

# Public Document Pack



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## **LICENSING COMMITTEE (MISCELLANEOUS)**

**DATE: TUESDAY 15 JUNE 2010**  
**TIME: 10.00 AM**  
**PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)**

### **Members –**

Councillors Bowie, Mrs Bowyer, Browne, Delbridge, Drean, K Foster, Gordon, King, Lock, Dr. Mahony, Mrs Nelder, Mrs Nicholson, Rennie, Reynolds and Wright

*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. APPOINTMENT OF CHAIR AND VICE CHAIR**

The committee will confirm the appointment of the Chair and Vice Chair for the municipal year 2010/11.

**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. MINUTES**

**(Pages 1 - 20)**

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

Licensing Committee Miscellaneous -

- 13 April 2010

Licensing Sub Committee (Miscellaneous) -

- 30 March 2010
- 13 April 2010
- 20 April 2010

**5. CHAIR'S URGENT BUSINESS**

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

**6. UPDATE ON LEGISLATIVE AND POLICY DEVELOPMENT FOR 2010-2011**

The Committee will be provided with a verbal update on legislative and policy development for 2010-2011.

**7. INFORMATION REGARDING DELEGATED DECISIONS FOR APPLICATIONS FOR THE GRANT/VARIATION OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES** (Pages 21 - 24)

The Committee will be provided with information regarding delegated decisions for applications for the grant/variation of premises licences and club premises certificates.

**8. 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 13 April 2010

### PRESENT:

Councillor Mrs Bowyer, in the Chair.  
Councillor Lock, Vice Chair.  
Councillors Delbridge, M Foster, Mrs Nelder, Mrs Nicholson and Mrs Stephens.

Apologies for absence: Councillors Bowie, Mrs Dolan, Drean, Gordon, Kerswell, Rennie and Reynolds

The meeting started at 10.00 am and finished at 10.30 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.*

### 31. DECLARATIONS OF INTEREST

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

### 32. MINUTES

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

2 February 2010	Licensing Committee Miscellaneous
19 January 2010	Licensing Sub Committee
26 January 2010	Licensing Sub Committee
2 March 2010	Licensing Sub Committee
12 March 2010	Licensing Sub Committee
16 March 2010	Licensing Sub Committee

### 33. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

### 34. SAFETY AT SPORTS GROUND - SCHEME OF DELEGATION

The Head of Development Management provided the Committee with an update upon the proposed scheme of delegation for sports ground safety.

The Committee was informed that –

- (i) the proposal sought to change the scheme of delegation from the Community Services directorate to the Development and Regeneration directorate because of the Council's recent restructure;

Resolved that –

- (1) the Licensing Committee authorise the scheme of delegation as set out in Appendix A of the report and delegate the officer's responsibilities to the Director for Development and Regeneration.
- (2) an annual report be submitted to the Licensing Committee (Miscellaneous) to update Members on sports ground safety.

35. **REVIEW OF FEES PAYABLE UNDER THE GAMBLING ACT 2005 AND THE GAMBLING (PREMISES LICENSING FEES) (ENGLAND AND WALES) REGULATIONS 2007**

The Principal Environmental Health Officer provided the Committee with an update on the review of fees payable under the Gambling Act 2005 and the Gambling (Premises Licensing Fees) (England and Wales) Regulations 2007.

The Committee was informed that –

- (i) in 2008 the Licensing Committee (Miscellaneous) set gambling fees at the maximum amount available to them as set by Government guidelines;
- (ii) Government regulations set a maximum amount for gambling fees;
- (iii) the minimum income expected from gambling fees was £60,000;
- (iv) Plymouth City Council had added test purchasing of gambling premises to their work programme in order to assure premises were abiding by gambling act guidelines;
- (v) Government had not stipulated whether current maximum costs for gambling fees would be increased;

In response to questions raised it was reported that –

- (vi) officers would correspond with licensees in Plymouth in order to aid their understanding of gambling act regulations;
- (vii) local lotteries were covered by the gambling act;
- (viii) guidance upon gambling policies would be provided to licensees before test purchase operations took place; this would give prior warning that test purchases were to take place;

Resolved that –

- (1) the fees for gambling premises licenses remain at the maximum levels as specified in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 as set out in Appendix A of the report;
- (2) an annual fees and activities report be submitted to the Licensing Committee (Miscellaneous)

36. **PLYMOUTH ALBION SAFETY CERTIFICATE FOR EAST AND WEST STANDS**

The Head of Development Management provided the Committee with an update on Plymouth Albion Safety Certificate for East and West stands.

The Committee was informed that –

- (i) Plymouth Albion East and West stands had been designated as regulated stands and progress had been made towards being fully compliant with the safety certificate requirements;
- (ii) the original decision of the Committee was for the final decision for the issue of the Safety Certificate to be delegated to the Licensing Sub Committee (Miscellaneous) however this deadline was not met; to enable the matter to be resolved during the period of Council elections it was requested that the Licensing Committee (Miscellaneous) delegate authority to the Assistant Director for Development (Planning Services) to consider the application and issue the safety certificate to Plymouth Albion;

In response to questions raised it was reported that –

- (iii) the North stand did not fall within the criteria for a safety certificate however it was covered by health and safety legislation;
- (iv) a safety advisory group had been established for Plymouth Albion to discuss safety issues;
- (v) there were fail safe provisions in the Sports Safety Act in which Council could issue a full prohibition notice if there were real safety concerns;
- (vi) the fire brigade and police attended the safety advisory group.

Resolved that –

The Licensing Committee (Miscellaneous) delegate to the Assistant Director for Development (Planning Services) authority to consider the application and issue the Safety Certificate for the Plymouth Albion east and west stands and officers report to the Licensing Sub Committee on progress made on this matter and any issues that may arise.

## 37. **EXEMPT BUSINESS**

There were no items of exempt business.

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## **Licensing Sub Committee (Miscellaneous)**

**Tuesday 30 March 2010**

**PRESENT:**

Councillor Mrs Bowyer, in the Chair.  
Councillor Rennie, Vice Chair.  
Councillors Gordon and Mrs Nicholson (fourth member).

The meeting started at 10.00 am and finished at 11.45 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.*

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

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

57. **DECLARATIONS OF INTEREST**

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

58. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's Urgent Business.

59. **GRANT OF PREMISES LICENCE - TAPAS TO GO - UNIT 5, CHADDLEWOOD SHOPPING CENTRE, PLYMPTON, PLYMOUTH**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered all written representations;
- (iii) heard from the interested parties present;
- (iv) heard that following the agreement of conditions with the applicant, the Environmental Health representation had been withdrawn;
- (v) heard from the applicant and his witness that:
  - he empathised fully with objections made by neighbouring residents;
  - he hoped that the facility he wished to create would be of value to the local community and he did not wish it to be a

nuisance in any way;

- he was happy to comply with recommendations made by Devon & Cornwall Police and Environmental Health and hoped this would show local residents and the committee members that he was a responsible person and willing to co-operate with concerned parties;
- he wished to alleviate concerns by clearly stating his intentions for the premises;
- it was his intention to open a small restaurant/bistro;
- he was a qualified chef and it had always been his ambition to do this and he never wanted to open a bar/nightclub;
- he would like diners at the restaurant to be able to be served alcohol for consumption with their meal at the table;
- he had made a request for live music to provide diners with an alternative 'background music' facility. He said he was thinking along the lines of an individual musician or singer. He said he did not intend to have live, noisy bands or a DJ as this was not the ambience he wished to create;
- his intention was to open and run a restaurant business providing the people of Plympton with a venue to dine at with their family and friends;
- the bar area had been reduced by 66% and only three types of beers and wines would be sold; there would also be no t.v. or sports;
- he was in the process of installing air conditioning;
- when the premises was operating, local residents may visit the premises to check the CCTV was in place;
- the rear door would only be used for deliveries and there were no deliveries until after 9am at weekends;
- a suspended ceiling had been installed and would contain noise;

(vi) heard and considered representations under the licensing objectives as follows:

a) **Prevention of Public Nuisance –**

- that late night loud music from a café that had recently closed

had kept a resident awake and this was worse in the summer when her windows were open and at weekends and bank holidays. This was considered to be relevant however there was no evidence to link this to these premises, Members felt the conditions recommended by Environmental Health and accepted by the applicant would alleviate any concerns;

- that when Unit 5 was known as Bar Code and Java Café the noise from live music and discos was nothing short of horrendous and the emanating base levels would make objects vibrate in a residents home and the sound of music could regularly be heard above the sound of the television. This was considered to be relevant however there was no evidence to link this to these premises. Members felt the conditions recommended by Environmental Health and accepted by the applicant would alleviate any concerns;
- lock ins and late night fights were regular occurrences waking up the whole family of a local residence. This was considered to be relevant however there as no evidence to link this to these premises and there had been no representation from Devon and Cornwall Police;
- the premises is in close proximity to a residential area. This was considered to be relevant however the conditions agreed with Environmental Health should alleviate any concerns;
- that residents were woken by the rowdiness of the people leaving Unit 5. This was considered to be relevant however there was no evidence to link this to these premises. The applicant had also stated only the front of the premises would be used for entry and exit;
- deliveries at 5.30am had previously woken a local resident and his family; this was considered to be relevant however this was alleged to be caused by a neighbouring premise, the applicant stated that his deliveries would take place after 9am at weekends;

b) **Prevention of Crime and Disorder –**

- that there had been damage to local residents' property from people leaving Unit 5 when it was Bar Code/Java Café including damage to a local residents fence. This was considered to be relevant however members considered there was no evidence to link this to these premises and there had been no representation from Devon and Cornwall Police;

- c) **Protection of Children from Harm –**
- children who were resident in the area had been woken by noise, lock ins and late night fights. This was considered to be relevant however Members considered there was no evidence to link this to this premises and Members believed the conditions recommended by Environmental Health and accepted by the applicant would alleviate these concerns;
- d) **Public Safety –**
- there were no representations;
- e) **Other representations –**
- there was already a pub and a community centre that sold alcohol in the centre; there was also a chip shop and a Chinese take away that was adjacent to Unit 5; this was not considered to be relevant;
  - properties will lose value and probably become unsaleable; this was not considered to be relevant

Resolved that having taken into account all of the above representations the application be GRANTED as follows:

- (1) Subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule and conditions agreed with Environmental Health and Devon & Cornwall Police.

60. **EXEMPT BUSINESS**

There were no items of exempt business.

## Licensing Sub Committee (Miscellaneous)

Tuesday 13 April 2010

### PRESENT:

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

Apologies for absence: Councillor Lock

The meeting started at 11.00 am and finished at 5.30 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.*

### 61. APPOINTMENT OF CHAIR AND VICE-CHAIR

Resolved that Councillor Mrs Bowyer be appointed as Chair, and Councillor Michael Foster be appointed as Vice Chair.

### 62. DECLARATIONS OF INTEREST

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

### 63. CHAIR'S URGENT BUSINESS

There were no items of exempt business.

### 64. VARIATION OF PREMISES LICENCE - BAR 360 (PREVIOUSLY THE PIT), 34 DRAKE CIRCUS, PLYMOUTH

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the written representations from the responsible authorities;
- (iii) heard from the applicant and his witnesses that –
  - following a meeting with Environmental Health on 12 March 2010 the operating schedule had been extended to include the following;
  - the style and mood of any music or entertainment at the premises was to be classified with the emphasis on background music;
  - there would be no music after midnight feeding into the outside areas, and even up to that period would be very light background music;
  - after 4 am they wished to take the music down a further notch so this was virtually non-existent/very low background level to bring the atmosphere to be more conducive and an enhancement of a safer environment;
  - to ensure a strong winding down period they would accept a no entry after 5am, which would allow the premise to wind down in an orderly manner and fashion;

- there would be no sale of alcohol during the last half hour of operation time of the premises. The only beverages accessible would be soft drinks including tea and coffee, which would also enhance the wind down of the premise;
- they were willing to implement any further minor proposals that would help this application go through successfully;
- it was a very small bar with a capacity of 50 persons and it was not envisaged that it would cause any problems to the surrounding areas and later opening would actually spread the capacity of the university business which was targeted in a more orderly manner.

(iv) heard from a representative of Environmental Health that –

- a representation had been made relating to the prevention of public nuisance and public safety licensing objectives;
- the premise was situated within a cumulative impact area;
- the concentration of licensed premises remained consistent in this area, and was strongly associated with the student night-time scene, predominantly operating as vertical drinking establishments;
- the applicant had not been able to demonstrate within their operating schedule, how there would be no negative cumulative impact on one or more of the licensable objectives;
- the operating schedule failed to address the potential impact from extended licensable activity at the premises, and consideration had also not been given to the potential impact of patrons departing at close of business;
- there were cumulative effects of increased music activity, and noise and litter generated from patrons smoking in the outside designated area which had not been considered;
- the current terminal hours for licensable activities at this premises in their opinion contributed 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) were likely to be affected by the proposed application. It was also of concern that people living in the vicinity of the North Hill, Mutley and Greenbank areas would 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 Mutley, North Hill and Greenbank had 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;
- the Authority participated in 'Week of Action' between 14 - 16 May 2009 as part of a joint operation with the Police. This was in response to the continued concerns of residents living in the North Hill and Greenbank area. At that time it was noted that there were a high number of people moving

through those areas. Specifically the Police identified that music noise reduced significantly after 3 am;

- a complaint had recently been received concerning a nearby licensed premises. The complaint alleged 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 would create further cumulative impact that may continue to impinge on both businesses and domestic properties in the area, which supports the Authorities recommendation to refuse the application.

(v) heard from a representative of Devon & Cornwall Police that –

- information had been provided with regard to the licensing objectives of the prevention of crime and disorder and prevention of public nuisance;
- liaison had taken place with the applicant's representative and they had considered the letter received that specified some additional intentions;
- the application did not provide sufficient detail in the operating schedule to allow a realistic assessment of the impact that the application would have on any of the four licensing objectives;
- the premise was situated within an area that was subject to Plymouth City Council's cumulative impact policy and as such they referred to the evidence produced by the police that supported the introduction of this policy;
- police records show crime levels and anti social behaviour in the Greenbank and Mutley area including North Hill and Tavistock Place were increasing with most incidents taking place between 8pm and 7am;
- the application failed to demonstrate how it would not negatively impact on one or more of the licensing objectives;
- 175 criminal offences were committed within the North Hill and Tavistock Place areas of Plymouth for the period 1 September 2009 to 28 February 2010;
- 147 of these offences occurred between 8pm and 6.59am;
- the majority of these crimes occurred between 8pm and 6.59am and accounted for 30.1% of all the crimes within the beat area. The beat area covered the cumulative impact area as well as the remainder of the Greenbank/Mutley Plain areas;
- the research showed crime recorded between 8pm and 6.59am accounted for 84% of all the crimes within North Hill and Tavistock Place;
- further details had been provided on Police crime statistics and the Police recommended the refusal of the application.

Having considered the evidence, Members were satisfied that these premises were well managed and potential noise within the premises would be sufficiently contained. However, Members having heard from representatives from the Devon & Cornwall Police and Environmental Health Department

believed that the evidence was such that the granting of this application would add to the existing cumulative impact with respect to the licensing objectives of the prevention of crime and disorder and prevention of public nuisance.

The applicant had been unable to satisfactorily demonstrate how there would be no negative cumulative impact on these licensing objectives from patrons entering and leaving the area at a later time and from patrons use of the external area to the rear.

Resolved that having taken into account all of the above representations the variation application be refused.

65. **REVIEW OF PREMISES LICENCE - REDS, 62 EBRINGTON STREET, PLYMOUTH**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered all written representations;
- (iii) heard from the applicant's representative that –
  - the application for review related to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance;
  - the premises were located on a busy road with mixed commercial and residential use and was in a designated conservation area;
  - the most prominent acoustic feature of the night time environment was from live music on Friday, Saturday and Monday evenings;
  - the premise was old and was not designed to contain the volume of noise created by live music, entertainment, karaoke and recorded music;
  - a particular aggravating feature was caused by penetrative bass and vibration creating structure born noise transmission;
  - noise breakout into the street was affecting residents and continuing to disturb the nature and character of the area;
  - during routine 'out of hours' noise monitoring officers had witnessed several breaches of licence conditions and noise amounting to a nuisance and complaints had been received regarding unlicensed activity taking place;
  - support had been provided to the premises however attempts to resolve the complaint through discussion with the management had little success;
  - officers had been subjected to threatening and intimidating behaviour on two separate occasions from patrons of the premise who were uncontrolled by responsible persons at the premises indicating a significant fault in management controls;
  - the department had been made aware of alleged intimidation and victimisation directed against one complainant;
  - a total of five complaints had been received raising concerns over the growing noise disturbance in the vicinity emanating from these premises;



- having worked with two Designated Persons Supervisors (DPS) since June 2009 had concluded that live music entertainment was not suited to the premises and the business had failed to act in a responsible and approachable manner and as a result Reds had consistently failed to promote the licensing objectives to prevent public nuisance and to prevent crime and disorder.
- (iv) heard from a representative of Devon & Cornwall Police that –
- on 13 August 2009 it was reported by a member of the public that he had been threatened by a male from Reds Bar as he walked into the courtyard of his property. The DPS was standing outside the premise watching and took no action to prevent this incident;
  - on 15 August 2009 the reporting person was intimidated again by the same person. He stated that he had observed drinks being sold until 2am and patrons were shouting and fighting outside the premises;
  - on 15 August 2009 employees of Plymouth City Council were intimidated by customers of the premise and had felt threatened while the management and DPS had taken no action to assist;
  - on 17 August 2009 the complainant reported damage to his vehicle;
  - from police records seven complaints of anti social/rowdy/nuisance behaviour had been received since 17 August 2009.
- (v) heard from interested parties that –
- there was a high level of music generated from Reds Bar on Friday, Saturday and Monday evenings;
  - residents in the flats that found the noise level intolerable and residents were unable to read, watch television or sleep;
  - on 7 December 2009 a local landlord visited the premises regarding the noise and disorder problem and asked to speak with the manager. It was impossible to speak inside the venue and they had to speak in the street. The manager refused to lower the volume on the grounds that he would lose clients and money. He did agree to stop the band music at 11pm, however a loud 'thump thump' continued until 12.30am;
  - tenants, of the landlord, had given notice to vacate their flats due to the noise disturbance at night;
  - late night trespassers used the Ebrington Street alleyway as a public convenience and for needle disposal and trespassers entered the landlords garden causing distress to his residents;
  - there had been threats of violence, anti-social behaviour and criminal damage to property;
  - there had been regular abuses of the conditions on the licence.
- (vi) heard from the premises licence holders legal representative and his witness that –
- he did not seek to defend the suffering of the residents and he would try to

address all the issues raised;

- the premises were not currently trading and the freehold of the premises was to be sold;
- it was proposed that live music be removed as a licensable activity and a number of conditions be added to the premises licence to resolve residents concerns regarding loud music and anti social behaviour.

Members believed the current DPS had failed to demonstrate the management skills necessary to operate a licenced premise and were concerned over his long period of absences.

Members were satisfied that the removal of a number of licensable activities and addition of further conditions would resolve residents concerns.

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

(1) exclude the following licensable activities –

- performance of live music (indoors);
- entertainment of a similar description to that falling within e, f or g (indoors);
- provision of facilities for making music (indoors).

(2) modify the conditions of the licence by removing the following conditions –

- Annex 2 conditions imposed by the Environmental Health Representative (1 and 2);
- Annex 2 the Prevention of Public Nuisance (1) live music will be staged in the bar only.

(3) modify the conditions of the licence by adding the following conditions –

- all regulated musical entertainment must be controlled by a suitable noise limiting device, which will be set at an appropriate level in consultation with the Environmental Health Department;
- a senior member of staff or other authorised person shall monitor the noise levels from a designated monitoring location on the other side of the road to the premises (outside 57 Ebrington Street);
- noise emanating from the premises shall not be clearly audible one metre from the façade of the designated monitoring location;
- customers will not be permitted to smoke or drink outside the front of the premises.

(4) Remove the DPS.

## 66. **EXEMPT BUSINESS**

There were no items of exempt business.

## 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.



**Subject:** Information regarding delegated decisions for applications for the Grant / Variation of Premises Licences and Club Premises Certificates.

**Committee:** Licensing Committee (Miscellaneous)

**Date:** 15<sup>th</sup> June 2010

**Cabinet Member:** Community Services Street Scene Waste and Sustainability  
Councillor Michael Leaves

**CMT Member:** Director for Community Services

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

**Contact:** 01752 305465

**Ref:** ERS/LIC/PREM

**Part:** I

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**Executive Summary:**

Applications have been received from various premises within Plymouth for the Grant / Variation of a premises licence under Sections 17 and 34 or the Grant / Variation of a Club Premises Certificate under Schedule 8 and Section 84 of the Licensing Act 2003.

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**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: 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 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.

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**Recommendations and Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and reasons for recommended action:**

None.

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**Background papers:**

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

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**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 Since the introduction of the Licensing Act regime in 2005 applications have been received for the grant and variation of premises licences and club premises certificates. Some of these applications have received representations from responsible authorities or interested parties and have been mediated out by agreement with both the applicant and the respective responsible authority without the need to bring the applications before the committee for determination.

## 2.0 RESPONSIBLE AUTHORITIES

### 2.1 *Environmental Health*

Shallyns  
Victoria Inn

Old Town Street  
Hooe Road

### 2.2 *Devon and Cornwall Police*

Home Park Service Station  
Royal Fleet Hotel

Outland Road  
Morice Square

### 2.3 *Trading Standards*

### 2.4 *Interested Parties*

## 3.0 CONSIDERATIONS

- 3.1 Section (9.19) of the Guidance issued under section 182 of the Licensing Act 2003 and section 18(3)(a) of the act states that a hearing does not have to take place if there are representations but all parties can reach an agreement through a mediation process. When written agreement has been made representations are then withdrawn and the agreed conditions are included within their operating schedule. In such cases officers can determine the application.
- 3.2 The premises listed above are ones that have been dealt with by way of mediation and written agreement for the period between November 2009 and May 2010 and this report is submitted for the information of the committee.

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