

Licensing Sub Committee (Miscellaneous)

Tuesday 29 June 2010

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor Lock, Vice Chair.
Councillor Rennie.

Also in attendance: Sharon Day – Lawyer, Marie Price – Licensing Officer

The meeting started at 10.00 am and finished at 2.00 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.

1. **APPOINTMENT OF CHAIR AND VICE-CHAIR**

Agreed that Councillor Mrs Bowyer was appointed as Chair and Councillor Lock appointed as Vice Chair for this meeting.

2. **DECLARATIONS OF INTEREST**

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

3. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's Urgent Business.

4. **TRANSFER OF PREMISES LICENCE AND VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered representations from Devon and Cornwall Constabulary that to grant the licence would undermine the crime prevention licensing objective on the following grounds;
 - that the applicant had associations with previous management responsibilities at premises which had its premises licence revoked by the licensing committee and which indicated that it will not be possible to meaningfully engage in the licensing objectives;
 - that 71 Union Street was renamed and re opened as Jumping Jacks. This fact was advertised at the premises in New

George Street Plymouth which used to go by this name (photographic evidence of this was produced). The premises licence for New George Street was revoked on the 21 July 2009 following a review hearing as a result of ongoing management problems at the premises.

- the same people are associated with both premises. This was demonstrated by the fact that:

- Mr Willoughby had been working at the premises at New George Street on the 26 June 2009 when there had been a serious assault at the premises;
- on the 7 July 2009 the Premises Licence Holder at New George Street had confirmed that the duty manager would be Mark Willoughby. On speaking with him he confirmed he would be taking over the premises once his CRB check had come through;
- a copy of the application to transfer premises licence and DPS in respect of 111 New George Street, Plymouth into the name of Mark Willoughby was produced. This application was objected to at the time by the police;
- a copy of a letter dated 14 July 2009 was produced from a Mrs Williams confirming that Mr Willoughby had taken on the premises but due to the fact that he didn't hold a personal licence the DPS would be Mr Williams until such time as Mr Willoughby obtained his personal licence;
- a statement from Mr Willoughby confirming he was taking on the premises;

when Mr McIndoe attended the premises at 71 Union Street, Plymouth, both Mr Willoughby and Mr Williams were present and Mr Williams confirmed he owned a business interest in the premises;

- a time line showed incidents occurring at the premise since it started trading on the 28 May 2010:

- 31 May 2010 - complaint of sexual assault at the premises;
- 6 June 2010 – a report of a fight at the premises and assault of door supervisor by having glass thrown in her face;

- 6 June 2010 complaint of assault after male sustained broken arm following ejection.
 - 13 June 2010 – two males attempted to storm the front door of the venue but were stopped and ejected by door staff
 - 19 June 2010 – assault on member of door staff
 - 19 June 2010 – large scale disorder outside premises. Information was given that despite requests to close the premises to new customers to prevent further disorder the co owner of the premises tried to negotiate rather than complying. He did eventually comply after being warned that if he did not the Police would have to consider using their closure powers under the Licensing Act. Once closed the crowd dispersed. Mr Willoughby was said to be too busy serving to come and speak with the Police.
 - CCTV footage was shown of the above incidents of disorder and tied and linked to the premise on the 19 June 2010;
 - a copy of a letter was provided showing that the premises are defined as a problem premises by the Police.
 - 71 Union Street had had problems with disorder in the past and since it had been closed these problems had stopped, however with the opening of Jumping Jacks the problems have recurred.
 - the Police had identified that the same customer base had transferred from New George Street to Union Street;
- (v) heard from the applicant and his representatives in support of the application and in particular that :
- the disorder on the 19 June was down to the Police not doing their job properly because had they arrested the alleged offender after the first assault of the three assaults the problems would not have occurred;
 - that a female police officer had said she would be writing a report commending the work of the door staff over a recent weekend;
 - they pointed out various errors in the police evidence in relation to dates and also alleged mistaken identity;
 - Mr Willoughby had never been a door man and it was denied

that he had heart problems;

- Mr Willoughby did not have any management responsibility for 111 New George Street and his application for DPS and transfer of premises licence at those premises only had effect for 6 days before the licence was revoked and it was hard to see how he could have contributed to the problems at those premises;
- he was asked to carry out an audit at 111 New George Street due to problems that were occurring at those premises;
- in relation to the time line of incidents from the police and the CCTV it was pointed that one of the incidents shown on the 13 June related to the kebab shop next door and not their premises (members noted this and disregarded this portion of the CCTV evidence in their decision making);
- additionally in relation to the two sexual assaults they alleged that these had been withdrawn, the 13/6/10 incident did not have a log number, after the glassing incident they had undertaken a review of security and taken steps to use polycarbonate drinking vessels;
- in relation to the closure of the premises on the 19 June Mr Willoughby stated that he was unaware of the police request to close the premises and this decision had been made by the head doorman. It was only later that he became aware of it and a letter had been written to the security company as a result of their failure to inform him. Mr Robinson, who stated that he had no operational interest in the premises, denied that he had made the decision to close the doors and had been at the premises purely as a patron with some friends;
- on the 19 June Mr Willoughby stated that he was out at the front of the premises when the disorder occurred but was inside when the police requested to speak to him and indeed was unaware that such a request had been made;
- Mr Willoughby was unaware that there were posters at the New George Street advising that the premises had moved addresses. He also did not know about the flyers that had been sent out;

In relation to the application to transfer the premises licence to Mr Willoughby and having taken into account all of the above representations members were satisfied that Mr Willoughby had had a management interest at the New George Street premises. They accepted that this decision was based on some hearsay contained in the police statements but weren't satisfied with the responses received to questions posed to Mr Willoughby to cast any doubt on the reliability of that evidence produced

in section 9 format by the Police. They therefore considered that the hearsay was reliable.

The committee also noted that save for the positive action in relation to polycarbonate glasses there was nothing put forward by the applicant to show how he was going to address the problems which already existed at the premises in the short length of time they had been opened.

The committee considered that the evidence brought by the Police on the CCTV and the written time line went to support the concerns the police had expressed that the granting of the application would undermine the crime prevention objective. Therefore it was agreed that the application for the transfer of the Premises Licence would be refused as to grant it would undermine the Crime Prevention objective.

In relation to the application to vary the premises licence to specify Mr Willoughby as DPS, whilst the committee was aware that the application for the transfer of the premise licence was a separate application, the evidence presented by the Police was the same for both. The committee had the same concerns as have been outlined in the decision to transfer the premises licence. Therefore the application to vary the premises licence to specify Mr Willoughby as the DPS is refused on the basis that to grant it would undermine the crime prevention objective.

5. **EXEMPT BUSINESS**

There were no items of exempt business.