

Licensing Sub Committee (Miscellaneous)

Tuesday 26 July 2011

PRESENT:

Councillor Browne, in the Chair.
Councillor Lock, Vice Chair.
Councillor Rennie.

Also in attendance: Sharon Day – Lawyer, Pete Clemens – Senior Licensing Officer

The meeting started at 10.00 am and finished at 4.00 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.

6. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

7. DECLARATIONS OF INTEREST

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

8. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

9. VARIATION OF PREMISES LICENCE - THE SKIVING SCHOLAR, 1 TAVISTOCK PLACE, NORTH HILL, PLYMOUTH PL4 8AU

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the representations from Devon and Cornwall Constabulary and Environmental Health and noted that there was no objection to the part of the application detailed at para 1.3 (1a) of the report
- (iii) heard from the applicant and his solicitor that:
 - The application was not to reduce staffing or door supervision levels; it was to provide flexibility in deploying staff and door supervisors and to make better use of resources
 - It is intended to have a system in place to limit customer levels, if appropriate levels of staff and door supervisors are not in place
 - Levels of staff and door supervisors can be increased if customer levels increase at any time

- Due to attendance levels varying within the premises the applicant would have additional levels of staffing for the times when they will be most effective which would enhance the licensing objective and not adversely affect them
- Staffing at the premises varies from 8 to 12 dependent on the time of year. They work on a rota to cover daytime and evening.
- At least four staff members are fully trained in all aspects of managing and supervising the premises and three hold personal licences.
- At least one personal licence holder is at the premises whenever they are open
- The premises capacity is 100 spread between two floors.
- Average attendance at the premises early in the week and out of student term time is 40. In these circumstances the downstairs is closed and one door supervisor and one management supervisor plus bar assistant is considered to be sufficient
- The applicant has access to up to four door supervisors at any one time and they can be deployed at short notice if necessary.
- Both the premises licence holder (PLH) and designated premises supervisor (DPS) have the facility to monitor the CCTV at their home addresses meaning that staffing is monitored at all times.
- The applicants operate a total of six licensed premises within the Mutley and North Hill area and have a further 15 to 20 members of staff to call on.
- The existing conditions were agreed in November 2006 when the trading conditions were good on most nights of the week. The current trading climate is now 40 to 50% less than this which justifies the need to manage resources more effectively.
- People are not going out as much so there are more door staff on the premises than needed.
- The DPS and personal licence holder are SIA trained

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

a) **Prevention of Public Nuisance –**

Environmental health stated that due to the fact the Skiving Scholar does not have a dedicated smoking area and patrons congregate outside the public house to smoke, the reduction in door staff and staff managing the premises means there is a potential for increased noise disturbance to local residents. It was also stated that the Cumulative Impact Policy was introduced due to overall levels of crime and disorder and nuisance in the area resulting from licensed premises operating until the early hours of the morning, with particular regard to the anti social behaviour and nuisance behaviour of patrons leaving licensed premises and that impact on the neighbourhood in the early hours of the morning. Environmental Health did not consider that the applicant's operating schedule dealt adequately with the potential impact the variation would have on the licensing objectives.

Environmental Health also put forward a Plymouth Customer Data Integration Project produced in October 2010 which contained information following a data survey conducted in the Mutley and Greenbank area and details resident's views of the local area. The information contained within the report detailed that residents were disturbed by noise between 10pm and 6am with particular problems being during September and October on Friday and Saturday nights. Committee considered that this information supported the cumulative impact policy and demonstrated the effect that noise can have on residents in the area.

The committee considered the representation to be relevant and could not see how the applicant had demonstrated within its operating schedule how the variation application would not negatively impact on the licensing objective of prevention of public nuisance neither could they see that any other measures would address the concerns raised.

b) Prevention of Crime and Disorder –

The police stated that the variation application was likely to increase crime and disorder in the area. They stated that there was currently evidence of crime and disorder at the premises and that the removal of door supervisors trained to deal with the situation would only lead to an increase. The police also stated that the application failed to demonstrate how the proposals would not negatively impact on all of the Licensing Objectives.

The police provided data to the committee. One report detailed offences within the Skiving Scholar between 2009 and May 2011. This showed 26 violent crimes (including three of serious violence), 33 acquisitive crimes, five criminal damage and six drug offences. The offence levels were fairly stable with an average of two to three offences per month. The report showed that peak times for offences were between midnight and 4am, throughout the week. The committee took this report into account in reaching its decision as the police stated that the reports were tied and linked to the premises.

This representation was considered to be relevant and again the committee could not see how the applicant had demonstrated within its operating schedule how the variation application would not negatively impact on the licensing objective of prevention of crime and disorder neither could they see that any other measures would address the concerns raised.

Agreed that having taken into account all of the above representations the variation application to vary condition C – Crime and Disorder of the existing licence (at paragraph 1.3 (1a) of the report) to provide 'A minimum of three staff will be present from midnight to close of business, seven days a week unless the downstairs bar is closed, when a minimum of two will be present. If downstairs bar has more than 25 patrons then this will increase to four bar staff – two up two down' be GRANTED as there had been no representations against this part of the variation and therefore committee's discretion was not engaged.

With regard to the remaining part of the application (at paragraph 1.3 (1b, 2a and 2b) of the report) the committee has had regard to its licensing policy and the guidance issued by the home office.

The licensing policy provides for a special policy in respect of North Hill, the area within which the premises are situated. The policy states that where an application for variation is made in that area, there is a presumption that the application will be refused where relevant representations are received and it is anticipated that the application will add to the problems of crime and disorder and/or public nuisance in the area and the applicant has been unable to demonstrate, within their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Relevant representations have been received from Environmental Health and the Police that to grant the application will impact on the licensing objectives of crime and disorder and public nuisance as it will add to the existing problems with noise and crime and disorder in the area.

The committee do not consider that the applicant has been able to demonstrate through his operating schedule or through what has been said today that the variation to the conditions would not have a negative impact on the licensing objectives referred to in the representations.

Following the guidance from the Home Office at paragraph 13.34 the committee is satisfied that to grant the application would undermine the licensing objectives of prevention of public nuisance and crime and disorder as demonstrated by the representations from Environmental health and the Police. It has also considered whether any other conditions could be effective in preventing the problems identified but considers that the conditions already in place on the licence are sufficient and necessary and addresses the concerns identified by the responsible authorities and that no other conditions would be effective. Therefore in accordance with the Council's special policy the remaining part of the application is refused.

10. **REVIEW OF PREMISES LICENCE - KEYHAM VAULTS, 222 ALBERT ROAD, DEVONPORT**

The Committee having –

- (i) considered the report from the Director for Community Services
- (ii) heard from the new Premises Licence Holder (PLH) that he had taken over the premises recently and that he had agreed conditions with the police which would assist him in running the premises. A new Designated Premises Supervisor (DPS) is in place
- (iii) heard from a representative of Devon & Cornwall Police that –
 - a review had been bought initially with respect to the poor management and the impact that was having on the crime and disorder licensing objective. This had been addressed with the transfer of the DPS and premises licence. However there was a problem at the premises in general under the prevention of crime and disorder licensing objective in that the current licence conditions were outdated and needed replacing in order to promote the licensing objective.

Therefore the police had agreed conditions with the applicant which would address the problems which had been experienced as follows:

1. A digital CCTV system will be installed operating both internally and externally to cover areas to which the public have access (save for the toilets)
2. CCTV will be maintained in good working order at all times
3. CCTV images will comply with the Home Office Guidance regarding quality of images and will be retained for a minimum of 28 days.
4. the CCTV system will be capable of being downloaded into a viewable format (disc or memory stick)
5. a notice will be displayed at the entrance to the premises advising that CCTV is in operation.
6. the Police Licensing Department will be informed if the CCTV system is not working properly with 48 hours.

Having taken into account the representations made by the police and the premises licence holder the committee agreed to amend the licence in order to promote the licensing objective of prevention of crime and disorder as follows:

1. The conditions agreed between the Police and the Premises Licence Holder at (iii) above would be attached to the licence
2. To remove the existing condition on the premises licence at 'B – Steps that have been taken to promote the Four Licensing Objectives' which reads
 1. We will continue to adhere to the current PEL condition including door security to be removed and replaced with the conditions agreed between the police and the premises licence holder.

11. **GRANT OF PREMISES LICENCE - RIVER COTTAGE CANTEEN & DELI. UNIT I THE BREWHOUSE, ROYAL WILLIAM YARD, PLYMOUTH PL1 3QQ**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) heard that following agreement of conditions with the applicant as per (iii) below Environmental Health had withdrawn their representation;
- (iii) considered the written representations and heard from interested parties present;
- (iii) heard from the applicant that:

following receipt of the representation from Interested Parties amendments had been made and conditions agreed with Environmental Health as detailed below:

1. The Licence Holder or nominated person will assess the impact of any noisy activities on neighbouring premises at the start of the activity/entertainment and periodically throughout the activity/entertainment and take action to reduce noise levels if they are found to be excessive/distinguishable above background levels at the nearest residential property.
2. The performance of live entertainment will be limited to a maximum duration of two hours inclusive of any breaks
3. Waiter/Waitress service will be available throughout the premises at all times.
4. Substantial Food will be available at all times. (Subject to a permitted wind-down period before the terminal hour of service.)
5. Consumption of alcohol at the bar area is subject to patrons waiting for tables or sitting at stools provided.
6. Numbers of patrons drinking in the bar area (not awaiting tables) shall not exceed 10 persons
7. Management will control levels of noise in the outside area and advise customers of the need to respect local residents where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises.
8. A telephone number will be made available and displayed in prominent locations in the Brewhouse and Clarence buildings for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection either by authorised officers or Police throughout the trading hours of the premises.
9. A designated, de-lined and bordered smoking area will be allocated outside the premises.
10. Suitable receptacles will be provided for cigarette litter within the designated smoking area.
11. A specific taxi operator has been nominated for staff and customers use. The company's telephone number is advertised to customers. The operator and all drivers are aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily. In addition, staff will leave as quietly as possible, particularly at night and early in the morning.
12. The handling of beer kegs, bottles and other similar items will not take place in the late evening, at night and during the early morning, when the noise generated could cause a nuisance particularly outside buildings.
13. Provision of mechanical ventilation and air conditioning systems will not allow noise breakout from the premises or cause a nuisance by its operation.
14. There will be kitchen extract systems taking smells and grease away from habitable areas.
15. Ventilation equipment will be regularly cleaned and maintained to control the levels of odour generated by the premises.

16. The predominant use of the premises shall be as a restaurant.

The applicant also wished to address further concerns of the interested parties by putting forward voluntary additional conditions:

A. That the application would be amended so that there would be no non standard timings for off sales on New Years Eve and that the non standard timing for New Years Eve and on sales would be to extend opening until 2am.

B. There would be pneumatic tyres fitted to their trolleys to limit noise nuisance

C. That the disposal of rubbish would not take place outside between 9pm and 8 am.

D. The outside seating area would be limited to a maximum of 200 people at any one time

The applicant also confirmed that all conditions put forward on the application were to be attached to the licence.

The applicant has also added voluntary conditions in respect of the age verification to its operating schedule:

- A formal age verification policy document will be in place
- A challenge 21 or 25 scheme will be in place
- Age restriction signage will be displayed at the premises
- Training will be in place to ensure all staff are aware of the age restriction policy and full training records will be kept on the premises
- Records will be kept of all incidents, concerns, refusals etc.

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

a) **Prevention of Public Nuisance –**

- having tables outside on the dock would cause problems with noise and smoke inhalation to nearby residents. This was considered to be relevant. The committee felt this potential problem would be addressed by the conditions agreed with Environmental Health and the conditions put forward by the applicant.
- there is no adequate extraction/ventilation system and therefore the late night refreshment aspect of the application may cause a nuisance to residents. This was considered to be relevant. The committee considered that the conditions agreed with Environmental Health would address these potential problems.

- the noise generated beneath the homes from the premises will lower the quality of life of the residents. This was considered to be relevant. The committee considered that the conditions agreed with Environmental Health and those contained within the applicants operating would address these concerns.
- the application for extension of time in relation to New Years Eve would cause disturbance to residents sleep due to the playing of recorded music, live music, late night refreshment and sale of alcohol. This was considered to be relevant and had been addressed by the applicant amending his application in this respect as per A above.
- live and recorded music at the premises would cause a nuisance and interrupt the lives of residents. This was considered to be relevant. The committee considered that the conditions agreed with Environmental Health would address this concern.
- there were concerns that there would be disturbance to residents as a result of the premises clearing up and removing waste. This was considered to be relevant however the conditions volunteered by the applicant at B and C above would address the concerns in addition to those put forward by Environmental Health;
- the sale of alcohol without food would turn the premises into a late night drinking and music venue and this could lead to disturbance as has happened with other venues in the area. This was considered to be relevant however the committee was satisfied that this was addressed taking into account the conditions agreed and volunteered and the assurances given by the applicant that this was a food based business;
- that there would be disturbance to residents as a result of deliveries and staff and customers entering the premises. This was considered to be relevant however it was considered that this was addressed by the conditions agreed with Environmental Health and those volunteered by the applicant;
- there would be a significant increase in taxi traffic accessing the area which would cause a nuisance. This was considered to be relevant however this would be addressed by the conditions agreed with Environmental Health;
- inadequate parking will cause a nuisance for residents. This was not considered to be relevant under this licensing objective;

b) Prevention of Crime and Disorder –

- The sale of alcohol off the premises during non standard timings on New Years Eve could impact on this licensing objective. This was considered to be relevant however it was addressed by the amendment to the application put forward by the applicant detailed at A above.

d) **Public Safety –**

- Concern that the outside seating area could become overcrowded and inhibit the access of the emergency services. This was considered to be relevant but was addressed by the voluntary condition at D above.

e) **Other representations –**

There are two other cafes in different parts of the area and so there is no need for another. This was not considered to be relevant as need was not a relevant consideration under the Licensing Act 2003.

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, conditions agreed with Environmental Health, voluntary conditions agreed with Child Protection and voluntary conditions put forward by the applicant at A – D above.

12. **EXEMPT BUSINESS**

There were no items of exempt business.