

Public Document Pack



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Please ask for Ross Johnston, Democratic Support Officer e-mail ross.johnston@plymouth.gov.uk

LICENSING SUB COMMITTEE (MISCELLANEOUS)

DATE: TUESDAY 13 APRIL 2010
TIME: 11.00 AM
PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Members –
Councillors Mrs Bowyer, Michael Foster, Lock

Fourth Member – Councillor Delbridge

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 SUB COMMITTEE (MISCELLANEOUS)

PART I (PUBLIC COMMITTEE)

AGENDA

1. APPOINTMENT OF CHAIR AND VICE-CHAIR

The Committee will appoint a Chair and Vice-Chair for this particular meeting.

2. APOLOGIES

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

3. DECLARATIONS OF INTEREST

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

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. VARIATION OF PREMISES LICENCE - BAR 360 (PREVIOUSLY THE PIT), 34 DRAKE CIRCUS, PLYMOUTH (Pages 1 - 12)

The Director for Community Services will submit a report on an application for the variation of a premises licence.

6. REVIEW OF PREMISES LICENCE - REDS, 62 EBRINGTON STREET, PLYMOUTH (Pages 13 - 32)

The Director for Community Services will submit a report on the review of a premises licence.

7. 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 Sub-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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CITY OF PLYMOUTH

Subject: Bar 360 (previously The Pit) 34 Drake Circus,
Plymouth.
Variation of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 13 April 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: Peter Clemens
e-mail: licensing@plymouth.gov.uk

Contact: (01752) 305465

Ref: ERS/LIC/PREM

Part: I

Executive Summary:

An application has been received from 34 Drake Circus Ltd in respect of Bar 360 (previously The Pit) 34, Drake Circus, Plymouth for the variation of the premises licence under Section 34 of the Licensing Act 2003.

Corporate Plan 2010- 2013:

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.
-

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

Not applicable.

Other Implications: eg. Section 17 - Community Safety, Health and Safety, 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 and Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

Application.
Licensing Act 2003.
Guidance issued under Section 182 Licensing Act 2003.
Council's Licensing Policy.

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat Proc	
Originating CMF Member											

1.0 BACKGROUND

1.1 On the 18th February 2010 the licensing department received an application from 34 Drake Circus Ltd in respect of Bar 360 (previously The Pit) 34 Drake Circus Plymouth for the variation of an existing licence under Section 34 of the Licensing Act 2003.

1.2 Details of variation

Current Licensable Activities	Variation Application
<p><u>(f) Recorded Music</u> (Indoors)</p> <p>Hours Mon to Thurs 10.00hrs to Midnight Fri & Sat 10.00hrs to 01.00hrs Sun 10.00hrs to 22.30hrs</p>	<p><u>(f) Recorded Music</u> (Indoors)</p> <p>Hours Sun to Thurs 10.00hrs to 04.00hrs Fri & Sat 10.00hrs to 06.00hrs</p>
<p><u>(m) Supply of Alcohol for consumption ON and OFF the premises.</u></p> <p>Hours Mon to Thurs 10.00hrs to Midnight Fri & Sat 10.00hrs to 01.00hrs Sun 10.00hrs to 22.30hrs</p> <p>Non Standard Timings. From the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.</p>	<p><u>(m) Supply of Alcohol for consumption ON and OFF the premises.</u></p> <p>Hours Sun to Thurs 10.00hrs to 04.00hrs Fri & Sat 10.00hrs to 06.00hrs</p>
<p><u>(o) Hours premises are open to the public</u></p> <p>Hours Mon to Thurs 10.00hrs to 00.30hrs Fri & Sat 10.00hrs to 01.30hrs Sun 10.00hrs to 23.00hrs</p>	<p><u>(o) Hours premises are open to the public</u></p> <p>Hours Sun to Thurs 10.00hrs to 04.30hrs Fri & Sat 10.00hrs to 06.30hrs</p>

1.3 Variation application.

The nature of the proposed variation is;

To change the hours of the premises and to amend the times for the sale by retail of alcohol for consumption on the premises. Further to a meeting which took place on the 12th march 2010 between the applicant and Environmental Health, the applicant has informed us that he also wishes to amend his operating schedule (Appendix 1).

1.4 Representations have been received in respect of this application.

1.5 Cumulative Impact Policy

This application does fall within an area to which the Cumulative Impact Policy applies and creates a rebuttable presumption that applications for

new licences or variations to existing ones which are likely to add to the existing cumulative impact will normally be refused unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives if the application were granted.

2.0 RESPONSIBLE AUTHORITIES

- 2.1 Environmental Health –have made representations relating to Public Nuisance and Public Safety (Appendix 2).
- 2.2 Devon & Cornwall Police - have made representation as they believe the application does not provide sufficient detail in the operating schedule to allow a realistic assessment of the impact the application would have on any of the four licensing objectives (Appendix 3).
- 2.3 *Devon & Somerset Fire & Rescue Service* – no representations.
- 2.4 *Trading Standards* – no representations
- 2.5 *Planning Officer* - no representations.
- 2.6 *Child Protection* – no representations
- 2.7 *Health & Safety Executive* – no representations.

3.0 INTERESTED PARTIES

No letters of representation has been received from interested parties within the vicinity of the premises.

4.0 CONSIDERATIONS

- 4.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives which are:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.

In making its decision the Committee is also obliged to have regard to the guidance issued under section 182 of the Licensing Act 2003 and the Council's own Licensing Policy and the representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

1. Modify the conditions of the licence
2. Reject the whole or part of the application;
and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

34 Drake Circus Ltd



FAO: Stephen Crooks
Environmental Services
Plymouth City Council
Plymouth
PL1 2AA

Tuesday 16th March 2010

Dear Mr Crooks

Re: Meeting Friday 12th March 2010, 2pm. Present: David Hughes, Stephen Crooks, Steven Bartlett, Andrew Kelland, Mark Christie. Reference application for license variation Bar 360 (formerly the Pit bar), 34 Drake Circus, capacity 50 persons.

Thank you very much for your time and what proved to be a very positive meeting to iron out some of the problems to move forward with the application. After further discussions it is clear that more diligence and explanation must be communicated to yourselves and other relevant parties to pursue this application further. In the form of having an extended operating schedule we can confirm the following:

1. Style and mood of any music or entertainment at the premises is to be classified as mellow and non aggressive with the emphasis being on background music.
2. Clarification that there will be no music after midnight feeding into the outside areas, and even up to that period will be very light background music.
3. After 4am we are wishing to take the music down a further notch so this is virtually non-existent/very low background level to bring the atmosphere to be more conducive and enhancement of a safer environment.
4. Also to ensure a strong winding down period we would accept a no entry after 5am, which will allow the premise to wind down in an orderly manner/fashion.
5. There will be no sales of alcohol during the last half hour of operation time of the premise. The only beverages accessible will be soft drinks including tea and coffee, which will also enhance the wind down of the premise.

As previously explained we are willing happy to implement any other further minor proposals that would help this application go through successfully. But we would remind all those involved that it is a very small bar with only a capacity of 50 persons and it is not envisaged, in our eyes to cause any problems to the surrounding areas. In fact by having a later opening would actually spread the capacity of the university business which is targeted in a more orderly manner.

Thank you for your attention to this matter. If you have any further queries please do not hesitate to contact us.

Yours Sincerely

Mr Steven Bartlett
Licensee

CC: David Hughes (Environmental Services, Plymouth City Council) John McIndoe, Sgt Worthington (Charles Cross Police Station), Peter Clemens (Licensing Department, Plymouth City Council)

Memorandum



From: Public Protection Service Manager
To: HEAD OF LICENSING SECTION
FAO: PETE CLEMENS
Date: 15 March 2010
Our Ref: EH.766017
Investigating Officer: Stephen Crooks
Extn: 4851

LICENSING ACT 2003
ENVIRONMENTAL HEALTH REPRESENTATION

Premise: Pit, 34/36 Drake Circus, Plymouth, PL4 8AB

Name of Licensee: 34 drake Circus Ltd

Type of Application: ~~Late Night Refreshment/Alcohol (On/Off/Both)/Entertainment Licence~~
(delete as necessary)

Report Prepared By: Stephen Crooks

Recommendations

- ~~1. That this department has no comments regarding the Application.~~
2. This department would like to make the following representation;

LICENSING ACT 2003
ENVIRONMENTAL HEALTH REPRESENTATION
Schedule Ref: SRU: 766017
Name: Pit
Address: 34/36 Drake Circus, Plymouth, PL4 8AB

Report By: Stephen Crooks

Date of Inspection: N/A

The Text in bold are the conditions that this department will be putting before committee to be included in your operating schedule.

The text in italics is for your information.

Public Nuisance and Public Safety

- **Recommend refusal of application**

Licensing Act 2003
Supporting Information for Committee Hearing following the Environmental
Regulation Service Representation

Premise Name: Pit, 34/36 Drake Circus, Plymouth, PL4 8AB

This department has made representation based on the following information.

The premises is situated within a cumulative impact area.

The proposed application is to extend the hours of operation of licensable activity at this music venue until 6am at the latest on Friday and Saturday evenings and 4am Sunday to Thursday. The concentration of Licensed Premises remains consistent in this area, and is strongly associated with the student night-time scene, predominantly operational as vertical drinking establishments.

Up to the time of submission of this representation, the applicant has not been able to demonstrate within their operating schedule, how there will be no negative cumulative impact on one or more of the licensing objectives. The operating schedule fails to address the potential impact from extended licensable activity at the premises, and consideration has also not been given to the potential impact of patrons departing at close of business. In particular there are cumulative effects of increased music activity, and noise and litter generated from patrons smoking in the outside designated area which has not been considered.

The current terminal hours for licensable activities at this premises in our opinion contributes towards a staggered dispersal scheme, reducing the potential impact of persons under drink leaving the vicinity during the early hours of the morning.

Businesses and persons living in the vicinity (including directly above the premises) are likely to be affected by the proposed application. It is also of concern that people living in the vicinity of the North Hill, Mutley and Greenbank areas will also be further inconvenienced by noise from large numbers of patrons moving between; venues, food businesses, ATMs, taxi stands, and again when travelling home.

Residents of the Mutley, North Hill and Greenbank have already raised complaints over the numbers of people returning home during early hours of the morning, citing complaints of; noise from people shouting and singing, vomit and food waste littering the streets, taxis engines idling, violence, and other incidents of crime and disorder.

This Authority participated in 'Week of Action' between 14th and 16th May 2009 as part of a joint operation with the Police. This was in response to continued concerns of residents living in the North Hill and Greenbank area. At this time it was noted that there was a high number of people moving through those areas. Specifically the Police identified that music noise reduced significantly after 3am.

I can confirm that a complaint has recently been received concerning a nearby Licensed Premises. The complaint alleges noise disturbance from music at the venue, and from patrons making noise when using the smoking area late at night.

The potential effect of increased noise activity in the vicinity will create further cumulative impact that may continue to impinge on both businesses and domestic properties in the area, which supports this Authorities recommendation to refuse the application.

Dear Mr Clemens

Re: Application to vary the Premises Licence – Bar 360 PL4 8AB

On 16th February 2010 the Licensing Office at Charles Cross Police Station received a copy of the application to vary the Premises Licence as detailed above.

The premises are located within a Cumulative Impact Area.

The police have examined the application in detail, liaison has taken place with Mr Kelland on behalf of Mr Bartlett and a letter has been received from Mr Bartlett specifying some additional intentions.

The police believe the application does not provide sufficient detail in the operating schedule to allow a realistic assessment of the impact the application would have on any of the four Licensing objectives.

Therefore we request the application be refused until such time a hearing is convened by Plymouth City Council Licensing Committee where representations can be made regarding the concerns of the Devon and Cornwall Constabulary.

Yours sincerely

D G McINDOE
Alcohol Related Crime Reduction Officer
Devon & Cornwall Constabulary

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CITY OF PLYMOUTH

Subject: Reds, 62 Ebrington Street, Plymouth
Review of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 13 April 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: Peter Clemens
e-mail: licensing@plymouth.gov.uk

Contact: 01752 305465

Ref: ERS/LIC/PREM

Part: I

Executive Summary:

An application has been received from the Environmental Health Department under Section 51 of the Licensing Act 2003 for the Review of the premises licence in respect of the Reds, 62 Ebrington Street, Plymouth.

Corporate Plan 2010- 2013:

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.
-

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

Not applicable.

Other Implications: eg. Section 17 - Community Safety, Health and Safety, 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 and Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

Application.
Licensing Act 2003.
Guidance issued under Section 182 Licensing Act 2003.
Council's Licensing Policy.

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat Proc	
Originating CMF Member											

1.0 BACKGROUND

1.1 On the 22nd February 2010 the licensing department received an application from the Environmental Health Department under Section 51 of the Licensing Act 2003 for the Review of the Premises Licence in respect of Reds situated at 62 Ebrington Street, Plymouth.

1.2 Review application.

The Environmental Health Department have made application for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the Prevention of Crime and Disorder and the Prevention of Public Nuisance. Copies of this application have been served by the Environmental Health Department on each of the responsible authorities and holder of the premises licence.

The Environmental Health Department will say they have received complaints from residents in the vicinity of the premises concerning noise from regulated entertainment and from patrons smoking at the front of the premises. Officers from the Council who were working out of hours monitoring the noise from the premises were approached by patrons from the premises and who were verbally abusive and threatening towards them.

In accordance with review proceedings at 13.49hrs on Tuesday 23rd February 2010 a licensing officer from Plymouth City Council attended the premises and spoke to Mr Adrian Gates and requested the site notice be displayed at the premises.

At 15.23hrs the same day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

(B) Exhibition of Films (Indoors)

Mon to Thurs	09.00hrs to 00.30hrs
Fri & Sat	09.00hrs to 01.00hrs
Sun	09.00hrs to 00.30hrs

Non Standard Timings

When opening hours are extended on Bank Holidays these hours are also extended to the end of trading hours.

(C) Indoor Sporting Event

Days and timings including non standard timings as above.

(E) Performance of Live Music (Indoors)

Mon to Sun	11.00hrs to Midnight
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Non Standard Timings

New Years Eve from 11.00hrs until 00.30hrs on New Years Day

(F) Playing of Recorded Music (Indoors)

Mon to Thurs	09.00hrs to 00.30hrs
Fri & Sat	09.00hrs to 01.00hrs
Sun	09.00hrs to 00.30hrs

Non Standard Timings

When opening hours are extended on Bank Holidays these hours are also extended to the end of trading hours.

(H) Entertainment of a similar description to that falling within (e) (f) or (g) (Indoors)

Days and timings including non standard timings as above.

(I) Provision of Facilities for Making Music (Indoors)

Mon to Sun	09.00hrs to Midnight
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Non Standard Timings

New Years Eve from 09.00hrs to 00.30hrs following New Years Day

(L) Late Night Refreshment (Indoors)

Mon to Thurs	23.00hrs to 00.30hrs
Fri & Sat	23.00hrs to 01.00hrs
Sun	23.00hrs to 00.30hrs

Non Standard Timings

23.00hrs New Years Day to 01.00hrs following New Years Day
23.00hrs to 01.00hrs on Sunday and Monday of Bank Holidays, Christmas Eve and Boxing Day

(M) The Sale by Retail of Alcohol for Consumption ON and OFF the Premises

Mon to Thurs	10.00hrs to Midnight
Fri & Sat	10.00hrs to 00.30hrs
Sun	10.00hrs to Midnight

Non Standard Timings

10.00hrs to New Years Eve to 01.00hrs following New Years Day
10.00hrs to 00.30hrs on Sunday and Monday of Bank Holidays, Christmas Eve and Boxing Day

The Opening Hours of the Premises

Mon to Thursday	09.00hrs to 00.30hrs
Fri & Sat	09.00hrs to 01.00hrs
Sun	09.00hrs to 00.30hrs

Non Standard Timings

09.00hrs New Years Eve to 01.00hrs following New Years Day
09.00hrs to 01.00hrs on Sunday and Monday of Bank Holidays, Christmas Eve and Boxing Day.

2.0 RESPONSIBLE AUTHORITIES

- 2.1 Devon and Cornwall Police – have made representation relating to the Prevention of Crime and Disorder and Public Nuisance (Appendix1).
- 2.2 *Trading Standards* – no representations
- 2.3 *Planning Officer* - no representations.
- 2.4 *Child Protection* – no representations
- 2.5 *Health & Safety Executive* – no representations.
- 2.6 *Devon & Somerset Fire & Rescue Service* – no representations.

3.0 INTERESTED PARTIES

3-letters of representation have been received from residents living in the vicinity and a business operating in the vicinity (Appendices 2 -4).

4.0 CONSIDERATIONS

- 4.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers necessary for the promotion of the licensing objectives, which are:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 4.2 The steps are :
 - (a) to modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence;and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the committee takes a step in 4.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.



RECEIVED
PUBLIC PROTECTION SERVICE
11 MAR 2010
F.A.O.



DEVON & CORNWALL
CONSTABULARY

Mr P Clemens
Licensing Officer
Licensing Department
Plymouth City Council
Civic Centre, PLYMOUTH PL1 2AA

Licensing Department
Charles Cross Police station
Hampton street
PLYMOUTH
PL4 8HG

2BCU/Lic/55161/dr

9th March 2010
Mr D MCINDOE

01752720473
32473

Re: The application for Review of the Premises Licence of Reds submitted by Environmental Health Officers

Dear Mr Clemens

With regard to the above application, please be advised the police intend to make representations before the Plymouth City Licensing committee in respect of the Licensing Act objectives of Prevention of Crime and Disorder and Public Nuisance

Please find attached my statement of evidence regarding this matter.

Yours sincerely

D. MCINDOE
Alcohol Related Crime Reduction Officer
Devon & Cornwall Constabulary



RESTRICTED (when completed)

MG 11 (T)

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of David Graeme McIndoe..... URN: [] [] [] []

Age if under 18 Over 18..... (if over 18 insert 'over 18') Occupation: Police Staff

This statement (consisting of ... 3 ... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [Signature] Date: 9/3/10

Tick if witness evidence is visually recorded [] (supply witness details on rear)

I am an Alcohol Related Crime Reduction Officer employed by the Devon and Cornwall Constabulary at Charles Cross Police Station Plymouth.

Part of my duties consist of working with Premises Licence holders and Designated Premises Supervisors to establish an effective working partnership with the objective of reducing alcohol related crime.

Another part of my job is to monitor licensed premises, conduct inspections and ensure compliance with the four licensing objectives.

On 17th August 2009 I was contacted by a member of the public who had reported previously that on Thursday 13th August 2009 he had been threatened by a male from Reds Bar as he walked into the courtyard of his property. He stated the confrontation was unprovoked as he was returning from playing football and had not been into the pub.

He reported that this person crossed the road from the premises to confront him, the DPS at the time who he knows as [] was standing outside [] pub watching and took no action to prevent this incident.

Devon and Cornwall Constabulary OIS log 1089 of 130809 refers.

On 15th August the reporting person was intimidated again by the same person

Signature: [Signature] Signature witnessed by: []

RESTRICTED (when completed)

Continuation of Statement of David Graeme McIndoe

OIS Log 917 150809 refers He further states that on this evening he observed drinks being sold until 0200hrs, and patrons shouting / fighting outside the premises.

The complainant explained he had a long running dispute over the noise coming from the premises. He stated he was concerned at the escalation of intimidation taking place and was fearful of damage being caused to his property, indeed he had reported damage to his vehicle on 17th August 2009.

On 17th August 2009 I was contacted by Mr Stephen Crooks an Environmental Health Officer employed by Plymouth City Council, he informed me that on Saturday 15th August 2009 he and a colleague had visited Reds bar Ebrington Street Plymouth. He told me that he had been intimidated by customers and had felt threatened while the management and DPS had sat back and taken no action to assist him. He stated that he could not complete his duties and in the interests of safety he had left the premises.

During the morning of Monday 17th August 2009 I contacted a person who identified himself as Mr Burke. He then proceeded to aggressively complain that he was sick and tired of being targeted by the EHO, he demanded to know if the police were aware of any noise issues relating to the premises. His manner was both aggressive and dismissive of authority, he even complained that Saturday nights were an inappropriate time for any regulatory authority to call as it interfered with the business.

I informed him that I was aware of the incident of 15th August 2009 and that the DPS / management has a duty to work in partnership with responsible authorities. I reminded him that the officers from responsible authorities could reasonably expect to carry out their duties in a safe environment and the DPS was responsible for the activities within the premises.

I further stated that I was aware of incidents involving residents of nearby properties who were complaining of intimidation by customers from Reds Bar. I advised him that the DPS has responsibility for the vicinity of the premises and that it did not demonstrate effective engagement with the Licensing objective of the prevention of Crime and Disorder to appear to

Signature: David Graeme McIndoe Signature witnessed by:

RESTRICTED (when completed)

Continuation of Statement of David Graeme McIndoe

condone such activities.

I also informed him that according to the information I had received, I was of the opinion that several offences had taken place both under the Public Order Act 1986 and the Licensing Act 2003. Should there be any repetition of such behaviour I would seek to use the full force of legislation to remedy matters including the consideration of an application to review the premises licence.

From police records I can say that the following complaints have been received since the 17th August 2009

- Incident 838 12/02/10 anti social behaviour rowdy/nuisance behaviour
- incident 893 27/01/10 anti social behaviour rowdy/nuisance behaviour
- incident 29 12/12/09 anti social behaviour rowdy/nuisance behaviour
- Incident 1050 06/11/09 anti social behaviour noise nuisance
- incident 1247 16/10/09 anti social behaviour noise nuisance
- incident 1100 21/09/09 anti social behaviour rowdy/nuisance behaviour
- incident 1147 30/08/09 anti social behaviour rowdy/ nuisance behaviour

There is an entry on log 838 of 12th February 2010 stating that Mr Brooks of the Licensing department attended outside of venue at 22:20 hours. A live band was playing and was audible outside the venue up as far as Jack Chams and down the road as far as the junction with Lipson Road. PCC EHO out of hours team were informed and stated they had already visited the premises and spoken to the licensee to advise them to keep music down. They stated they would visit again at approx 23:00 hours

Signature: David Graeme McIndoe Signature witnessed by:



Ebrington Street
Plymouth
PL4

Also at:

Mr Peter Clemens
Licensing Department
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

15 March 2010

Dear Sir

Environmental Protection Act 1990 – Statutory Nuisance
Licensing Act 2003 – Licensing Conditions
Name of Premises: Trafalgar Hotel (at present REDS) 62, Ebrington
Street, Plymouth
Nature of Complaint: Noise Nuisance

My name is _____ and I am the landlord and occupier of property at number _____ Ebrington Street, Plymouth, where I have been a part-time resident and landlord for 17 years. I visit approximately every four weeks as a matter of routine in order to inspect/maintain my property and to rent out the flats/shop. I was brought up in Plymouth and my parents lived in the city from 1951 until they passed away in 2007. I purchased the building because of its location in one of the most attractive character parts of the city.

I am writing to support the Environmental Services Authority's review for the premises licence for REDS on the grounds of public nuisance disorder. My support is based upon the high level of music noise generated within the REDS bar on Friday, Saturday and Monday evenings. Typically, it begins at 9:00pm and continues until midnight and often later. My building has 3 residential flats and is located _____ REDS. The noise level is intolerable and residents are unable to read, watch television or sleep.

The noise and disorder problem escalated to such a degree that I decided to pay a visit to the REDS premises. This was at 9:45pm on Monday 7th December 2009. I asked to speak to the manager. It was impossible to hold any form of conversation due to the noise, so the discussion took place in the street. I requested that he should reduce the volume of the bands music as it was causing distress to the residents occupying my flats. I added, to emphasise the point, that one of the flats was occupied by a theatre nurse who worked early morning shifts. I stated that was unfair that he should be

deprived of sleep. He refused to lower the volume on the grounds that he would lose clients and money. After further discussion, he agreed that the band music would stop at 11pm. On returning to my ground floor flat, I met two of my tenants from the second floor (Flat 2) who were about to complain (again) to the REDS manager as they were extremely upset with the level of noise. They explained that the manager had never taken any notice of their protests but continued to complain none the less. That night the loud 'thump thump' music continued until 12:30am.

Following further discussions and complaints from my tenants, I contacted Stephen Crooks at the Environmental Services Department of Plymouth City Council to complain about the music noise and behaviour of the REDS manager. He stated that he was aware of the problem and council out of hour's service observers/listeners were operating in Ebrington Street most weekends. He recommended that I make a witness statement about how the excessive noise from REDS has affected me and the residents in my building. This I did on Thursday 10th December 2009 in the presence of David Hughs and Stephen Crooks.

Following many more complaints from residents (the Environmental Services Department served the noise abatement notices on REDS on 18 December 2009. However this did not have any effect on reducing the music noise levels. During January, I received more calls from [redacted] complaining that the music noise had increased further from REDS. Then he gave one months notice to vacate flat 2. They were unable to tolerate the noise disturbance at night and be fit to go to work in the morning. A week later, [redacted] (theatre nurse at Derriford) gave his notice to leave flat 1. Apart from my flat 3, the Ebrington building would be empty from 10 February. REDS management had stated that their business was only viable if loud live music was played. But, my business ceased to viable in February as a direct result of their live music.

Despite the fact that my tenants had given notice, we continued to communicate. I was informed that band practice had started on Saturday afternoons on the first floor of the REDS building. I was also told that the police had been called to a disturbance at REDS on 15 January 2010.

I returned to Ebrington Street on 3 February 2010. On arrival, I spotted a notice in REDS window advertising live music evenings/gigs for February and March 2010. Despite the noise abatement notice and the unsuitability of the sound insulation properties of their building and mine, the management team appeared intent on continuing to upset local residents. I remained in Ebrington Street throughout February and allowed PCC Environmental staff to place sound monitoring equipment in Flat [redacted] (first floor front) for 4 days to measure the noise levels emanating from REDS. I persuaded [redacted] (the departing tenant) to operate the equipment until the early hours when the music noise ended. I remained with [redacted] for several hours and could not believe the high noise levels that he had endured.

On most nights when the bands are playing, we experience late night trespassers using the Ebrington Street alleyway as a public convenience and for needle disposal. This inevitably led to these trespassers coming into our garden. This form of anti-social behaviour was very distressing to all the residents. I reported this to local police

who were patrolling Ebrington Street and they told me to contact PC Kevin Richards who is the local neighbourhood beat manager. This I did in early February.

My building was empty of tenants by 10 February 2010. REDS was still having gig bands (Mad Dog) and creating noise. Out of pure frustration, I sent a letter to Cllr Susan McDonald, a copy of which is provided as an attachment. I received a fast response and have followed her advice ever since. I have received copies of her emails concerning REDS to PCC and the responses received. I was informed that the PCC had decided to review the REDS license on 26 February 2010. The review date would be in April.

I have spoken to a number of the local residents and business owners. The general consensus of opinion is that Ebrington Street is area of outstanding character in Plymouth and should be preserved as such. This type of music bar is undermining its appeal to visitors, businesses and residents. A number of publicans have been unsuccessful in the Trafalgar Hotel building (now called REDS) over the years. It is time for a change. The general opinion favours a return to its original status as a small hotel or guesthouse.

Encl.

Cc Cllr Susan McDonald

Councillor Susan McDonald

Plymouth
PL1

Ebrington Street
Plymouth
PL4

8 February 2010

Dear Councillor McDonald

REDS BAR 62 EBRINGTON STREET

I am writing to bring your attention to a serious noise problem caused by the above premises during the past 6 months. The Plymouth City Council Environmental Health Department are involved in the problem which was initially brought to its attention in August 2009. Despite the serving of Noise Abatement Notices (SC/75742601/02/03) to the Licensee (Admiral Taverns . . .) and bar management on 18 December 2009, the problem has continued.

There was an incident on 15 January 2010 when, following a noise complaint from one of our tenants and a resident in Ebrington Street, the Environmental Health and police were involved and a warning was issued to REDS.

Last weekend REDS hired a band called MAD DOG which played to a full house. The music and crowd noise reached crescendo levels between 11pm and well past midnight. The crowd noise continued in Ebrington Street until 4am. REDS are advertising 10 more gigs between now and the end of March 2010.

Ebrington Street is one of the few character areas in Plymouth and is classed as a conservation zone. I have owned my building for 17 years and have watched the whole street blossom, culminating in the Evening Herald feature article in 2007. The old buildings like mine were not designed to be insulated against the noise and vibration levels generated by REDS.

The number of residents who are complained is diminishing. Tenants are leaving our building or residents have had their own property damaged as a consequence of their resistance to the noise. I have spoken to PC Kevin Richards about REDS and he is aware of the problem but insists that it is the Plymouth City Council that has both the power and authority to solve it. Will this vested power ever be used?

I await your response.

Yours sincerely

cc. Peter Clavens

Flat 2
Ebrington Street
Plymouth
PL4 9

6 February 2010

Dear

We would like to confirm that it is our intention to vacate the flat on Wednesday 10 February 2010. The reason is the intolerable level of noise from the 'gig bands' and 'mike nights' at REDS. In spite of our complaints, the noise levels have increased in intensity over the past 3 months and forced us to leave.

Yours sincerely

Flat 1
Ebrington Street
Plymouth
PL4

6 February 2010

Dear

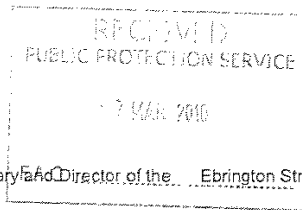
I would like to confirm that it is my intention to vacate the flat on Wednesday 10 February 2010. The reason is the intolerable level of noise from the 'gig bands' and 'mike nights' at REDS. In spite of my complaints, the noise levels have increased in intensity over the past 3 months and forced me to leave.

Yours sincerely

Tel.

Original signed copy available if required.
JAT

APPENDIX 3



Secretary and Director of the Ebrington Street Management Company Limited
Flat 2

Ebrington Street
Plymouth
PL4

16th March 2010

Dear Sir,

**Environmental Protection Act 1990 – Statutory Nuisance
Licensing Act 2003 – Licensing Conditions
Name of Premises: Trafalgar Hotel (REDS), 62 Ebrington Street, Plymouth
Nature of Complaint: Review of license**

My name is [redacted] - I am the owner of the property Flat 2, Ebrington Street and Secretary and Director of the Ebrington Street Management Company Limited. I am therefore an interested party in this license review.

Ebrington Street consists of five self-contained flats that are a mixture of owner-occupied and rental properties and is located [redacted] to the premises REDS. I have lived in my ground floor flat since February 2007. I purchased my flat in December 2006 because of its location and I enjoy the vibrancy of living in an historic Plymouth street. All three of the owner-occupied flats in my building have registered a complaint with Plymouth City Council (PCC) about the premises REDS.

I am writing to support the Environmental Services Authority's review of the license for the premises REDS on the grounds of the Prevention of Crime and Disorder and Prevention of a Public Nuisance. My support is based on the threat of violence, anti-social behaviour and criminal damage to property I have personally suffered. My support is also based upon the high level of music noise generated within the REDS bar on Friday, Saturday and Monday evenings from both the performance of live music and playing of recorded music. Typically, it begins at 9:00pm and continues until midnight and consistently later than the hours granted by the license for the premises.

From July 2009,

I felt vulnerable in my own home and actively avoided being out on Ebrington Street when the premise was open. I had complained to the [redacted] in person on three occasions about noise during May 2009, subsequently registered complaint with PCC and the Out of Hours team were monitoring the premises. This escalated to the point where I involved the police. After being threatened on entry to my property (Thursday 13th August 2009, Crime Reference Number (CRN): 1089130809), I was threatened again the same week (Saturday 15th August 2009, CRN: 917150809).

From Stephen Crooks of PCC, I understand the Out of Hours team on Saturday 15th August 2009 entered the premises and were also intimidated and threatened by patrons to the extent that they left. The premises were extremely rowdy on the Sunday 16th August 2009 evening, with patrons making noise in the street after exiting the premises beyond 02:00, which I witnessed from my bedroom window. The patrons that were threatening and intimidating me were present that evening. My car had over £500 of criminal damage inflicted on it whilst parked on Gasking Street (a side street of

Ebrington Street) between 13:00 Sunday 16th August and 08:00 Monday 17th August 2009 (CRN EC098934). No charges were brought due to lack of evidence

The actions of that particular management team were deeply irresponsible: the threat of violence, anti-social behaviour and criminal damage to property is no way to run a licensed venue in 2010. I politely urge the review panel to seriously consider the events above before making any ruling.

I have kept a noise diary since 2nd June 2009, which is also the date of the first piece of correspondence I had with PCC on this matter (complaint reference 745590).

I have witnessed the following conditions of the license granted regularly being abused from May 2009 to date:

- The premise has stayed open beyond the Premise Open Hours granted by the license, until beyond 02:00 in the morning when the latest time is 01:00.
- The performance of live music (indoors) on the premises regularly exceeds the hours granted by the license (Section E), until beyond 02:00 in the morning when the designated time is midnight.
- The playing of recorded music (indoors) on the premises regularly exceeds the hours granted by the license (Section F), until beyond 02:00 in the morning when the latest time is 01:00.
- The management teams have continued to serve beyond the hours granted by the license, The sale by retail of alcohol for consumption ON and OFF the premises (Section M), until beyond 02:00 in the morning when the latest time is 01:00.

In addition, I have witnessed the following Prevention of Public Nuisance conditions on the license being regularly broken from May 2009 to date regularly by the Premises REDS:

- 1) Live Music will be staged in the bar only
Other sections of the premises have been used as a live music rehearsal venue since October 2009.
- 2) Recorded music volume will be reduced to background level during the wind down period to create a mood change
I have never witnessed this being exercised properly; noise from the premises has only increased during performance of live music and playing of recorded music.
- 3) All windows will be kept closed after 23.00hrs
The windows and the front door have been left open beyond 23:00. PCC came to an informal agreement with one management team to keep the front door closed, the management team then chose to ignore said agreement.
- 4) A notice will be placed prominently at the exits asking customers to leave quietly
A notice appeared around October 2009 after several visits from PCC officers, customers regularly make noise in the street both leaving and standing outside to smoke (no bins were provided for butts or other rubbish, patrons simply litter the street).

In addition, I have witnessed the following Conditions imposed by The Environmental Health Representative on the license being regularly broken from May 2009 to date regularly by the Premises REDS:

1. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment
2. Between 23.00hrs and midnight
To prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise one metre from the façade of the nearest property
The property described in the above description is probably Ebrington Street, my residence) this has definitely not happened and the noise generated by the premises REDS was clearly distinguishable above other noise whenever entertainment has been provided in the bar.

There are two fundamental problems with the premises REDS providing entertainment, in addition to having a responsible management team, the bar is too small and the architecture of the building. From my observations, the bar is simply too small to stage any meaningful entertainment. One end of the bar always taken up with the band/dj/karaoke performance and sound equipment area, the sound levels from patrons increase quite rapidly to compete with the noise and half the patrons are forced to spend large amounts of the evening gathering outside on the pavement for comfort and to hear each others conversations. Equally with two-thirds of the ground floor of the building (where the bar is situated) are single pane glass windows these have no sound reducing qualities whatsoever, so much so that sound escaping from the premises appears as if the band/music is playing in the street itself. It is therefore not viable to continue to grant these conditions on the license.

I have also noticed the paperwork for the premises has never been correct, the Designated Premises Supervisor (DPS) on the license for the premises has either not been involved in the running of the business or out-of-date. The previous lessee surrendered their lease back to Admiral Taverns around January 2009, after overseeing an extensive refurbishment of the bar area, from this point Admiral Taverns have been appointing management teams to run the premises. From May to 6th September 2009, the DPS was recorded as Mr Paul Darren Baynes although he appeared to have no involvement with the premises. The premises management team at that time was and From 7th September 2009, the DPS on the license was changed to Mr Richard Burke although he left the premises before October 2009. From some point in September 2009 I understand was the premises manager but stepped down around January 2010, has never been named as the DPS despite running the premises for approximately three months. From 8th January 2010 the DPS was changed back to Mr Paul Darren Baynes, who I assume is an employee of Admiral Taverns. I feel that the detachment between who is named as the DPS on the license and who is actually running the premises REDS has in part caused the previous management teams complete disregard for the license for the premises or any intent to adhere to the license and run the premises responsibly. This in turn has made REDS a nuisance to local residents and businesses. This also means that PCC cannot have an effective dialogue with the management team of the premises and the noise abatement notices served by PCC on Friday 18th December 2009 were not served on a person or persons responsible for the creation of the noise and were rendered ineffective hence why the noise problems continued afterwards and the notices were broken.

The Ebrington Street area has been designated a conservation area by Plymouth City Council, my building Ebrington Street) and the 'Trafalgar' public house (62 Ebrington street) both feature in the *Ebrington Street Conservation Area Appraisal and Management Plan (January 2008)*. I feel that a 'problem bar' should not be allowed to thrive and continue on Ebrington Street at such a cost to the rest of the streets residents and businesses.

Ebrington Street, Plymouth, PL4
Tel: (01752)
Fax: (01752)

Mr S Crooks Environmental Health Officer
Plymouth City Council
Civic Centre
Plymouth PL1 2AA

17TH. March 2010

Dear Mr Crooks
Ref: Environmental Protection Act 1990
Licensing Act 2003 – Licensing Conditions
Name of Premises Reds
Nature of Complaint; Noise Nuisance

I am writing in support of the Environmental Services Support Authority reviews for the license premises for the Trafalgar Hotel Reds on the grounds of public nuisance disorder.

Our family business was founded in the early 1900's and moved into Ebrington Street in 1952. The and is the Hotel REDS. As I have started to convert the upper floors of the premises into selfcontained flats, I am very concerned about potential tenants willing to stay very long, due to the volume of noise emanating from REDS. I am led to believe tenants living in the vicinity have vacated their flats as the noise is insufferable. Saturday afternoons the drums strike up and with the windows wide open, we had to close our doors to quell the noise. This is detrimental to my staff, customers in the shop and potential passing customers. Staff and customers have complained and passers by not only mention the noise, look in disbelief. It would also appear there is not a designated "No Smoking" area as people are standing outside on the pavement to smoke, and on a corner as such it would not be too long before pedestrians would have to walk around a group of people and eventually into the road. Traffic wise, this is a very dangerous section of the street.

I believe a fracas occurred at REDS recently and I suspect as a result I had a display window smashed yet again. Consequently, I was called out in the early hours of the morning to attend also the police. The Trafalgar Hotel over the years have had numerous landlords, some long standing, others very shorts stays. I expect it is those with the loudest bands, gigs and entertainment have made it financially viable but at the expense of the suffering residence.

Ebrington Street now a conservation area is attracting new businesses and showing signs of growth. The Trafalgar Hotel which literally is set in stone 1897 and of great architectural and historical value. As with other properties being one of the last of the old streets in the City is of great interest to visitors and locals. The hotel with it's proximity to the city centre would much benefit the area as a Tourist Information Centre or Hotel.

E-Mail:

Reg No
VAT:

