

# Licensing Sub Committee (Miscellaneous)

Tuesday 3 August 2010

## PRESENT:

Councillor Mrs Bowyer, in the Chair.  
Councillor Delbridge, Vice Chair.  
Councillors Lock and Wright.

Apologies for absence: Councillor Gordon

Also in attendance: Sharon Day – Lawyer

The meeting started at 10.00 am and finished at 1.30 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.*

## 7. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Mrs Bowyer was appointed as Chair and Councillor Delbridge was 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. GRANT OF PREMISES LICENCE - BREAKERS CAFE, COMPTON HOUSE, 11-14 GIBBON LANE, PLYMOUTH

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the written representations and heard from interested parties;
- (iii) heard from the applicant that:
  - they wanted to be involved in the community; they have a community board in the premises at the moment;
  - they would have 18 covers in the premises and wanted to have the option to provide take away food and drink although their main aim was to provide sit down breakfasts;

- they were asking to open until 5am 7 days a week but may not be open for that length of time as it would depend upon the level of custom;
- they had their own residents in the same block as the premises so were also concerned with disturbances and would do all they could to make sure their premises did not add to existing problems. They felt that providing a meal may reduce problems in the area;
- there was a problem with rubbish in the area but this mainly came from a new residential building in the area which did not have suitable provision for rubbish. The applicants were regularly clearing the area themselves;
- they did not consider they would bring additional people into the area as it would be passing trade they would attract;
- they would have CCTV installed and would work with the police;
- they were experienced licensees;
- the applicants had installed extra lighting in Gibbon Lane to improve the area and prevent problems;

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

a) Prevention of Public Nuisance –

- granting a food licence until 5am would have a detrimental impact on the local community as the premises was very near a school and residential housing. It would draw a large number of intoxicated individuals into the area with resulting noise, disturbance and anti social behaviour. They already suffer with pavements being littered with vomit, broken glass and urine after weekend evenings; this was considered to be relevant but there was no evidence to support this bearing in mind the size of the premises;
- there was a paved area with seating around the corner from the café and interested parties were concerned that this would become even more of a focus for loitering and disruptive behaviour; this was considered to be relevant and members felt that this would be addressed by the imposition of a special condition;

- the local community already suffered from broken glass on pavements and interested parties feared that the granting of the licence would aggravate this and add to litter and mess which was already a problem in the area; this was considered to be relevant and members considered that this problem would be addressed by the imposition of a special condition;
- b) Prevention of Crime and Disorder –
- residents feared an increase in antisocial behaviour, damage to vehicles and other petty crime due to the drawing in of larger numbers of inebriated individuals and groups in the area if the licence was granted; this was considered to be relevant but there was no evidence to support this bearing in mind the proposed size of the premises;
- c) Protection of Children from Harm –
- as this is a very late licence interested parties were concerned that noise would have an impact on surrounding houses where pupils of the local school live. This noise could interrupt children's sleep which would adversely affect the learning of the pupils; this was considered to be relevant but there was no evidence to support this although members considered that the special condition would address any potential problems;
- d) Public Safety –
- the granting of the licence would lead to an increase in broken glass and vomit which would represent a health and safety hazard to pupils walking to and from a nearby school; this was considered to be relevant and members felt that the special condition would address this;
- e) Other representations –
- due to the numbers of licensed premises on North Hill the granting of another late licence so close to residential housing would mean that families would have no choice but to move away from the Greenbank area due to the associated antisocial behaviour and nuisance, having a further negative impact on the school and community; this was not considered to be relevant as it did not come within one of the four licensing objectives;

- the presence of rubbish and glass strewn around is at odds with the teaching ethos to encourage pupils to become responsible citizens; this was not considered to be relevant in these terms as the concerns did not fall within one of the four licensing objectives but the concern in relation to rubbish and glass had been dealt with earlier under the relevant licensing objective;
- there was already another hot food outlet within 100m of the Breakers Café which had resulted in a negative impact within the community; this was not considered relevant as it did not relate to one of the four licensing objectives

Agreed that having taken into account all of the above representations the application be GRANTED as applied for subject to mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicants operating schedule and the following special conditions:

- (1) Between the hours of 11pm and 5am late night refreshment must be consumed on the premises. Provision of late night refreshment for take away is not permitted.
- (2) A sign is to be placed in the window of the premises to advise patrons that take away food is not permitted between 11pm and 5am.

11. **VARIATION OF PREMISES LICENCE - HEAVEN, 162 EXETER STREET, PLYMOUTH**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the written representation from interested parties and noted that in response to the notice of hearing the interested parties indicated that the application to extend opening hours indoors was not an issue; they only wanted to object to the applications relating to the outdoor elements of the application; a petition was received signed by 18 people. This was treated as one representation;
- (iii) heard that Environmental Health had withdrawn their representations following agreement of conditions with the applicant;
- (v) heard from the applicant that:
  - he had received various complaints from one particular resident in relation to noise from bins, doors slamming and he had taken action to address those concerns;
  - the premises, under its previous name, had allegedly caused problems for residents;

- none of the residents had ever come into the restaurant to complain;
- the applicant considered himself to be a very good restaurateur with many years experience. He considered he had good clientele. He mainly served wine with food to stop drinkers just coming in, it is tables only;
- the application had been made so that he can get into the wedding reception market and also for occasions such as Christmas;
- he does a lot of charity events for the community without any complaints with the few late licences he has had;
- the application to vary to licence had received no objections from the Police;
- he had a set of house rules which were presented to the committee;
- he had a petition signed by approximately 48 people; the Committee noted that there were no addresses on the petition (which was headed up as a music petition) and so were unable to put any weight on it as they were not able to say whether these people came within the vicinity of the premises;
- he had signed and agreed to the conditions put forward by Environmental Health detailed below being included within his operating schedule:
  - 1 Where regulated entertainment is held inside the premises, doors and windows will be kept shut at all times
  - 2 Live and recorded music outdoors will only be permitted when a function has been pre booked and a substantial meal is provided as part of that function
  - 3 All regulated entertainment will last no more that three hours duration, inclusive of any breaks
  - 4 No more that 12 performances of regulated entertainment outdoors shall be permitted in any calendar month
  - 5 A member of staff will be nominated to deal with noise complaints and will respond to local residents concerns if issues are raised, as well as any reasonable request made by an Officer of a Responsible Authority.

- 6 Music noise should not be excessive/unreasonable at any time, responsible member of staff should take action to control music noise if found to be excessive/unreasonable.
- 7 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.
- 8 A diary of entertainment will be maintained at the premises and will be made available for inspection at the request of any representative of a Responsible Authority. Details of entertainment events must be documented within this diary and should include: Name, date and times of pre-booked performance, if any complaints have been received, if any action was taken to control music noise and the time at which regulated entertainment ceased.

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

a) Prevention of Public Nuisance –

- the granting of the licence in relation to outdoor activities would prevent sleep and mean residents wouldn't be able to have their windows open in the summer months. Residents felt they should be able to get to sleep at a reasonable time both during the week and at week ends. Information was provided that during temporary events notices had been used recently to enable music to be played outdoors (including some events where music took place but was not authorised under the TEN). These events caused noise and disturbance on a number of occasions. On these occasions the interested party closed their double glazed windows but this was not sufficient to prevent the singing/music being audible and causing a disturbance. This was considered to be relevant and members felt that the conditions agreed with Environmental Health would go some way to address the concerns of the residents but members still felt that the issue raised by interested parties of being able to get to sleep at a reasonable time needed addressing. Members did not consider that this could be addressed by conditions but could only be addressed by adjusting the finishing time of the regulated entertainment relating to live music, recorded music, provision of facilities for making music, provision of facilities for dancing (and anything of a similar description) taking place outdoors.

- b) Prevention of Crime and Disorder –
  - there were no representations;
- c) Protection of Children from Harm –
  - there were no representations;
- d) Public Safety –
  - there were no representations;
- e) Other representations –
  - because the restaurant was not a club and was situated in a residential area, music late into the night/early hours of the morning should be confined to the inside of the premises; this was not considered to be relevant as it did not relate to the licensing objectives;
  - the application had not been advertised correctly; the licensing officer confirmed the requirements of the legislation had been complied with.

The Committee agreed that having taken into account all of the above representations the variation application be GRANTED subject to mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicants operating schedule and the conditions agreed with Environmental Health.

In addition live music, recorded music (and anything of a similar description) provision of facilities for making music and provision of facilities for dancing (and anything of a similar description) outdoors must end as follows:

Sun – Thu -2300 hours

Fri and Saturday - midnight:

## 12. **EXEMPT BUSINESS**

There were no items of exempt business.