

Licensing Sub Committee (Miscellaneous)

Tuesday 13 December 2011

PRESENT:

Councillor Browne, in the Chair.
Councillor Rennie, Vice Chair.
Councillors John Smith and Ken Foster (fourth member).

Also in attendance: Debbie Bradbury (Lawyer), Peter Clemens (Senior Licensing Officer) and Ross Johnston (Democratic Support Officer).

The meeting started at 10.00 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.

54. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Browne is appointed as Chair and Councillor Rennie appointed as Vice Chair for this meeting.

55. DECLARATIONS OF INTEREST

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

56. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

57. GRANT OF PREMISES LICENCE - THE CHIP STOP, 31 WATERLOO STREET, PLYMOUTH

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered representations from interested parties;
- (c) heard from the applicant that –
 - (i) the longer opening hours requested would allow for future expansion, special events and internet sales and there was no intention to open the shop for longer hours;
 - (ii) he lived above the premise and had no desire to contribute to

nuisance, noise or anti-social behaviour;

- (iii) he was experienced in managing and training staff in alcohol sales and dealing with customers in off licence premises;
 - (iv) he had agreed conditions proposed by the Devon and Cornwall Police;
 - (v) there had been no other representations from responsible authorities;
 - (vi) he was intending to maintain current shop opening hours and would be supplying own label organic wines to his current customer base at approximately £6 per bottle and there would be no beer, cider or alcopops stocked or retailed;
 - (vii) customers would not drink in the street as they would take their wine away with their food;
 - (viii) anti-social behaviour referred to related to customers of nearby pubs who consumed alcohol;
 - (ix) The Chip Stop provided a rubbish bin and encouraged customers to use it and most customers took their food away to eat it and the Bakery nearby had a waste disposal bin and did everything appropriate to alleviate a litter problem;
 - (x) the noise from The Chip Stop was minimal and customers waited inside the shop;
 - (xi) most customers did not drive to The Chip Stop, the street could be busy but this was mainly due to college use. The Chip Stop customers only stayed for about 5 – 10 minutes and as the wine would be sold to the existing customer base he did not envisage an increase in traffic;
 - (xii) young drinkers did not drink wine and the pricing would exclude them;
 - (xiii) marketing and advertising of the alcohol would be to the existing customer base and the wine would be discretely displayed in a fridge behind the counter and so would not be a temptation to young people;
 - (xiv) he had received a letter from a local resident in support of his application;
- (d) considered representations under the licensing objectives as follows –
- (1) **Prevention of Public Nuisance –**

- customers from other licensed premises caused a steady stream of anti social incidents and were abusive when they had been drinking; *this was considered to be relevant, however, there was no evidence to link this to these premises and having heard from the applicant members did not believe that this would be a concern in the future;*
- residents were already inundated with litter debris from packaging and tins sold and this would increase twofold. Food litter had already encouraged rats and the extended hours would only serve to increase this; *this was considered to be relevant, however, there was no evidence to link this to these premises and having heard from the applicant members did not believe that this would be a concern in the future;*
- a resident was subjected to high levels of noise when the shop was open and this would increase with the extended hours combined with the sale of alcohol; *this was considered to be relevant, however, having heard from the applicant members did not consider any increased noise would occur. They also took into account the applicants intention to continue to operate The Chip Stop until 8:30pm;*
- Local residents were unable to park their vehicles due to customers of The Chip Stop and the extension to the opening time would make this and the increase in traffic coming and going worse; *this was not considered to be relevant.*

(2) Prevention of Crime and Disorder –

- a resident had suffered damage to their property including their car on several occasions due to drunken behaviour and on two occasions a drunken person had entered their property; *this was considered to be relevant, however, there was no evidence to link this to these premises;*

(3) Protection of Children from Harm –

- local schools, primary and secondary would be subjected to anti social behaviour from those drinking from the off sales of alcohol and it was not a good example to the many young children in the area; *this was considered to be relevant, however, the applicant volunteered as a condition to only sell wine and said this will be discreetly displayed;*
- the area was flooded with children and youths all of which used The Chip Stop lunch times and evenings and they did not need to see or be tempted by alcohol when buying food; *this was considered to be relevant, however, the applicant volunteered as a condition to only sell wine and said this would be discreetly displayed;*

- many young people buy from this shop and there was no reason why an 18 year old could not buy alcohol and then let his younger friends have it; *this was considered to be relevant, however, members took into account that the alcohol sales would be wine only and that the applicant is operating a strict over 25 age policy in respect of alcohol sales;*

(4) **Public Safety –**

- no representations

(5) **Other representations –**

- already had three public houses and an off licence in this residential area; *this was not considered to be relevant to any of the licensing objectives.*

Agreed that having taken into account all of the above representations the application be granted subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule and the condition volunteered by the applicant that the sale of alcohol is restricted to wine only.

58. **VARIATION OF PREMISES LICENCE - JOINT CAFE BAR, 92 NORTH HILL, PLYMOUTH**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the written representations;
- (c) heard from the applicant's representative that –
 - (i) the variation application had been amended, reducing the hours applied for and removing amplified music;
 - (ii) the premise was family run with three family members and three other members of staff;
 - (iii) he operated with door staff although there was no need for him to do so;
 - (iv) there were several empty and boarded up premises and over the last 12 months had looked to expand the business;
 - (v) a number of Temporary Events Notices (TENS) had been applied for in the last few months and takings had gone up several hundred pounds;
 - (vi) during the operation of the TENS there had been no complaints

received;

- (vii) in the past 12 months the Police had only been called to the premise once to deal with a drunk who had smashed a window;
 - (viii) the Police often asked for the outside CCTV footage to assist with their enquiries;
 - (ix) agreed to the conditions proposed by Environmental Health to prevent noise nuisance;
- (d) heard from a representative of Devon and Cornwall Police that –
- (i) there could be a negative impact on the prevention of crime and disorder licensing objective due to alcohol being sold until 1am as an increase in alcohol related violent crime and criminal damage could occur in the vicinity;
 - (ii) there could be a negative impact on the prevention of public nuisance licensing objective due to alcohol being sold until 1am increasing the number of persons loitering late at night in the vicinity;
 - (iii) there would be an increase in complaints regarding noise if regulated entertainment was provided until 1am;
 - (iv) the premises lied within the cumulative impact zone and was surrounded by residential properties and the applicant did not provide sufficient detail to demonstrate how it would not have a negative effect on the licensing objectives;
 - (v) if alcohol was sold until 1am this was likely to have an impact on the levels of violence and disorder reported. The premises were very small and when busy could become hot making it necessary for people to open doors and windows or simply step outside;
 - (vi) noise would be generated by those smoking outside the premises. If seating was provided this would encourage people to remain outside and this would be difficult to manage;
 - (vii) the applicant had failed to identify relevant conditions and had submitted proposals that did not effectively deal with all concerns;
 - (viii) details were provided of a report regarding crime, violence and serious violence in North Hill/Tavistock Place and Sherwell Arcade for the period 01.08.08 to 14.11.11 indicating in the last 12 months violent crime in Sherwell Arcade had risen by 39.3% while the North Hill area as a whole saw a 10.7% reduction in violent crime;
- (e) heard from a representative of the Environmental Regulation Service that –

- (i) she had met with the applicant's father, Mr Murphy regarding the application and proposed conditions. Following this meeting concerns still remained;
- (ii) there was no information in the operating schedule detailing how extending the hours and licensable activities would impact on the surrounding area and not have a negative impact on each of the four licensing objectives;
- (iii) the applicant had requested a maximum capacity of 90, however a maximum capacity of 46 was recommended;
- (iv) due to the close proximity of residential properties, if this application was granted, it was recommended that live music was restricted to 11pm and that recorded music was restricted until 11pm Monday to Thursday and until 00.30am on Friday and Saturday;
- (v) it was further recommended that six conditions be attached to the licence to reduce the likelihood of a public nuisance occurring as follows:
 - 1. a noise limiting device (the specification and design to be agreed with the Environmental Health Service) would be fitted so that all regulated and recorded music was channeled through the device. The maximum noise levels would be set by agreement with the Environmental Health Service and would be reviewed from time to time as appropriate;
 - 2. the licence holder would ensure that the noise limiting device was sealed after commissioning so that sound operators could not override the system during the performance of live and recorded music;
 - 3. all amplified sound sources from the premises would go through a noise limiting device;
 - 4. a senior member of staff (manager) would assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment;
 - 5. before 11pm - to prevent entertainment being intrusive, noise emanating from the premises would not be clearly audible inside the nearest residential property;
 - 6. between 11pm and 1am - noise emanating from the premises would not be distinguishable above background levels inside the nearest residential property;

- (f) heard from interested parties that –
- (i) the increased noise and persons outside of Headland Park House would cause severe disruption to the occupiers;
 - (ii) there had already been incidents of persons ringing bells and urinating in the entrance to Headland Park House whose entrance was right beside the premises;
 - (iii) in the apartments beside the premise the noise would be unbearable;
 - (iv) on summer evenings a lot of customers stood outside the bar drinking which was unacceptable and a danger to traffic on a very narrow pavement on a busy junction;
 - (v) the premise had residential accommodation directly above the premises and it was surrounded by other residential properties and any music activities would have a negative impact on the neighbours;
 - (vi) there had been numerous complaints to a councillor from residents of broken glass immediately outside the premises as this was a popular route for dog walkers and families resulting in children and pets walking onto the road to avoid it;
 - (vii) the bar was located in a high density residential area and suffered from the cumulative impact of anti-social behaviour, high levels of crime and disorder and criminal damage as well as vandalism and littering from the patrons to these premises;
 - (viii) extending the opening hours and playing live music would increase shouting, singing, fighting and damage to property;
 - (ix) the premise was not large enough to absorb live music and noise would break out from the door which would allow access and ventilation as it would get very hot resulting in people being outside. Recorded music was easier to control but could also be loud and at night noise seemed to magnify;
 - (x) extending the alcohol licence would cause noise and litter to increase in the early hours.

Members considered the representations made with respect to the cumulative impact policy and –

- (g) considered a relevant representation had been made;
- (h) it was anticipated that the application as applied for would add to the problems of crime and disorder and public nuisance in this area.

Having considered all the evidence members did not believe the applicant had demonstrated within their operating schedule there would be no negative cumulative impact on the prevention of crime and disorder objective and/or the prevention of public nuisance objective if granted as applied for.

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

- (1) the application to remove condition no. 4 of Annex 2 – Conditions agreed with the Police Licensing Authority, Protection of Children from Harm as follows: no person under the age of 18 shall be permitted entry to the premises after 9pm is granted and in place will be the following condition; 'Accompanied children (under 18) will only be allowed on the premises between the hours of 0900 and 2100 except until 23.30 for private functions;
- (2) live music (indoors) is granted until 11pm Monday to Sunday;
- (3) recorded music (indoors) is granted until 11pm Monday to Sunday;
- (4) anything of a similar description to that falling within (e), (f) or (g) (indoors) is granted until 11pm Monday to Sunday;
- (5) provision of facilities for making music (indoors) is granted until 11pm Monday to Sunday;
- (6) provision of facilities for dancing (indoors) is granted until 11pm Monday to Sunday;
- (7) provision of facilities for entertainment of a similar description to that falling within (i) or (j) (indoors) is granted until 11pm Monday to Sunday;
- (8) late night refreshment (indoors and outdoors) is refused;
- (9) the supply of alcohol for consumption on the premises is refused;
- (10) the application to vary the hours the premise is open to the public is refused;
- (11) subject to mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicants operating schedule and conditions 1 to 5 recommended by Environment and agreed by the applicant.

59. **GRANT OF PREMISES LICENCE - MARITIMO, HOE ROAD, PLYMOUTH**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard representations from Environmental Health and Devon and Cornwall Police as detailed below under the relevant licensing objective;

- (c) heard representations from interested parties;
- (d) heard from the applicant's legal representative that –
 - (i) this application was for a bar and restaurant, primarily Spanish and was not intended to be a pub or a nightclub and would be food led;
 - (ii) the applicant had negotiated a long lease and spent more than £200,000 on building works;
 - (iii) outside areas would only be put to use when weather conditions permitted. Tables and chairs would be safely positioned and would be suitably staffed;
 - (iv) it was envisaged entertainment would be limited to Spanish guitar music and a flamenco dancer;
 - (v) the police conditions proposed were accepted subject to the removal of PASS accredited cards being acceptable identification. There was to be an up to date CCTV system and the premises were to be fully staffed by experienced and trained employees;
 - (vi) a number of conditions had been agreed with Environmental Health;
 - (vii) the café and ice cream kiosks in the area above the premises were owned by the applicant and were not a source of trouble or a meeting place for rowdy youngsters;
 - (viii) tombstoning was not relevant as nobody could tombstone from these premises and staff would monitor the outside areas and there was also CCTV coverage at all times;
- (e) considered representations under the licensing objectives as follows –
 - (1) **Prevention of Public Nuisance –**
 - Environment Health were concerned the premise was in close proximity to a residential area with the nearest residential property only 160m away. They had received complaints from local residents concerning noise disturbance to local residents emanating from other businesses nearby use of their outside area. They had recommended a number of conditions to promote the prevention of public nuisance licensing objective;
 - the playing of music both indoors and outdoors was likely to cause a problem. A local resident said any live or recorded music and dancing outside would cause the same problems as they had already experienced with another premise;
 - sales of alcohol for consumption off the premises would result in

more drunken behaviour. The premise was located opposite West Hoe Park which was enjoyed by children. In the past this had been the location for drunken and unacceptable behaviour and the close proximity of alcohol sales so close could exacerbate the problem;

- there was limited parking and traffic noise via taxis was also likely to contribute to public nuisance;
- patrons entering and leaving the premises would contribute to noise nuisance. Residents said they already suffered noise disturbance from patrons leaving another nearby premise late at night due to patrons calling to each other and from slamming car doors and this would further increase;
- residents were already regularly disturbed by drunks moving from the area of the Hoe late at night and this premise could only make an already difficult situation worse. There had been experience of residents and staff of Azure (Devington) Management Company Limited being threatened by drunks this year;

(2) Prevention of Crime and Disorder –

- Devon and Cornwall Police were satisfied that their conditions had been agreed by the applicant;

(3) Protection of Children from Harm –

- drinking outside was likely to cause an escalation of anti-social behaviour and tomb stoning;
- there were nearby childrens' parks and families and young children could be exposed to raucous and drunken behaviour;
- the recreation activity such as bathing on the Hoe meant young people and children were more likely to suffer injuries from broken glass;

(4) Public Safety –

- the drinking of alcohol within the geographical layout of the premise could lead to accidents as there was a steep drop onto the rocks of the foreshore which could lead to serious accidents;
- any broken glass would be hazardous to other users of that part of the Hoe;

(5) Other representations –

- no representations.

Members heard from the applicant that he removed recorded music from his application.

Members considered the representations and believed these concerns would be resolved by the conditions recommended by Devon and Cornwall Police and Environmental Health and agreed with the applicant and two special conditions as follows:

- (f) conditions agreed with Devon & Cornwall Police as contained in the report subject to the removal of PASS accredited cards being acceptable identification
- (g) conditions agreed with Environmental Health as follows:
 - (1) the foreshore area must be cleared by 10pm other than for the use as a designated smoking area;
 - (2) no drinks will be permitted to be taken to the foreshore area after 10pm;
 - (3) 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;
 - (4) all live music would be unamplified and limited to acoustic instruments only and to be played by no more than two artist in the outside area at any one time;
 - (5) 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;
 - (6) management will control the sound levels of the music/entertainment;
 - (7) Before 11pm - to prevent entertainment being intrusive, noise emanating from the premises will not be clearly audible one metre from the façade of the nearest residential property;
 - (8) Between 11pm and 12 midnight – to prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise one metre from the façade of the nearest residential property;
 - (9) the delivery of goods is restricted to taking place between 8am and 6pm;
 - (10) Bottle skips and bins containing cans or bottles will not be emptied outside after 11pm but will be dealt with the next day during normal working hours;

(h) special conditions as follows:

- (1) only polycarbonate glasses to be used in the foreshore area at all times;
- (2) the tables and chairs in the foreshore area are to be removed and stored by 10pm.

Agreed that having taken into account all of the above representations the application be granted subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule (and the conditions agreed with Devon & Cornwall Police and Environmental Health and the two special conditions).

60. **EXEMPT BUSINESS**

There were no items of exempt business.