

Licensing Sub Committee (Miscellaneous)

Tuesday 7 September 2010

PRESENT:

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

Apologies for absence: Councillors Browne and Lock

Also in attendance:

Debbie Bradbury, Lawyer
Peter Clemens, Senior 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.

7. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Mrs Bowyer is appointed as Chair and Councillor Delbridge is appointed as Vice Chair.

8. DECLARATIONS OF INTEREST

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

9. CHAIR'S URGENT BUSINESS

There were no items of chair's urgent business.

10. VARIATION OF PREMISES LICENCE - BAC BAR 38-40 DRAKE CIRCUS, PLYMOUTH

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the written representations;
- (iii) heard from the applicant's solicitor that:
 - the applicant was not aware of any instances of crime or disorder which could be attributed to his premises which were well managed and operated by experienced staff;
 - there was a total workforce of between 15 and 20 staff and a manager who held a personal licence. All security staff were S.I.A licensed;
 - there would be no increase in the occupancy above the current level of 150;
 - the outside rear area was not used for any licensable activities at all;
 - the outside rear area was controlled by licensed security staff from 11pm as well as monitored by CCTV at all times when in use;

- there had been no instances recorded of crime, disorder, public safety or public nuisance from the use of the rear area;
 - the current terminal hour for the premises was 4am and there was to be no increase in operating hours. Often they closed significantly earlier on many days;
 - the applicant was not the premises licence holder when consultation over the cumulative impact policy was considered;
 - the number of licensed premises in the area had been reduced in recent months due the closure of café eight, Bar 360 and University Wines;
 - the premises provided seating for about 65% of its capacity;
 - the area was busy as it was the centre of the University student and staff population and these people (including approximately 30,000 students) had to be catered for. Plymouth was economically dependent on the student/staff population and it was contended that they were entitled to expect a level of leisure facility similar to comparable cities;
 - the noise from the use of the outdoor rear area was monitored by bar staff and security staff and behaviour was further monitored by CCTV. There was no licensable activity within that area at any time;
 - the complaint received on 16 December 2009 referred only to music noise and not noise from patrons using the smoking area. The noise from music was immediately addressed and a self-closer was fitted to an external door. There had been no complaints or contact from the Environmental Health Office since;
 - a method statement relating to the use of the rear smoking area had been provided;
- (iv) heard from the applicant's witnesses that:
- two letters had been provided by local residents living above the licensed premises who had no objection to the rear garden area being used after 11.30pm;
 - Mr Carter had taken over the premises in September 2009;
- (v) heard from a representative of Devon & Cornwall Police that:
- the Bac Bar was situated in a cumulative impact area and evidence showed an increase in crime levels within this area;
 - evidence showed that the majority of crime in this area including the increase occurred between the hours of 7pm and 6am and could not be attributed to individual premises;
 - crime in the remainder of the beat area which contained the cumulative impact area was significantly reduced;
 - a document had been provided that detailed the evidence regarding crime levels;

(vi) heard from a representative of the Environmental Regulation Service that:

- the premises were situated in a cumulative impact area and the cumulative impact policy was adopted due to the overall levels of crime, disorder and nuisance prevalent in the area resulting from licensed premises operating until the early hours of the morning. Particularly with regard to the anti-social behaviour and nuisance behaviour of patrons leaving licensed premises and their impact on the surrounding neighbourhood in the early hours of the morning;
- the operating schedule provided by the applicant failed to acknowledge the potential affect of noise from the use of the outside area beyond 11.30pm until close of business at 4am and what measures would be taken to mitigate its affects on and off the premises;
- the department had received complaints concerning a variety of nuisances in North Hill and surrounding areas;
- the operating schedule failed to address how the potential impact from increased use of the outside area would be reasonably controlled to prevent any cumulative impact and noise creep from patrons using the area up to 4am;
- a complaint was received on 16 December 2009 concerning noise from the licensed premises alleging noise disturbance from music provided at the venue;
- the potential effect of increased noise activity from extending the use of the outdoor area would in the opinion of the department contribute further to cumulative impact on the local community;
- during 'Week of Action' on 14 May 2009 the Bac Bar was identified by a Police Officer as being particularly noisy;
- they recommended the application to amend condition B1 was refused.

Members considered the representations made with respect to the cumulative impact policy and considered relevant representations had been made from –

- (vii) the Devon & Cornwall Police that the varying of condition B1 would change the location of the customers of the premises and the rear area would become a recreational area. There was the potential for crime and disorder and public nuisance due to the impact of a large number of people in the rear area after 11.30pm to 4am and with their potential to spill into others and the mixing of this group with other patrons going to and from other licensed premises;
- (viii) a representative of Environmental Health that the varying of condition B1 would create the potential for noise disturbance from the use of the outside rear garden until 4am. It was felt that this had the potential to add to the cumulative effect of noise in the area and cause a nuisance to local residents.

Members considered that –

- it was anticipated that the application would add to the problems of crime and disorder and public nuisance in this area;

- having considered all the evidence they did not believe the applicant had demonstrated fully within their operating schedule there would be no negative cumulative impact on the prevention of crime and disorder objective and the prevention of public nuisance objective.

Members considered the fact that the applicant was not the licensed premises holder when the high level of noise was identified by the Police on 14 May 2009. They also considered the information to be hearsay and were not given enough detail. This was therefore not given any weight in the decision making.

Members heard that the complaint on 16 December 2009 did relate to these premises but was not in respect of the outside rear area.

The Committee agreed that having taken into account all of the above representations the variation application be determined as follows –

- the application to remove condition B1 is granted;
- the application to carry out minor internal alternations is granted;
- the application to incorporate the following condition is granted:
- 'CCTV system to be installed and maintained and made available to the Police to view and download';
- the application for the playing of recorded music (indoors) only is granted.

Subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule and the following conditions –

- (1) after 11.30pm no drinks are to be taken outside to the outside rear area;
- (2) after 11.30pm the capacity in the outside rear area is limited to 40;
- (3) after 11.30pm a door supervisor is to be permanently placed in the rear area to monitor the capacity and enforce the no drinks in the outside rear area after 11.30pm;
- (4) after 11.30pm noise levels are to be monitored and controlled to minimise any potential impact on local residents;
- (5) a sign is to be placed in the outside rear area specifying that no drinks are be taken into this area after 11.30pm.

11. **EXEMPT BUSINESS**

There were no items of exempt business.