

Licensing Sub Committee (Miscellaneous)

Tuesday 20 April 2010

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor Delbridge, Vice Chair.
Councillor M Foster.

The meeting started at 10.00 am and finished at 6.30 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.

67. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

68. DECLARATIONS OF INTEREST

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

69. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

70. REVIEW OF PREMISES LICENCE - CLIPPER INN, 65 UNION STREET, PLYMOUTH

The Committee having –

- (i) considered the report from the Director for Community Services and received an update from the Licensing Officer that two of the representations submitted in support of the Premises Licence Holder (PLH) at appendices 15 and 27 had been withdrawn as the people purported to have written them had denied that they had done so. Also appendices 19 and 29 were removed from consideration as the addresses supplied could not be found;
- (ii) considered all written representations (save the appendices referred to above);
- (iii) heard from a representative of Devon & Cornwall Police that –
 - the Police had been concerned for some time regarding the management and control of the premises in regard to the inability to contact the Designated Premises Supervisor (DPS), the archiving of CCTV footage and the downloading of CCTV footage;
 - at a meeting on the 4 September 2009 it was agreed that any serious incident inside the premises would be burnt to disc and held for 28 days, the CCTV would be upgraded to archive for 14 days, the manager would be given access to the system to download footage, polycarbonates and plastic bottles were used after 0130 hours, PARC membership would be considered and a review of recent press cuttings would take place;
 - there had been a few problems at the premises with Door Supervisors not being available or not working, working without a current licence or not wearing their badge;

- the Police had difficulties in obtaining CCTV footage on the following occasions: 15 October 2009, 16 October 2009, 17 October 2009, 19 October 2009, 21 October 2009, 19 November 2009, 1 December 2009, 6 January 2010, 24 January 2010; in some cases the footage had been overwritten, the wrong footage was sent, there was no response or they were not able to contact the PLH or DPS;
- various incidents had occurred as follows:
 1. fights outside the premises had occurred on the 13 October 2009 at 0624 hrs (CCTV did not show assault), 6 December 2009 at 0622 hrs, 16 December 2009 at 0312 hrs which was not reported to the police, 28 December 2009 0550hrs (CCTV not retained), 31 December 2009 0604hrs fight started in doorway and spilled into street (staff were unaware of the incident) and 4 March 2010 at 0622hrs this fight was watched by bar staff and doorman with no attempt made to use club watch radio or report matter;
 2. violence in the smoking area of the premises had occurred on the 26/10/09 at 0521hrs (and on that occasion the door supervisor had not been wearing his badge), 11/12/09 at 0418 hrs and staff had been unaware of this incident, 23/12/09 at 0142 hrs and 3/1/10 at 0222 hrs.
 3. on the 13 October 2009 0505hrs drinking took place outside the premises in glass vessels one of which was thrown into the road and smashed;
 4. customers had left the premises and urinated outside the premises on the following dates: 13 October 2009 at 0505hrs, 16 January 2010 at 0536 hrs and 5 February 2010 at 0323 hrs;
- between the 20 October 2009 and 6 November 2009 the premises operated without a DPS due to the withdrawal of the then current DPS;
- there had been occasions when information on offenders had not been able to be passed to the premises as they had not been using their Club-Watch radio;
- the Police had only been able to contact the PLH via text message as he neither answered his phone nor had an e-mail account; this made dealing with the premises very difficult;
- following a meeting with the DPS and solicitor on the 12 February 2010 the Police sent details of incidents together with suggested improvements and suggested conditions of licence but no substantial response was received from the PLH leading to the commencement of the review;
- CCTV footage was viewed and showed incidents of disorder outside the premises on the 13 October 2009, 26 October 2009, 13 November 2009, 6 December 2009, 11 December 2009, 23 December 2009, 31 December 2009, 5 February 2010 and 4 March 2010 referred to above. The Police referred to the fact that the majority of instances could have been avoided had door supervision been in place. They further said this was supported by the fact on the 22 January 2010 and 18 February 2010 staff had intervened and conflict had been avoided;

- conditions were put forward by the Police which they said were necessary and proportionate to address the problems with the premises and to promote the Prevention of Crime and Disorder licensing objective;

(vi) heard from the premises licence holder's legal representative that –

- the current PLH has run the premises since 25 May 2002 and feels he has an exemplary licensing record;
- the premises licence was last reviewed in March 2007 and at that time the PLH was praised for working with the Police. The premises licence holder had continued to try to maintain a good working relationship with the Police;
- there were no representations from other responsible authorities;
- the telephone number for the premises was on the licence and the up to date telephone numbers of the DPS and a second formally appointed person had been with the Police for some considerable time;
- in relation to CCTV the PLH had had problems with the Police not formally requesting CCTV accurately and the PLH had to make sure that the requirements of the Data Protection Act are fulfilled so as to avoid any action against him by third parties;
- at the meeting on the 4 September 2009 it was not agreed that CCTV would be burnt and held for 28 days but the CCTV system has been upgraded over the last 6 months at a cost of over £5000. The CCTV requests made by the Police had been complied with and as such demonstrate that it was easy for the Police to contact the PLH. In cases where it was not complied with the requests were made too late;
- the issue over the DPS was due to a clerical error and confusion by Plymouth City Council and was rectified on the 6 November 2009;
- the condition on licence is for SIA doormen up to 6.00am;
- the review was commenced prematurely without giving the PLH the time to respond to the letter of the 12 February 2010 when it had been made clear that time was needed due to other commitments;
- since being made aware of the problems the PLH had implemented the following actions to proactively address the problems:
 1. a second staff and public viewing monitor dedicated to covering external frontage of the premises has been installed and covers the smoking area;
 2. improved signage for CCTV and the definition of the smoking area;
 3. improved external barrier defining the premises curtilage;
 4. improved lighting below the awning at the front of the premises;
 5. removal of weak SIA sub contracted staff;
 6. personalised jackets for SIA licensed persons;

7. at peak times a re entry wrist band for mobile phone users and smokers at the front curtilage;
8. SIA licensed person remains in a principal position of duty near the external front door from 0400 hrs through to 0600 hrs 7 days a week to marshal patrons using the front external smoking area;
9. SIA licensed doorman would be employed from 0200 hrs through to 0600 hrs Monday to Sunday and at such times as the DPS feels appropriate for the safety and security of patrons;

- the PLH showed the committee members two club watch radios which were in use and also showed and explained how polycarbonate vessels used at certain times of night at extra cost to him;
- there had been no instances of crime or disorder inside the premises and the references to 'mischief' made by the police during their representation was not deliberate flouting of the licensing laws;
- two character references from two serving Councillors in support of the PLH were produced for member's attention;

(v) considered written representations from Interested Parties in support of the premises that –

- the bar was clean and tidy and staff were friendly; this was not considered to be relevant as it did not relate to any of the licensing objectives;
- patrons felt safe and secure when in the premises; this was considered to be relevant to the crime and disorder licensing objective;
- sometimes residents nearby heard a little noise during deliveries or when rubbish was collected but were able to speak to the PLH if there were any problems; this was considered to be relevant under prevention of public nuisance licensing objective;
- they had never had any problems with noise or behaviour at the premises and considered it to be well run; this was considered to be relevant under the prevention of public nuisance and crime and disorder licensing objectives;
- where there was violence the staff got it under control quickly; this was considered to be relevant under the prevention of crime and disorder licensing objective;
- regulars had never seen any trouble when drinking in the premises and considered it to have been better since the grant of the 24 hour licence with some having noticed a decrease in noise and vandalism to parked traffic; this was considered to be relevant under the prevention of crime disorder licensing objective
- it was considered a nice place to go when other premises close and it was a good idea that it remained open so that people had somewhere to go rather than being drunk and disorderly in the street; this was considered to be relevant under the prevention of crime and disorder licensing objective;

- the 24 hour facility provided by the premises allowed for visitors, shift workers etc to enjoy extended hospitality which was generally limited in Plymouth; this was not considered to be relevant as it did not relate to any of the licensing objectives.

Members were satisfied that there was evidence of crime and disorder in the vicinity of The Clipper as seen on CCTV footage and put forward by the Police and that these had mainly occurred between the hours of 0200 hrs and 0630 hrs on various days of the week when there had been no door supervision. Members were pleased to note the installation of the new CCTV to monitor the smoking area and felt that this went some way to addressing the problems however still felt that conditions were necessary to promote the Prevention of Crime and Disorder Licensing Objective and therefore resolved the following conditions would be applied to the licence:

- an SIA door supervisor will be employed from 0200 hrs through to 0630 hrs Monday to Sunday and at such times as the DPS feels will be appropriate for the safety and security of patrons;
- an SIA door supervisor will remain in a principal position near the external front entrance from 0400 hrs through to 0630 hrs 7 days a week to marshal patrons using the front external smoking area unless circumstances require them to carry out duties elsewhere within the licensed curtilage of the premises.

Further in relation to the above conditions and concerns raised by the Police that they needed to be able to follow up potential problems with SIA doorman or instances in the area then Members resolved that a condition be attached to the licence (and as agreed by the PLH) as follows:

- a register of SIA door supervisors will be maintained detailing a name, licence number, date of expiry of licence and contact details of the individuals concerned. The register will be available for inspection for up to 30 days.

Members were satisfied that the Police had been provided with sufficient telephone numbers to contact the PLH.

Members noted the Police condition 2 requesting that an additional personal licence holder be on the premises in the absence of the DPS however considered that there had been no evidence presented which rendered that necessary. They were satisfied that existing condition 20 on the licence addressed the situation where the DPS was absent and were happy with the management that the DPS had in place during his absence. They did accept however that condition 20 wasn't well worded and therefore resolved that it be amended so that the words Designated Supervisor are removed and replaced with Designated Premises Supervisor and the words Designated Premises Licence are removed and replaced with Designated Premises Supervisor.

Members noted the concerns of the Police in relation to the difficulties in obtaining CCTV footage from the premises but also acknowledged the difficulties the PLH had in ensuring he complied with his own Data Protection requirements. However in order to promote the Prevention of Crime and Disorder licensing objectives Members resolved to impose the following condition on the licence:

- the DPS and in their absence other authorised staff will be able to download images following a written request of footage by any responsible authority either at the time or as soon as is reasonably practicable.

In relation to Condition 4 put forward by the Police, Members had not heard any evidence which they considered made it necessary to impose such a condition.

Members considered carefully whether evidence had been put forward to justify the imposition of Police condition 8 in relation to the removal of open containers of alcoholic or soft drinks from the premises however they were not satisfied that they had heard sufficient evidence to justify the addition of such a condition to the licence.

In light of the conditions applied to the licence above, members resolved to remove condition 22 from the licence.

71. **EXEMPT BUSINESS**

Resolved that the press and public be excluded from the hearing in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearing) Regulations 2005.

72. **GRANT OF PERSONAL LICENCE - NJB (E1)**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) heard from the applicant in support of his application;
- (iii) heard from a representative of Devon and Cornwall Police that granting the licence would undermine the crime prevention objective;
- (iv) Members considered the representations and the guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 at paragraph 4.9.

Members considered whether it was necessary for the promotion of the crime prevention objective to reject the application and felt that due to the conviction in respect of a drug related offence and the length of the prison sentence it was in this case necessary to reject the application as there were no exceptional and compelling circumstances that would justify granting the licence.

Resolved that having taken into account all of the above representations the application for a personal licence be refused.