensing, Police and Fire Service in order to target 'problem premises' so that an effective response is provided leaving the licensee and the DPS under no illusions of their legal responsibilities.

7.4 Members will have received an insight into the management and control within these types of premises when considering the 13 applications to review premises licences that were submitted during 2009. This is the last resort when all other methods have failed.

7.5 Officers have undertaken a series of inter-agency evening inspection operations focusing on fire safety, smoking, licensing and environment health.

8.0 Under Age Sales

8.1 The Police Licensing Team continued to undertake test purchase operations of licensed premises (on sales & off sales). 22 on sales premises were tested of which 10 resulted in a positive sale, 262 off sales premises were tested of which 36 were positive. For positive sales each of the premises received a follow up with other actions with a reminder that they would be re-tested. Repeat offending resulting in a review of the licence.

8.2 The City Council are also responsible for the sales of other age-restricted products such as cigarettes, DVD's, fireworks, solvents and knives; and various publicity and education campaigns have been undertaken, supported by covert operations to ensure business are aware of their obligations.

9.0 Liaison

9.1 There is a close link between the four licensing objectives in order to produce a fair and equitable set of conditions for licensees, a close working relationship between Licensing and the respective agencies Environmental Health (Noise and Disturbance), Police Licensing Team (Crime and Disorder) and Trading Standards (Under Age Sales) is essential.

9.2 The lead agencies meet on a bi-monthly basis to discuss working practices, problem premises and coordinate inspection programmes for premises operating in the ENTE.

10.0 Work Initiatives for 2010

10.1 Officers from all lead agencies will continue to support licensed premises in the ways outlined above, to ensure that they are best placed to contribute towards a positive, well managed ENTE, having regard to the current economic conditions.

10.2 Regular meetings of the Joint enforcement liaison group will continue to ensure that all agencies have the opportunity to discuss strategies and on-going operations to ensure that resources can be best targeted on those premises that contribute significantly to undermining the licensing objectives.

- 10.3 Major projects for this year will focus on the 3 year review of the Licensing Policy that will include the Cumulative impact policy and the possible formulation of a policy in respect of Sex Establishment venues.
- 10.4 Test purchasing operations in premises in relation to age-restricted products such as alcohol, petrol, fireworks and cigarettes will continue.
- 10.5 Government is currently consulting on new proposals to introduce amendments that include the following;
- To remove the requirement that licensing authorities publish a licensing Statement of Policy every 3 years
 - To extend the time period from 7 to 28days to allow specific persons to notify interim authority following the death, incapacity or insolvency of the licence holder
 - To extend the period during which the police may object to a TEN from 48 hours to 2 or 3 days
 - To exempt small live music events from the Licensing Act 2003 up until 23.00.

11.0 Conclusion

- 11.1 This report seeks to provide an on-going insight into the operations of lead agencies in regulating the ENTE and it is intended that this Committee continue to receive an annual report outlining the activity of the previous year and the major initiatives planned for the next 12 months. This will provide members with an insight of how statutory agencies will continue to undertake their respective roles individually and jointly when dealing with licensed premises operating within the ENTE.

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