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Barry Keel
Chief Executive

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Date: 10-10-2011

Please ask for: Helen Rickman, Democratic Support Officer
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LICENSING COMMITTEE (MISCELLANEOUS)

Date: Tuesday 18 October 2011

Time: 10am

Venue: Council House, Plymouth (next to the Civic Centre)

Members:

Councillor Browne, Chair

Councillor Mrs Nicholson, Vice Chair

Councillors Delbridge, Mrs Dolan, Drean, K Foster, Gordon, Lock, McDonald, Mrs Nelder, Rennie, Reynolds, Singh, John Smith 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.

Please note that unless the chair of the meeting agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used in meetings.

Barry Keel
Chief Executive

LICENSING COMMITTEE (MISCELLANEOUS)

AGENDA

PART I – PUBLIC MEETING

1. TO NOTE THE APPOINTMENT OF CHAIR AND VICE CHAIR

The Committee will note that Councillor Browne was appointed Chair and Councillor Mrs Nicholson was appointed Vice-Chair at the Council's AGM held on 20 May 2011.

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 - 72)

To confirm the minutes of the following meetings:

Licensing Sub Committee (Miscellaneous)

- 8 March 2011
- 15 March 2011
- 5 April 2011
- 31 May 2011
- 12 July 2011
- 26 July 2011
- 2 August 2011
- 9 August 2011
- 23 August 2011
- 6 September 2011
- 20 September 2011

Licensing Committee (Miscellaneous)

- 15 March 2011

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. MEDIATION REPORT

(Pages 73 - 74)

The committee will be provided with a mediation report to update members on current licensing applications.

7. 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 I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Panel 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 Sub Committee (Miscellaneous)

Tuesday 8 March 2011

PRESENT:

Councillor Mrs Bowyer, in the Chair.

Councillor K Foster, Vice Chair.

Councillors Wright and Delbridge (Fourth member, substituted Councillor Foster for agenda item 6)

Also in attendance: Debbie Bradbury, Lawyer and Pete Clemens, Senior Licensing Officer.

The meeting started at 10.00am and finished at 3.00pm.

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.

39. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Mrs Bowyer is appointed as Chair and Councillor Foster appointed as Vice Chair for this meeting.

40. DECLARATIONS OF INTEREST

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

41. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

42. VARIATION OF PREMISES LICENCE - THIRST, 142 VAUXHALL STREET, PLYMOUTH

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the representations from interested parties;
- (c) heard that Environmental Health had put forward conditions to address their concerns which had been agreed by the applicant;
 - Environmental Health were not present at the hearing as they did not consider it necessary following the agreement;
- (d) heard from the applicant that:

- he had requested conditions in Annex 2 be removed and replaced with voluntary conditions as discussed with Environmental Health and the Police Licensing department that promote the four licensing objectives and make up the operating schedule;
- he had provided a signed agreement to the recommendations proposed by Environmental Health to be included in his operating schedule;
- his was an up-market establishment aimed at the high end of the market and provided a copy of his bar prices, he also said there were no drinks promotions;
- he said there was some confusion over the roof terrace as he was not intending this to be used and it did not form part of this variation application, he did however have a smoking area to the rear;
- he said he had used four Temporary Event Notice's staying open until 4am and had received no complaints;
- he said patrons were not permitted to take bottles and glasses from the premises and door and bar staff monitor the area for glassware;
- he said he had been open since November and had not had in that time any complaints;

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

(i) **Prevention of Public Nuisance –**

- access onto a roof space/terrace and the extension of hours would potentially increase noise to residents in the area and there had been an increase in noise late at night since the premises opened;
 - this was not considered to be relevant as the applicant informed members that the roof terrace would not be used and did not form part of this application;
- use of the outside space such as a roof terrace would be almost on a level with the windows of seven apartments in Discovery Wharf and adversely affect many other properties if used for music, customers to chatter and general comings and goings;
 - this was not considered to be relevant as the applicant informed members that the roof terrace would not be

used and did not form part of this application;

- Martins Lane and other local streets have been used as a public convenience and for vomiting and any increase in hours could only increase this nuisance;
 - this was considered to be relevant however members heard from the applicant that he did not believe that this was caused by his patrons and accepted he could only control his patrons while in the vicinity of the premises;
- the noise level from music and customers going between premises was already a concern and negatively impacted on the family's quality of life and an extension of the hours could only add to this problem;
 - this was considered to be relevant however members considered conditions agreed with Environmental Health would address these concerns and they have also added a special condition;
- there was already an unacceptable level of anti-social behaviour in the area and an extension of opening hours would only serve to make this worse;
 - this was considered to be relevant and members accepted there was the potential in the area for a cumulative impact of anti social behaviour, however members considered conditions agreed with Environmental Health and the special condition would address these concerns;
- smokers congregating on corners and pavements nearby and frequently drop litter;
 - this was considered to be relevant however members heard from the applicant that he had a designated smoking area and members heard no evidence to link this to these premises;
- groups of intoxicated people leaving various premises in the area already clash occasionally, usually leading to scuffles and often to shouting. This would increase if late-night drinkers leave other clubs and pubs to take advantage of the extra licensing hours;
 - this was considered to be relevant however members heard no evidence of this from the Police and the condition agreed with Environmental Health regarding

Friday and Saturday night entry to the premises would be restricted to 2.30am and no re-entry would be permitted would address these concerns;

- noise created by taxi's collecting and dropping patrons and potential noise from taxi queues;
 - this was considered to be relevant however members heard from the applicant that taxis were booked in advance on the premises and that patrons were advised to wait in the foyer area;
- (ii) **Prevention of Crime and Disorder –**
 - there would be an unacceptable increase in drunken disorder and an increase in criminal and anti social behaviour;
 - this was considered to be relevant and members added a special condition;
- (iii) **Protection of Children from Harm –**
 - there were no representations;
- (iv) **Public Safety –**
 - bottles and glasses were wantonly discarded and became broken glass, these would eventually be used as weapons by those in a drunken state with little awareness of normal acceptable behaviour;
 - this was considered to be relevant however members heard from the applicant that glasses and bottles were not permitted to be taken from his premises and after midnight he used polycarbonate receptacles;
- (v) **Other representations –**
 - there were already other late night drinking establishments in the area and there was no need for another especially until 4am;
 - *this was not considered to be relevant as it did not relate to the licensing objectives.*

Agreed that having taken into account all of the above representations the variation application is granted as follows:

- (1) subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule;

- (2) conditions agreed with Environmental Health that refer to the conditions to be added to the operating schedule for prevention of public nuisance (subject to the removal of Thursday from condition 1);
- (3) the operating hours and licensable activities on Monday, Tuesday, Wednesday and Thursday will be restricted to their current timings.

43. **GRANT OF PREMISES LICENCE - CAFE KISS, 7 NORTH STREET, BRETONSIDE, PLYMOUTH**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the representation made by an interested party;
- (c) heard from the applicant that:
 - residents would not be affected by patrons of the café when entering or leaving their residential block and there was no resident living above the café;
 - an offer was made to meet with the residents in order to allay their fears;
 - the live music would be of a restricted nature and designed to enhance the atmosphere of the café;
 - performances would be a maximum of a trio but most likely a single artist and the music would not be of a sufficient volume to cause amplification through the underpass;
 - CCTV being installed inside and outside the café would make the area more secure for those passing by;
 - there had been no representation from the police;
 - the café/bar was designed to appeal to all age groups, including families;
 - the granting of the licence should not affect the parking problems of delivery drivers or access to the residents' car park. However, local taxi companies would be advertised;
- (d) considered representations under the licensing objectives as follows:
 - (i) **Prevention of Public Nuisance –**

- the premise was an integral part of a residential block and any live music would cause a nuisance. The underpass under Exeter Street acted as an echo chamber and amplified music;
 - this was considered to be relevant however members were satisfied that the applicant would monitor the noise levels to prevent any nuisance to be caused;
 - the parking in North Street was already chaotic with lorries struggling to deliver to other premises and cars at a nearby car park experienced considerable difficulty;
 - this was not considered to be relevant;
 - the underpass was in regular use and any pedestrians could be intimidated by drinkers leaving the premises;
 - *this was considered to be relevant however members did not believe that there was any evidence to support this;*
 - the police had been called out to attend two disturbances in North Street over the past six months;
 - *this was considered to be relevant however members had received no evidence to link this to these premises and there had been no representations from the police.*
- (ii) **Prevention of Crime and Disorder –**
- there was no representation;
- (iii) **Protection of Children from Harm –**
- there was no representation;
- (iv) **Public Safety –**
- there was no representation;
- (v) **Other representations –**
- there was no local need for yet another licensed premise as Bretonside was already saturated with bars and night clubs, some recently opened as a long established public house cannot find new tenants because of a lack of trade;
 - *this was not considered to be 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 follows:

- (1) subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule.

44. **EXEMPT BUSINESS**

There were no items of exempt business.

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Licensing Sub Committee (Miscellaneous)

Tuesday 15 March 2011

PRESENT:

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

Also in attendance: Debbie Bradbury – Lawyer, Kathy Davey – City Centre Street Operations Manager.

The meeting started at 2.00 pm and finished at 3.45 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.

45. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

46. DECLARATIONS OF INTEREST

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

47. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

48. EXEMPT BUSINESS

Agreed 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 items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000

49. STREET TRADING ICE CREAM CONCESSIONS PLYMOUTH HOE

The Committee having –

(a) considered the report of the Director for Development and Regeneration;

(b) heard from the City Centre Operations and Street Trading Manager;

(c) heard from the applicants;

Agreed that –

- (1) RM to be offered site B;
- (2) EW to be offered sites C and F with permission from EW for RD to be the manager for site F;
- (3) KS to be offered site E;
- (4) DE to be offered site H;
- (5) BA to be offered site G;
- (6) RN to be offered site I;
- (7) should any sites remain vacant or not be accepted by the current applicants new applications be sought in order to maintain the amenity and income stream. In this eventuality the decision on granting any ice cream consents for these sites will be delegated to the Chair of the Licensing Sub Committee.

Licensing Sub Committee (Miscellaneous)

Tuesday 5 April 2011

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor Gordon, Vice Chair.
Councillor Rennie.

Apologies for absence: Councillor Mrs Nicholson

Also in attendance: Debbie Bradbury, Lawyer and Pete Clemens, Senior Licensing Officer.

The meeting started at 11am and finished at 1.50pm.

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.

50. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Mrs Bowyer is appointed as Chair and Councillor Gordon is appointed as Vice Chair for this meeting.

51. DECLARATIONS OF INTEREST

The following declarations of interest were made by a member in accordance with the Code of Conduct –

Name	Subject	Reason	Interest
Councillor Gordon	Variation of Premises Licence – SECO Lounge Café/Bar (minute 53 refers)	The resident representative was a former colleague.	Personal
Councillor Rennie	Variation of Premises Licence – SECO Lounge Café/Bar (minute 53 refers)	The resident representative was a former colleague.	Personal

52. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

53. **VARIATION OF PREMISES LICENCE - SECO LOUNGE CAFE/BAR - UNITS 12-14
GROUND FLOOR, MILLS BAKERY, ROYAL WILLIAMS YARD, PLYMOUTH**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the written representations and heard from a representative of interested parties;
- (c) heard from the applicant that –
 - he had agreed the conditions proposed by Environmental Health with an amendment to the original condition 2 and with an added condition 10;
 - this was not a wet led bar and it contributed to being a vibrant bar in the South West Regional Development;
 - he had worked with residents and took measures after consultation with them;
 - there was no evidence of drunken, anti-social behaviour and there had been no representation from the police;
 - he agreed to withdraw his application for the extension to the outside rear area;
- (d) heard from the representative from Environmental Health that –
 - if the application were granted, as applied for, then there was the potential for a negative impact on the licensing objectives of public nuisance and public safety;
 - there had been a number of complaints regarding noise from use of the outside area, music and cleaning/deliveries;
 - of particular concern was the use of external facilities. The external seating area to the front of the property currently operated between 0800hrs and 2300hrs and was located directly below residential accommodation. Issues of public nuisance have arisen from large numbers of people sitting at tables outside drinking, eating and smoking;
 - conditions together with refusal of the rear external extension would minimise the impact on local residents;
 - following discussions with the applicant they had amended condition 2 and added an additional condition at no.10;

- key to resolving concerns was good management of the premises;
- (e) considered representations under the licensing objectives as follows:
- (i) **Prevention of Public Nuisance –**
- the proposed use of Mills Bakery inner courtyard as an additional dining/drinking area would cause a nuisance through noise and cigarette smoke;
 - *this was considered to be relevant, however members considered the recommendation of Environmental Health that the extension of this area be refused and heard from the applicant that he was no longer seeking to license this area;*
 - there were currently 22 tables seating up to 88 people but last summer there were more people being served food and drinking outside the licensed area, up and down the quay;
 - *this was considered to be relevant, however members considered that any potential problems had been addressed through the conditions agreed with Environmental Health;*
 - the installation of an additional bar will increase noise and disturbance;
 - *this was considered to be relevant, however members considered that any potential problems had been addressed through the conditions agreed with Environmental Health;*
 - customers and employees smoking around Mills Bakery increased noise and disturbance making residents feel unsafe entering their residential homes;
 - *this was considered to be relevant, however members considered that any potential problems had been addressed through the conditions agreed with Environmental Health;*
 - music from the Seco Lounge being audible in apartments;
 - *this was considered to be relevant, however members considered that any potential problem had been addressed by the condition currently on the license in Annex 2 at Number 1 under the prevention of public nuisance.*

- employees bang furniture at the end of the night and into the early hours putting furniture on tables which was audible in a residents apartment;
 - *this was considered to be relevant, however members considered that the applicant had taken reasonable measures to resolve these concerns.*
- noise from door bolts when used by cleaners entering and leaving in the early hours of the morning and noise created by them from 3.00hrs to 7.00hrs;
 - *this was considered to be relevant, however members considered that the applicant had taken reasonable measures to resolve these concerns.*
- the double bang-bang of the barista emptying the coffee grounds caused a nuisance and would be increased and needed to be addressed if another coffee machine was to be installed in the extension;
 - *this was considered to be relevant, however members considered that the applicant had taken reasonable measures to resolve these concerns.*
- employees made noise after closing and were using the music system to play loud music waking a resident;
 - *this was considered to be relevant, however members considered that the applicant had taken reasonable measures to resolve these concerns.*
- early morning and evening deliveries dragging beer kegs and bottles over cobbles was very loud disturbing a resident;
 - *this was considered to be relevant and members have addressed this by amending number 7 of the proposed conditions from Environmental Health to the following "the delivery of goods is restricted to taking place between the hours of 9am and 5pm";*
- bottling up and moving kegs and garbage at the end of the night and early morning by employees wheeling the bins over cobbles is very loud disturbing a resident;
 - *this was considered to be relevant, however members heard from the applicant that he now used a trolley with pneumatic tyres;*

- smoking outside a residents apartment, outside the bar doors and around the seating area meant talking went on through the night and could be heard in their apartment and a resident's apartment was affected by the smoke;
 - *this was considered to be relevant and members heard from the applicant that the management would take all measures to ensure smokers were seated at tables;*
- staff were standing in the alley smoking and dumping their cigarette ends in a tin causing a disgusting smell that could be smelt in a resident's home. If the extension was granted this would get worse with the increasing amount of staff and customers;
 - *this was considered to be relevant, however members would expect the management to encourage the staff to use the designated smoking area;*
- cigarette ends, litter and rubbish being left by Seco customers and employees outside the licensed area and around Mills Bakery;
 - *this was considered to be relevant, however members considered that any potential problem had been addressed by the conditions in Annex 2, numbers 3 and 5 under the prevention of public nuisance;*
- during several incidents last year there was no policing, door staff or CCTV to cover the outside seating area;
 - *this was considered to be relevant, however there was no representation from the police, members did not feel it was necessary for door staff and members heard from the applicant that CCTV could not be placed on the outside of the building due to its listed status;*
- there was often no responsible person working in the evenings or weekends ensuring the licensing conditions were upheld;
 - *this was considered to be relevant, however members heard from the applicant that two more employees would be acquiring a personal licence;*
- Customers were loitering around the bar after hours causing

noise and disturbance;

- *this was considered to be relevant, however members heard from the management that they had taken reasonable steps to address this issue;*
- noise from taxi's picking up late at night and in the early hours directly under a resident's apartment. Disturbance was caused by engines running, door slamming and noise from revellers;
 - *this was considered to be relevant, however members considered that any potential problem had been addressed through the conditions agreed with Environmental Health;*
- customers drinking outside the licensed boundary were able to see directly into a resident's apartment and they had suffered abusive and threatening behaviour;
 - *this was considered to be relevant, however members believed that this was a criminal matter and should be referred to the police.*

(ii) **Prevention of Crime and Disorder –**

- a resident's car was damaged by a hit and run in November 2010;
 - *this was considered to be relevant, however members heard no evidence to attribute this to these premises and there had been no representation from the police.*
- control measures i.e. CCTV needed to be reviewed and put in place to prevent damage to resident's property or the Royal William Yard;
 - *this was considered to be relevant, however there was no representation from the police and members heard from the applicant that CCTV could not be placed on the outside of the building due to its listed status;*
- in the first summer/autumn of opening the police had been called on two occasions within the restaurant, and the on-site security officers on several more occasions and there had been reported crime within the Royal William Yard such as car break-ins and drug dealing;

- *this was considered to be relevant, however members heard no evidence to attribute this to these premises and there had been no representation from the police.*

(iii) **Protection of Children from Harm –**

- music was audible in an apartment meaning a resident could not get children to bed;
 - *this was considered to be relevant, however members considered that any potential problem had been addressed by the condition currently on the license in Annex 2 at Number 1 under the prevention of public nuisance.*
- employees in the bar after closing and before opening made noise and disturbance to children;
 - *this was considered to be relevant, however members considered that the applicant had taken reasonable measures to resolve these concerns.*
- glasses and broken glass was being left by customers of the bar outside of the licensed premises creating a real safety problem to children who ran bare-foot around the dock;
 - *this was considered to be relevant, however members considered that any potential problem had been addressed by the condition on the license under Annex 2, number 5 of the prevention of public nuisance.*

(iv) **Public Safety –**

- residents may be faced with rowdy diners and drunken behaviour in the immediate vicinity of their communal entrance door, with one resident claiming to be quite intimidated and frightened to walk past people that were drunk;
 - *this was considered to be relevant, however, members considered the recommendation of Environmental Health that the extension of this area be refused and heard from the applicant that he was no longer seeking to license this area.*
- glasses and broken glass on all walkways including the inner courtyard causing safety concerns;

- *this was considered to be relevant, however members considered that any potential problem had been addressed by the condition on the license under Annex 2, number 5 of the prevention of public nuisance.*
- the emergency services vehicles, the elderly and disabled would be restricted if there was an increase in the seating area in the front as demonstrated by a recent incident;
 - *this was considered to be relevant, however there had been no representation from the responsible authority;*
- (v) **Other representations –**
 - an objection to the extension of the licence to 6.00hrs;
 - the lovely views could be tarnished by tables and chairs;
 - *this was not considered to be relevant as it did not relate to the licensing objectives.*

Agreed that having taken into account all of the above representations the variation application be granted subject to –

- (1) the withdrawal of part of the application for licensing of the external rear area;
- (2) the mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule;
- (3) conditions 1 – 10 agreed with Environmental Health subject to the amendment to condition number 7 to “*the delivery of goods is restricted to taking place between the hours of 9am and 5pm*”.

54. **EXEMPT BUSINESS**

There were no items of exempt business.

Licensing Sub Committee (Miscellaneous)

Tuesday 31 May 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 12.45 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.

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

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

56. **DECLARATIONS OF INTEREST**

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

57. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

58. **GRANT OF PREMISES LICENCE - PREMIERE BAR & GRILL
(PREVIOUSLY STOP BY TAKEAWAY) 429A CROWNHILL ROAD,
WEST PARK, PLYMOUTH**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the representations from Environmental Health;
- (c) considered the written representations and heard from interested parties present (although the committee agreed that it would not admit a further written representation introduced by an interested party as it had not been served in response to the notice of hearing and therefore, in accordance with Regulation 18 of the Licensing Act 2003 (Hearing Regulations) 2005 this could only be introduced with the consent of all parties present. The applicant objected and therefore it could not be admitted);

(d) heard from the applicant's solicitor that:

- the conditions put forward by Environmental Health, save for condition 4, were accepted and that those conditions were sufficient to address the concerns raised by the three interested parties;
- that the applicant had experience in dealing with licensed premises as he has operated the premises known as Ice Warm in Saltash since February 2006;
- the library will be closed during the time when the premises are at its busiest;
- in respect of condition 4 put forward by Environmental Health, they had agreed to remove the requirement for waitress service however they were still requiring that food had to be consumed with alcohol in the outside area. The applicant stated that this had the potential to cause conflict with customers as they would have to be challenged upon entry and this may cause more problems than it would solve;
- the conditions put forward in the operating schedule demonstrated the applicant's commitment to address any potential problems;
- there had been no other representations from responsible authorities save for Environmental Health;

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

1) **Prevention of Public Nuisance –**

- the committee heard from Environmental Health that the premise was located close to residential properties and local amenities.
- they were concerned that the use of the outside area of the premise had the potential to cause public nuisance to local residents as the premise face a row of residential dwellings across the road.
- the particular concern was that when the traffic flow along the road dropped later in the evening, this would result in a drop in background noise levels and the potential for patrons in the outside area to cause a public nuisance would increase.
- in order to prevent public nuisance that could be caused Environmental Health had put forward six conditions which were detailed at appendix 2 in the report.

The committee considered that the representation from Environmental Health was relevant and were of the opinion that

conditions 1,2,3,5 and 6 were necessary to promote the licensing objective. The committee noted and agreed with the potential problems which condition 4 would create for the premises licence holder but also acknowledged what Environmental Health were saying with regard to increased potential for public nuisance with the use of the outside area. Members therefore considered that in order to further address the concerns raised by Environmental Health a special condition would be added that between the hours of 9am and 10.30pm patrons consuming alcohol in the external area must be seated at the tables and chairs provided by the premises licence holder.

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

- interested parties indicated that the granting of the licence would bring a lot of drunken people to the area (and youths) and that this in turn would cause a lot of trouble and the drunken people would behave in an anti social way;
- the concern expressed related to drunken people causing dangers to the elderly and children around the area as well as scaring them. This in turn had the potential to damage the businesses in the vicinity of the premises;

The committee considered that this representation was relevant under this licensing objective but it was noted that these were potential problems. Members felt that the conditions put forward in the applicant's operating schedule addressed the potential concerns raised by the interested parties.

3) **Protection of Children from Harm –**

- an interested party indicated that there was already a problem in the UK with too many teenagers drinking and that this should not be encouraged in the West Park area;

The committee considered this representation to be relevant under this licensing objective. However felt that the applicant's operating schedule had sufficient conditions in place to promote this licensing objective;

4) **Public Safety –**

No representations were received in respect of this licensing objective;

5) **Other representations –**

- an interested party expressed, that if people in the area wanted alcohol, there was already a couple of off licence corner shops in the area. This was not considered to be relevant as the representation related to the need for the licence and this was not a relevant consideration under any of the licensing objectives.

Agreed that having taken into account all of the above representations the application would 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 1,2,3,5 and 6 agreed with Environmental Health and the special condition mentioned above.

59. **EXEMPT BUSINESS**

There were no items of exempt business.

Licensing Sub Committee (Miscellaneous)

Tuesday 12 July 2011

PRESENT:

Councillor Browne, in the Chair.
Councillor Mrs Nicholson, Vice Chair.
Councillor Rennie

Fourth Member: Councillor John Smith

Also in attendance: Debbie Bradbury (Lawyer), Marie Price (Licensing Officer)

The meeting started at 10.00 am and finished at 4.20 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.

1. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

2. DECLARATIONS OF INTEREST

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

3. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

4. REVIEW OF PREMISES LICENSE - CHOO CHOO'S, 71 UNION STREET, PLYMOUTH

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered all written representations;
- (c) heard from the applicant, a representative of Devon & Cornwall Police that –
 - (i) since opening on 28 May 2010 there have been a number of violent and public order situations at the premise resulting in Choo Choo's being designated as a problem premises on 21 June 2010;

- (ii) at 03.37hrs on 19 June 2010 large scale disorder took place which made it necessary for the police to make a formal request of the Manager to close the premise;
- (iii) at 05.18hrs on 15 May 2011 a male was found in the rear corridor of the premise unconscious and lying face down in a corridor flooded with excrement, vomit and toilet tissue. The attending officers were jostled and shown hostility; they were not escorted or shown the way by any member of staff or door supervisor. Prior to this incident there was evidence of people being ejected from the premise showing injuries to their faces and then being readmitted by door staff;
- (iv) erratic management had meant that on several occasions improvements had been made which alleviated the problems identified, unfortunately these improvements never became permanent and the problems of violence and anti social behaviour regularly reappeared;
- (v) shortly after the premise was designated as a problem premise the premise licence was transferred to Daniel Robinson and the DPS was varied to Stefan Williams;
- (vi) a large number of relevant incidents had been recorded since the premise was designated as a problem premise on 21 June 2010. This included noise nuisance, assaults, ABH, GBH (without intent), wounding, racially aggravated GBH, racially aggravated public order, affray, alleged assaults by door staff, breach of a drinking banning order, access to the premises by a 15 and 17 year old;
- (vii) the police requested that the DPS (Stefan Williams) be removed, the hours for the retail sale of alcohol be reduced and conditions be added to the licence to deal with the poor door supervision, the poor CCTV images, the positioning of cameras and the quality of images to cover the corridors and fire exits, the fitting of appropriate alarm systems to fire exits and the maintenance of lights and drains in the corridor leading to the fire exit;
- (viii) the more serious crimes occurred from 2.45am to closing with the vast majority between 4.30am to closing;
- (ix) persons ejected were allowed to re-enter by the door staff and information was not being passed to the police;
- (x) DVD footage was shown of four periods of time on 21 May 2011 to the outside of the premises. DVD footage was also shown of the inside of the premises;
- (xi) since this application there had been mediation talks regarding control including the outside area. This had resulted in

improvements and a reduction of incidents;

- (xii) 13 conditions were recommended by the police and conditions 1 to 12 had been agreed by the premises licence holder;
- (d) heard from the applicant's witnesses;
- (i) that on 15 May 2011 the Police were called to the premises following a person being found injured in the corridor of the premises. He said they were heckled and things were thrown at them. He said the area was poorly lit and there was toilet paper and faeces on the floor, the premises were asked to close and did so;
- (e) heard from the premises licence holder's representative that;
- (i) although an adjournment was not requested, it was noted that a copy of the incident book had only been received on 3 July 2011;
 - (ii) the premises was designated a problem premise on 21 June 2010 before Mr Williams became the DPS;
 - (iii) there had been a good relationship with the police with a number of meetings until the review application was received;
 - (iv) a request was made to join the PARC scheme but this had still not been received;
 - (v) prior to the incident at the premise on 15 May 2011, the premise was due to have its problem premises status removed;
 - (vi) with respect to the incident on 15 May 2011 when a male was found unconscious in the corridor, no one had been charged with assault and it was possible that the male slipped in the toilets causing his injuries;
 - (vii) disputed that the injured male was found in toilet paper covered in faeces. He said there was a joint sewer with the premise next door and they had caused the problem with the overflow;
 - (viii) the premise had implemented all measures requested including more lighting, anti-slip flooring, updated CCTV, new door security; introduced polycarbonate glasses, doors have been removed to improve visibility, the step outside had been made safe and a wall built around the designated smoking area;
- (f) heard from the designated premises supervisor that;
- (i) he had extensive experience in the trade;
 - (ii) he said he dealt with problem premises. He said when he was first

the DPS he introduced polycarbonate glasses after glassing incidents in the past, changed the music, looked at the CCTV coverage and changed the security firm;

- (iii) with regard to the incident on 15 May 2011, he said the premises had been checked at 8pm prior to its opening but would not have been checked again before the injured male was found in the corridor at 05.17am.

Members considered all the representations made under the prevention of crime and disorder and public safety licensing objectives.

They had serious concerns regarding the crime and disorder incidents linked to these premises. They were also concerned about the ability of the current DPS to run the premises, particularly his lack of knowledge regarding incidents that had taken place. They believe the number of incidents recorded by the police since Stefan Williams became the DPS demonstrated that he was not adequately managing the premises and having day to day control.

With respect to the incident on 15 May 2011, members were concerned that a lack of management controls led to a lack of inspection and for the building to be found in a disgusting state. They were further concerned with the hostile environment which met the police when they went to the injured males aid.

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

- (1) modify the conditions of the licence as follows –
 - (1.1) remove current condition one of Annex 2;
 - (1.2) add conditions one to 12 below as provided by the Police subject to an amendment of number four;
 - (1.2.1) an incident book shall be maintained to record any activity of a violent, criminal or anti social nature. The record will contain the time and date, the nature of the incident, the people or description of people involved, the action taken and by whom and details of the person responsible for the management of the premises at the time of the incident;
 - (1.2.1a) the incident book will be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12months;
 - (1.2.2) any person ejected from the premises for any reason will be refused re-admittance for a minimum of the rest of that trading day and recorded in the incident book;

- (1.2.3) the Premises Licence Holder and the DPS will maintain a register of door supervisors employed at the premises. The register will detail the day, time and date the door supervisor commenced duty, full name legibly written, SIA licence number, the name of the employer, the time duty ended and the name of the person in charge of the premises on that date;
- (1.2.3a) the register will be kept at the premises and be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12months;
- (1.2.4) any outside area within the control of the premises or occupied by patrons of the premises will be suitably managed and controlled. The licence holder and DPS will ensure that any outside area included in the licence will be controlled in a safe and effective manner and will pay special attention to the impact that the use of the outside area has on the surrounding community. The management must also ensure that the designated smoking area is only used by smokers who when finished smoking are then asked to leave this area;
- (1.2.5) the Premises Licence Holder will ensure that a CCTV system which is fully compliant with the guidance contained in the Information Commissioners Office (ICO) guidance document regarding installation of CCTV;
- (1.2.6) the CCTV will cover all areas of the premises to which the public have access including any outside areas;
- (1.2.7) images will be retained for a minimum of 28 days;
- (1.2.8) the system will be capable of downloading images to a recognizable viewable format;
- (1.2.9) at all times the premises are open for business a member of staff will be present who is capable of operating the system and downloading images at the request of police or a member of a responsible authority;
- (1.2.10) the CCTV system will be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises;

- (1.2.11) the Premises Licence Holder or nominated person shall notify the Police Licensing Team, Charles Cross Police Station, Plymouth on any occasion when the CCTV or radio system is inoperative during normal opening hours and shall then notify them when measures have been taken to restore the system;
- (1.2.12) a full safety check of all areas including emergency exits will be conducted prior to the premises opening and recorded in a register to include the date, time and person carrying out the checks. The register will be kept at the premises and be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12 months;
- (1.3) amend current condition 20 of Annex 2 to the following – ‘any person looking under the age of 25 years will be asked to show identification’;
- (2) add the following conditions –
 - (2.1) the toilets are to be regularly cleaned and checked every half hour while the premise is open. A record is to be kept and signed by the duty manager;
 - (2.2) the sale by retail of alcohol for consumption on and off the premises is to cease Monday to Sunday at 03.00am;
 - (2.3) there will be no admissions or re-admissions to the premises after 03.00am;
 - (2.4) the premise is to close Monday to Sunday at 04.00am;
- (3) Remove the DPS.

5. **EXEMPT BUSINESS**

There were no items of exempt business.

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.

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Licensing Sub Committee (Miscellaneous)

Tuesday 2 August 2011

PRESENT:

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

Also in attendance: Sharon Day (Lawyer), Rachael Harris (Senior Environmental Health Officer), Peter Clemens (Senior Licensing Officer) and Ross Johnston (Democratic Support Officer).

The meeting started at 10.00 am and finished at 12.15 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.

13. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

14. DECLARATIONS OF INTEREST

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

15. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

16. GRANT OF PREMISES LICENCE - CLEOPATRAS, 8 KEYHAM ROAD, DEVONPORT, PLYMOUTH, PL2 1QX

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 objectives;
- (c) heard from the applicant that:
 - (i) there were 10-15 public houses within a ten minute walk from the premises;
 - (ii) they only wanted the opportunity to sell alcohol to members who were waiting for a massage and there would be no alcohol allowed in

the massage rooms;

- (iii) in the last 11 years they had only had to call the police once because of two drunk and abusive men who the applicant refused to allow into the premises;
 - (iv) they do not see the difference between them selling alcohol and any other venue selling alcohol;
 - (v) they offered an alternative naturist massage and they had a strict age verification policy. Entry to the premises was through a secure door entry system;
 - (vi) local residents had not objected to the application and in the time they had been running the business there had not been any problems with people worried about their children, crime and disorder as they keep their clients under control and didn't have any disturbances;
 - (vii) clients normally came in one to four at a time. They did not allow large groups to come in at the same time which stopped crime and disorder. If it was noisy outside then they waited until it was quiet before they let their client out;
 - (viii) they generally used AA taxis to collect their clients;
 - (ix) they had accepted all of the conditions put forward by the Police and Environmental Health;
 - (x) they would like to adjust the sale of alcohol times on a Sunday to 6pm until midnight and had removed the application for regulated entertainment;
 - (xi) they employed a SIA doorman and were looking to join a local pubwatch scheme;
- (d) considered representations under the licensing objectives as follows:
- (1) **Prevention of Public Nuisance –**
 - Environmental Health had initially raised concerns for public nuisance but the applicant had amended her operating schedule and removed the application for regulated entertainment and therefore Environmental Health had no representation under this objective.
 - (2) **Prevention of Crime and Disorder –**
 - the police raised concerns that that the massage of patrons took place in rooms contained in the area to be licensed. There was no CCTV covering the rooms or any panic buttons or means to alert

staff or security. The massage being advertised included 'alternative massage'. Massage was physical touching and alcohol being served at the premises may result in an increase in crime and disorder if following consumption a massage was requested when the effects of consumption were still taking place;

- this was considered to be relevant. The committee considered that the conditions agreed and put forward by Environmental Health (and supported by the police) would address these concerns subject to the amendments detailed below.

(3) **Public Safety –**

- Environmental Health raised concerns that if a person was under the influence of alcohol and then went in for a massage the masseur may be at risk of attack. Therefore in order to address this they considered that the following conditions would address their concerns:
 1. a digital CCTV system must be present in all areas, including the individual massage rooms;
 2. the CCTV images recorded will comply with the Home Office guidance (as recommended by Devon and Cornwall Police) regarding the quality of images and will be retained for 28 days
 3. the CCTV system will be capable of being downloaded into a recognised viewable format;
 4. at all times the premises are open for trade there will be a member of staff present who will immediately show images and download them in the viewable format upon request of any member of a responsible authority;
 5. a notice will be displayed at the entrance to the premise advising that CCTV is in operation;
 6. the Licensing Department will be informed if the CCTV system is not working properly;
 7. an emergency panic button must be present in each massage room so that staff can alert security;
 8. there must be security staff present outside the massage rooms at all times when treatments are taking place;
 9. a register will be maintained recording the details of door supervisors working. It will include the date, name, SIA

registration number, expiry date of licence, the time duty commenced and time duty ceased;

- the representation was considered to be relevant. The committee considered that in general the conditions put forward by Environmental Health did address the concerns put forward. However, members were concerned about having CCTV in the individual rooms and wanted it to be clear to the masseur and the client that CCTV was monitoring them and therefore condition 5 would be amended as follows:

5. a notice will be displayed at the entrance to the premises and in each treatment room advising that CCTV is in operation;

- also they considered that condition 6 was not prescriptive enough in saying the time limit within which problems with CCTV should be reported. Therefore condition 6 would be amended as follows:

6. the Licensing Department will be informed if the CCTV system is not working properly within 48 hours;

- the committee also considered that condition 8 should be amended as it was felt that as there were panic buttons within the treatment rooms it was not necessary for security staff to be outside each room and therefore condition 8 would be amended as follows:

8. there must be SIA security staff present within the licensed premises at all times when treatments are taking place and when alcohol is being supplied;

- additionally members considered that as there were conditions dealing with CCTV and the nature of the activities carried out it was necessary under this licensing objective to have additional conditions to address this as follows:

Special condition 1. CCTV will positioned so that it cannot be viewed in public areas;

Special condition 2. there will be a secure office where CCTV images can be viewed by the responsible authorities;

(4) Protection of Children from Harm

- the Police raised concerns of the possibility of children entering the premises. This was considered to be relevant and members considered that it was necessary to add a condition to ensure that no children were admitted to the premises as follows:

Special condition 3. that entry and membership to the premises would be refused if the person was not able to produce identification bearing their photograph, date of birth and a holographic mark.

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, conditions consistent with the applicants operating schedule, those agreed with Environmental Health as amended above and special conditions 1-3.

17. **EXEMPT BUSINESS**

There were no items of exempt business.

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Licensing Sub Committee (Miscellaneous)

Tuesday 9 August 2011

PRESENT:

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

Also in attendance: Debbie Bradbury – Lawyer, Pete Clemens – Senior Licensing Officer, Rachael Harris – Senior Environmental Health Officer.

The meeting started at 11.00 am and finished at 2.00 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

18. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

19. DECLARATIONS OF INTEREST

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

20. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business however under this item allegations against Councillor John Smith having brought the decision of the Choo Choo's item into disrepute was discussed. The panel confirmed that Councillor John Smith had not brought the decision of the Choo Choo's item into disrepute and

21. GRANT OF PREMISES LICENCE - PIZZA HUT, 642 WOLSELEY ROAD, ST BUDEAUX, PLYMOUTH

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the representation made by a representative of Environmental Health;
- (c) heard from the applicant's representative that;

- the Trelawney Public House was purchased on 10 April 2010 and is run by himself together with his son and his daughter after he was asked by Piazza Hut to expand his business;
- he operates six other shops spread around the country including one in Mutley Plain; most of these had flats above;
- the Trelawney was not a good pub and late noise from this would have been far higher;
- they tend to use 50cc motorbikes when there is a lot of traffic but it is possible they would not use them at all at this premises as cars are preferred;
- 15-20% of his turnover is generated from 11.00pm to midnight opening;
- the flats above are all double glazed and 75mm insulation is on the external walls;
- there were no objections from any of the residents;

(d) considered a representation under the licensing objectives as follows:

1) **Prevention of Public Nuisance –**

- heard from a representative of Environmental Heath that the premise is situated in a residential area, with residential properties above, adjacent and behind it and there is a history of late night noise disturbance to local residents and this premise is likely to cause similar late night noise disturbance if trading after 11.00pm;
- the garage from which there is a proposed vehicular pizza delivery service is located at the rear of the unit in Trelawney Avenue where any late night vehicular movement is likely to disturb the residents in this street; this was considered to be relevant and special condition 1 was added to address the concerns;
- the mechanical extraction ventilation system that must be in operation throughout the trading period has the potential to be a source of noise disturbance to local residents and should therefore not be operated after 11.00pm; this was considered to be relevant however members did not believe sufficient evidence was produced to support this;
- late night access to the rear yard and bin storage area has the potential to be a source of noise disturbance to local residents; this was considered to be relevant and special condition 2 was added to address this;

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

there were no representations;

3) **Protection of Children from Harm –**

there were no representations;

4) **Public Safety –**

there were no representations;

Agreed that having taken into account the above representation the application be granted subject to conditions consistent with the applicant's operating schedule and the following special conditions.

Special condition 1 – no pizza delivery vehicles are to enter or leave the rear parking area after 11.00pm

Special condition 2 – no staff are to access the rear yard or bin storage area after 11.00pm.

22. **GRANT OF PREMISES LICENCE - BUDDIES FOOD BAR, SHERWELL ARCADE, PLYMOUTH**

Agreed that this item is adjourned to 23 August 2011 as it was considered necessary for the consideration of the application being made.

23. **EXEMPT BUSINESS**

There were no items of exempt business.

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Licensing Sub Committee (Miscellaneous)

Tuesday 23 August 2011

PRESENT:

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

Apologies for absence: Councillors Browne and Reynolds

Also in attendance: Debbie Bradbury – Lawyer, Pete Clemens – Senior Licensing Officer, David Hughes – Senior Environmental Health Officer and Ross Johnston – Democratic Support Officer.

The meeting started at 10.00 am and finished at 1.45 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.

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

Agreed that Councillor Lock is appointed as Chair and Councillor Delbridge appointed as Vice Chair for this meeting.

25. **DECLARATIONS OF INTEREST**

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

26. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

27. **REVIEW OF PREMISES LICENCE - STOPFORD ARMS, 172 DEVONPORT ROAD, PLYMOUTH**

Agreed that this item is adjourned to 6 September 2011 as it was considered necessary for the consideration of a representation made by an interested party.

28. **GRANT OF PREMISES LICENCE - BUDDIES FOOD BAR, SHERWELL ARCADE, PLYMOUTH**

The Committee having –

- (a) considered the report from the Director for Community Services;

- (b) heard from the applicant's legal representative;
- (c) heard from the applicant's witnesses;
- (d) considered the representation made by a representative of Devon and Cornwall Police;
- (e) considered the representation made by a representative of Environmental Health;
- (f) considered the representations made by interested parties;
- (g) heard from the applicant's legal representative that:
 - (i) the outlet was to be fully staffed at all times normally by three persons all fully trained and holding Health and Hygiene certificates;
 - (ii) signage would be provided reminding customers to dispose of any refuse in bins provided and not to litter;
 - (iii) staff at regular intervals would clear any debris from the area and would clean the site and the immediate area at the close of business. All debris and refuse would be removed for proper disposal;
 - (iv) this additional outlet would reduce any queuing and disperse customers more quickly thus reducing the members congregating and any problems of disorder or nuisance in the area;
 - (v) it was not correct to conclude that all customers would have been consuming alcohol. The facility was aimed at late night workers, eg. taxi drivers and passing shift workers as well as those visiting entertainment establishments nearby;
 - (vi) the position of the outlet was clearly discernable as adjacent to another similar unit but was nearer the main road;
 - (vii) the generator used at the outlet was a new Honda, the quietest on the market, with a maximum decibel level of 57db;
 - (viii) cooking smells were minimal. There were no complaints, so far as the applicant was aware, relating to the neighbouring outlet and so there was not anticipated to be any from this outlet. There were no residential properties in close proximity and any fumes there may be would be quickly dissipated by being close to the main road;
 - (ix) there were SIA security staff very close by and there was good CCTV coverage of the area;
 - (x) the additional facility would have no negative impact on any of the licensing objectives. The applicant was not aware of any children

being in the area during the late hours to be in any way adversely affected by a food outlet;

- (xi) no problems or complaints have been experienced whilst operating within the existing hours;

- (h) considered representations under the licensing objectives as follows;
 - (l) **Prevention of Public Nuisance –**
 - there may be an increase in noise levels from patrons using the mobile food vehicle that may disturb nearby residents, particularly during the hours of midnight to 05.00am;
 - this was considered to be relevant;

 - there may be an increase in existing noise levels due to the operation of equipment associated with the mobile food vehicle, such as the generator, causing disturbance to nearby residents;
 - this was considered to be relevant;

 - there may be an increase in levels of litter, vomit and spilled food waste from patrons in the vicinity;
 - this was considered to be relevant;

 - there may be an increase in levels of grease and by-products of cooking in the immediate vicinity;
 - this was considered to be relevant;

 - there may be odour nuisance from cooking smells affecting residential properties in the immediate vicinity;
 - this was considered to be relevant;

 - there was potential of a large gathering, where people who would have been drinking and not drinking to be loud and boisterous taking into account residents who have informed the ward councillor of loud levels;
 - this was considered to be relevant;

 - Environmental Health provided details of Plymouth Customer Data Integration Project, Upload of survey data – initial findings which was produced in October 2010. This was a place survey all local authorities were required to carry out and the survey was sent out to every household in Mutley and Greenbank approximately 8000 households of which 922 responses were received. The

information on the place survey indicated that the residents were unhappy about antisocial behaviour in their neighbourhood. The biggest issue to residents was the rubbish and litter lying around;

(2) **Prevention of Crime and Disorder –**

- people who attend the van were likely to have been already drinking and were likely to consume their purchase in the vicinity of the premise in a public place and this was likely to impact on levels of violence and disorder reported;
 - this was considered to be relevant;
- as there was already a late night refreshment outlet in a fairly confined area it was inevitable there would be intermingling of customers for both vendors and the strong possibility of people voicing opinions regarding service, quality etc. that will inevitably culminate in incidences of violence and disorder;
 - this was considered to be relevant;
- there was the potential for the premise to become a crime magnet which would in effect have an impact on crime and an increase in street robberies;
 - this was not considered to be relevant as members did not believe they had heard any evidence of this;
- the evidence presented by the Police showed an increase in crime levels with the cumulative impact area. They said the evidence showed that the majority of crime in this area occurred between 22:00hrs and 06:00hrs. The peak time for all crime was between 02:00hrs and 04:00hrs Friday, Saturday and Sunday;
- the Police provided details of the crime trends in the cumulative impact area in which the premises was located;

(3) **Protection of Children from Harm –**

- there was no representation;

(4) **Public Safety –**

- there was going to be a reduction in police officers and that in the event of a major situation police may not be able to respond quick enough and that would compromise public safety;
 - this was not considered to be relevant as the operation of the Police was not a relevant consideration for this committee;

(5) **Other representations –**

- none.

Members believed having heard from the representative of Devon and Cornwall Police and the representative from Environmental Health that this application was likely to add to the existing cumulative impact.

Members considered the applicant's operating schedule and representation made. However they did not consider the applicant had demonstrated that there would be no negative cumulative impact on the prevention of crime and disorder or prevention of public nuisance licensing objectives.

Members believed that this premise could attract more people to the area. It was possible additional patrons could be attracted to the premise due to the shorter queues and quicker service. This could result in problems of additional noise, anti-social behaviour and violence occurring in the area.

Members considered the offer made by the applicant for one of their staff to be SIA registered. However, members did not believe this would resolve this concern as there would be a limit to the power of a SIA registered person operating in a public highway. It was also felt the presence of such a person may contribute to the potential for violent disorder.

Members did believe there was likely to be additional public nuisance created by the potential for noise from the generator and smells from the cooking of food. Members did not believe it was likely that the applicant would be able to control the noise and smells sufficiently to prevent public nuisance.

Members considered the likelihood of additional litter in the area should this application be granted. Members felt that despite the applicant's signage and logos on their containers it was still likely that litter would be discarded some distance from the premise adding to the litter in the area.

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

29. **EXEMPT BUSINESS**

There were no items of exempt business.

30. **GRANT OF PREMISES LICENCE - BUDDIES FOOD BAR, SHERWELL ARCADE, PLYMOUTH (E3 AND E7)**

Minute 28 refers.

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Licensing Sub Committee (Miscellaneous)

Tuesday 6 September 2011

PRESENT:

Councillor Browne, in the Chair.
Councillor Mrs Dolan, Vice Chair.
Councillor Gordon.

Also in attendance: Debbie Bradbury – Lawyer, Pete Clemens – Senior Licensing Officer, Rachael Harris – Senior Environmental Health Officer, Phil Conday – Environmental Health Officer.

The meeting started at 10.00 am and finished at 3.00 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.

31. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

32. DECLARATIONS OF INTEREST

The following declaration of interest was made by a Councillor in accordance with the Code of Conduct.

Name	Minute No. and Subject	Reason	Interest
Councillor Mrs Dolan	34 – Review of Premises Licence – Stopford Arms	She is a local ward Councillor	Personal

33. CHAIR'S URGENT BUSINESS

There were no items of exempt business.

34. REVIEW OF PREMISES LICENCE - STOPFORD ARMS, 172 DEVONPORT ROAD, PLYMOUTH

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered all written representations;

- (c) heard from a representative of Environmental Health;
- (d) heard from the premises licence holder's representative and his witnesses;
- (e) heard from the designated premises supervisor and the premises manager;
- (f) heard from interested parties;
- (g) heard from a representative of Environmental Health that:
 - they have received complaints of excessive noise coming from the premises from residents in Stopford Place and Devonport Road and have evidence dating back to December 2007;
 - since November 2010 they have witnessed noise issues on six separate occasions;
 - on 15 January 2011 officers witnessed breaches of the licensing conditions and unlicensed activities being carried out at the premise;
 - on 18 January 2011 a letter was sent to the premises licence holder with copies to the designated premises supervisor and Area Manager outlining the issues witnessed by officers and advising them of offences under the Licensing Act 2003;
 - on 22 January 2011 and 5 March 2011 officers witnessed further breaches of conditions and unlicensed activities being carried out at the premise;
 - in March 2011 the Area Manager was spoken to regarding the issues witnessed and was advised that any further breaches would likely result in them seeking a review of the premises licence;
 - on 3 June 2011 officers again witnessed breaches of the licence conditions and unlicensed activities being carried out at the premise. The Manager was advised of the conditions on the premises licence;
 - on 4 June 2011 officers again witnessed breaches of the licence conditions being carried out on the premise;
 - on 2 July 2011 officers again witnessed breaches of the licence conditions and the Manager was instructed to stop the music and was again advised of the conditions on the premises licence;
 - the noise nuisance is caused from the noise levels inside the public house for live, recorded and karaoke music which is held on a Friday and Saturday night;

- despite the licence conditions, windows and doors are being left open during entertainment;
 - current conditions are not being complied with and any additional conditions e.g. installation of a noise limiter would not be totally effective and it is recommended that live music, regulated entertainment and the provision of facilities for making music are removed from the licence;
- (h) heard from interested parties and considered written representations that;
- the Stopford Arms has been badly managed by a succession of short-term landlords who have regularly disregarded their licence conditions;
 - they have had to put up with loud music coming from the pub late at night causing upset and sleepless nights;
 - the licence conditions state that all music should stop by 11pm and that doors and windows should be closed but this does not happen;
 - a diary of evidence has been kept dating back six years;
 - the smoking area has contributed to noise problems in the summer months;
 - the level of noise that is produced by the patrons in and around the premise is extremely excessive at times, especially late in the evening;
- (i) heard from the premises licence holders representative that;
- the pub was to be sold via auction on 1 September 2011, but no bids were received;
 - Admiral Taverns are the premises licence holder but the manager/dps is responsible for the day to day management of the premise;
 - should the licence be revoked it would devalue the value of the premise;
 - Admiral Taverns were not responsible for the training of the manager of the premise;
 - did not consider it was necessary to remove the regulated entertainment related to music if the licence conditions are complied with;

- (j) heard from the premises licence holders witness that;
- on 30 August 2011 a meeting took place with Martyn Pincombe and Rhodri Morgan and a management plan was devised involving additional conditions to be placed on the licence;
 - additional conditions were suggested, including secondary glazing for the premise to try and reduce the noise issues further;
- (k) heard from the designated premises supervisor that;
- he had been appointed the dps since January 2011;
 - he attended the premise two of three times on a daily basis for approximately half an hour;
 - although complaints predominately related to noise late in the evening he did not attend the premise at this time;
 - he was not aware of all the complaints received and related by Environmental Health;
- (l) heard from the premises manager that:
- he was the current pub manager and had worked at the premise for seven months.
 - since being made aware of mistakes made he had fully trained the rest of the bar staff;
 - he was now fully aware of all the conditions on the licence;
 - he was trying to build bridges with the local community;
 - prior to this position he had experience of working in a nightclub in various roles;
 - he had recently obtained his Bii qualification and would hope to obtain a personal licence;

Members considered all the representations made under the prevention of public nuisance licensing objective. They did not believe that the additional conditions suggested, including secondary glazing would resolve the concerns.

They were concerned that despite numerous changes of management of the premise there was no compliance with the conditions on the licence. Members felt this was in part due to a lack of communication between the premises licence holder, designated premises supervisor and manager,

Members heard that the music was loud not just late at night and that Environmental Health had received complaints with regard to this.

Members did not believe the current designated premises supervisor was in control of the premises and felt he was not spending enough time at the premise, particularly to monitor the situation of complaints of loud music particularly later in the evening.

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

- (1) Exclude the following licensable activities:
 - (E) Performance of live music (indoors)
 - (F) Playing of recorded music (indoors)
 - (H) Entertainment of a similar description of that falling within (E) or (F) (Indoors)
 - (I) Provision of facilities for making music (indoors)
- (2) Remove the DPS;
- (3) Modify the conditions of the licence with the addition of the following condition:

There is to be regular monitoring of noise levels in the smoking area to prevent noise from patrons disturbing local residents

35. **VARIATION OF PREMISES LICENCE - PLYMOUTH HOE**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the written representations and heard from the interested party present;
- (c) heard from the applicant:
 - that following consultation the footprint had been revised and a map was provided;
 - he was working with Plymouth City Council to formulate a security plan, including SIA door security staff at each of the 6 venues;
 - he was expecting to attract a more up-market clientele;
 - that there had been no objections from any of the responsible authorities;
 - that he had run the Jazz and Blues Festival and other festivals.
- (d) considered representations under the licensing objectives as follows:

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

heard from an interested party that:

- to extend to the area requested would inevitably bring an increase in crime and disorder and felt the area would be too large for one person to control; this was considered to be relevant however there had been no representation from the Police and no evidence that this was likely to occur;
- the Hoe and Foreshore has been a magnet for drunks in the past but has been prevented by the police being able to move people on. With more outlets along the Promenade and foreshore the police would find it almost impossible to carry out this duty; this was considered to be relevant however there had been no representation from the Police and no evidence that this was likely to occur;
- the area would be so large that it would be almost impossible to stop people going to the local shop and buying alcohol to consume within the area so how can it be policed properly; this was considered to be relevant however there had been no representation from the Police and no evidence that this was likely to occur;

2) **Protection of Children from Harm –**

- would create an atmosphere where due to the increased availability of alcohol, children and families will be in danger of being subject to abuse through the mis-use of alcohol; this was considered to be relevant however there had been no representation from the Police and no evidence that this was likely to occur.

3) **Prevention of Public Nuisance –**

- no representations were made;

4) **Public Safety**

- no representations were made;

5) **Other representations –**

- none

Agreed that having taken into account all of the above representations the variation application is GRANTED as follows:

- (1) subject to mandatory conditions contained in the Licensing Act 2003 and conditions consistent with the applicants operating schedule.

36. **EXEMPT BUSINESS**

There were no items of exempt business.

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Licensing Sub Committee (Miscellaneous)

Tuesday 20 September 2011

PRESENT:

Councillor Browne, in the Chair.
Councillor John Smith, Vice Chair.
Councillors McDonald and Mrs Nicholson (fourth member).

Apologies: Councillor Wright

Also in attendance: Sharon Day – Lawyer, Marie Price – Licensing Officer,

The meeting started at 10.00 am and finished at 5.15 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.

37. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

38. DECLARATIONS OF INTEREST

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

39. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

40. REVIEW OF PREMISES LICENCE - WILD COYOTE CAFE/BAR, 180 EXETER STREET, PLYMOUTH

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from a representative of Devon & Cornwall Police that the four licensing objectives were not being upheld as detailed below–
 - the premise had on two occasions failed to comply with the premises licence in respect of providing CCTV. Both CCTV drives were eventually seized for examination. The CCTV system did not comply with the licence conditions as it did not have facial recognition;

- the CCTV images on the 23 July 2011 were removed from the hard drive by persons unknown and could not be retrieved. The images appeared to have been wiped when the Police returned the next day. There was evidence that someone had been in the room since they had left it the previous day. Again there were problems with CCTV on the 31 July the hard drive was taken from the premises as images could not be found. They were later retrieved by the Police High Tec crime unit. This CCTV footage was viewed by the committee. The public were excluded from the meeting at this point as it was considered to be in the public interest to do so due to ongoing court proceedings. This is in accordance with regulation 14(2) of the Licensing Act 2003 (Hearing Regulations) 2005. Evidence of these events was detailed in the statements of PC Matt Mann dated 3 August 2011 and PC Ann McClean dated 11 August 2011;
- there was evidence of consistent lack of control of the premises. On the 23 July 2011 this resulted in smoking in the bar, customers in the bar reported to be shown on the CCTV to be helping themselves to alcohol while the premise licence holder was present and also drinking within the bar. Later that day the person who presented himself as in charge appeared to be intoxicated and customers were heavily intoxicated. The Designated Premises Supervisor (DPS) (who is also the premises licence holder (PLH)) was also said to be drunk when he returned to the premises later that evening. There was an alleged assault on a woman so drunk she could not speak and urinated in the rear of a police vehicle. Evidence of this was detailed in the statements referred to above;
- on the 31 July 2011 there was an incident of racially aggravated disorder in the vicinity of the premises at a local takeaway. There were also children at risk during this incident. The offenders all belonged to a group which were holding a meeting at the Wild Coyote. All four offenders were arrested after the police were deployed but they had to use Pava Spray to control the situation. All four are at present on bail to court;
- the committee were shown CCTV footage of the actions of the PLH from inside the premises whilst the incident was ongoing. (The public were excluded from the meeting at this point as it was considered to be in the public interest to do so due to ongoing court proceedings. This is in accordance with regulation 14(2) of the Licensing Act 2003 (Hearing Regulations) 2005.) The police also commented that the PLH did not call the police when the incident started and did not become involved until it was his own premises that were under threat. This was demonstrated on the CCTV. Licence conditions were also being breached on this day as drinks were clearly being taken outside when this is prohibited by condition C1 in relation to public safety on the premises licence;

- evidence of the above was contained in the written statements of PC Matt Mann dated 9 August 2011 and an anonymous witness statement dated 31 July 2011 detailing the lead up to the disorder. The public were excluded from the meeting when the anonymous statement was read out as it was considered to be in the public interest to do so due to ongoing court proceedings. This is in accordance with regulation 14(2) of the Licensing Act 2003 (Hearing Regulations) 2005;
 - on the 3 September there was a breach of licence condition C.6 which requires that door supervisors are to be employed on any day of the week that the premises remain open after 11.30pm until close. The details of this incident were that PC McClean and Sgt Worthington visited the premises on that date at 10.30pm and discussed with the PLH the requirement to have door supervisors on duty if he remained open after 11.30pm. At 11.45pm the officers returned to the premises and observed that there were customers drinking but no door supervisors present. There were also breaches of other licence conditions in relation to signs not being displayed on that date. Evidence of the above was contained in the written statements of Sgt Martin Worthington dated 4 September 2011 and PC Ann McClean dated 4 September 2011. It was noted that there was a typing error with her statement saying Saturday 4 September rather than Saturday 3 September;
 - since the incident on the 31 July the premises has been classified as a Category A premises;
- (c) heard from the premises licence holder –
- the PLH produced a number of letters from people who used his premises. Some of these were a reproduction of representations made by interested parties in support of the premise licence holder. The remaining letters were from people who were not interested parties but who did use the premises. In summary these letters stated that there had been previous problems with the premises but that under the current PLH, they are well run and there is a zero tolerance to drugs. Many consider the premises to be a safe and friendly environment where they visit with their friends and family. One person stated that they had been present on the premises when the trouble started on the 31 July and that it had started outside the premises. The PLH had gone out to collect all the glassware and had then tried to stop the violence. Some letters confirmed that the premise licence holder had made a mistake in allowing the English Defence League (EDL) to use the premise;

- that he hadn't been present on the premises when the lady had been pushed/pulled off the bar stool on the 23 July. He said that his wife had been present and that the lady had fallen off the stool and that this had also happened on a previous occasion. An ambulance had been called and the lady had been checked over but was deemed to be ok to go home. He said that she may have urinated in the police car due to being concussed rather than being drunk. He did say the lady had not been drinking heavily in his premises but that he had then refused to serve her more alcohol. He had tried to make arrangements for her to get home prior to her falling off the stool;
- on the 23 July the people using the pub were there as friends and as a thank you for the help that they had given him when he was doing the pub up. This is why they could be seen helping themselves to drinks behind the bar. One customer had come in and had been served. This was because he was extremely ill and the PLH did not want to turn him away;
- in relation to the disappearance of the CCTV footage he said he did not know how the footage had been wiped but all he could say was that the police were the last people to use that room. He denied that anyone else had been up to the room after the police had left;
- he denied that either himself or the person left in charge of the premises on the 23 July had been drunk;
- he said that he had agreed to the EDL having their meetings at his premises. This was an economic decision and had no relevance to their politics. They had met previously and there had been no problem and therefore he had not expected any problems on the 31 July. He had taken steps to prevent people leaving his premises to take part in the disorder and had also helped apprehend one offender. He felt that he could not have controlled what was happening outside his premise as he could not be in two places at once. He accepted that the EDL had been drinking in his premises but also said that they had been getting drinks from the off licence nearby and consuming the alcohol on his outside tables. He had taken no action to stop them. He had suffered a cracked rib as a result of his intervention;
- the PLH disputed that he had breached any of his licence conditions on the 3 September. He claimed to have had all the signage in the correct place and wondered how much signage he was supposed to have. He stated that the premises had not been open to the public at 11.45pm on this date. The door to the premises was open as the cleaner was coming and going and the only people present were himself, his wife and some friends. The cleaner was there and working as it was not unusual for the cleaner to start working straight away after the bar closed if she was unable get to the premises the following morning;
- he stated that he thought he only had to have door supervisors on duty if he had music playing;

- the premise licence holder disputed all of the police evidence;
- (d) heard from an interested party present and considered written representations in support of the premises under the crime prevention objective that –
- the premises have been well run by the current premise licence holder and his wife;
 - the premise is a decent bar with decent people; the PLH has a zero tolerance to drugs and violence and is an asset to the community;
 - a few local residents said that they had never been affected by anything happening at the premises;
 - the PLH is described as being warm and friendly, who treats all his customers' in a fair manner and on the odd occasion if there is a problem he has dealt with it swiftly and even handily;

Members considered all representations made however they were of the opinion that the PLH was inconsistent in the representations he made to the committee and in his answers to questions. He had not demonstrated to them that he had control of the premises and based on the evidence presented by the police, all of the licensing objectives had been breached between the 23 July 2011 and the 3 September 2011. Of particular concern was the racially aggravated incident which had occurred on the 31 July and which the PLH had taken no action to control and had not even called the police.

The PLH had implied that a private party was being held on the 23 July and 3 September however he had presented a confusing picture of events in relation to this and the committee found it difficult to accept this version of events. Therefore they were satisfied on the police evidence that he had no control over the premises and was not complying with his licence conditions demonstrated by the fact that he did not have door supervisors in place when required and had not left the premises in the control of a responsible person when he was not present.

Members considered what action needed to be taken to promote the licensing objectives.

They looked at whether conditions could be attached to the licence in order to promote the licensing objectives. Their opinion was that conditions would not be effective in this case. The reason for this decision is that the PLH has demonstrated that he is unaware of his licence conditions despite the police being proactive in bringing them to his attention on numerous occasions. For example on the 3 September he had been reminded of licence conditions at 10.30pm only to breach them an hour later. The committee was therefore not confident that the PLH would abide by additional conditions.

The removal of the DPS would not address the problems that have been experienced as the DPS is also the PLH.

The committee did not consider that the removal of licensable activities or reduction in hours would have any effect as the problems experienced were down to poor management.

Therefore the committee considered that the only option available in order to promote the licensing objectives was to revoke the premises licence.

It was therefore agreed that the premises licence would be revoked.

41. **EXEMPT BUSINESS**

There were no items of exempt business.

Licensing Committee (Miscellaneous)

Tuesday 15 March 2011

PRESENT:

Councillor Mrs Bowyer, in the Chair.

Councillor Delbridge, Vice Chair.

Councillors Browne, Gordon, Mrs Nelder, Mrs Nicholson, Rennie, Reynolds and Wright.

Apologies for absence: Councillors Drean, K Foster, Lock, Dr. Mahony and Williams

Also in attendance: Ann Gillbanks – Senior Lawyer and Dave Hughes – Senior Environmental Health Officer.

The meeting started at 10.00 am and finished at 11.00 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.

27. DECLARATIONS OF INTEREST

The following declaration of interests were made by Councillors in accordance with the Code of Conduct in relation to an item under discussion at this meeting –

Name	Subject	Reason	Interest
Councillor Mrs Bowyer	Minute 30 – Application for the Designated Public Places Order to control street drinking in Freedom Fields Park and Tothill Park.	Her daughter owns a business in the area.	Prejudicial
Councillor Rennie	As above	He had already responded to the application.	Personal

28. MINUTES

Agreed that the minutes of the 22 February 2011 Licensing Committee (Miscellaneous) were approved as a correct record.

Under this item Councillors requested an update on minute 20, Chair's Urgent Business, from 22 February 2011 Licensing Committee (Miscellaneous). The Democratic Support Officer informed the Committee that an update would be provided to the Chair.

29. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business however under this item Councillor Delbridge was appointed as Chair and Councillor Browne was appointed as Vice Chair for the consideration of minute 30.

30. **APPLICATION FOR THE DESIGNATED PUBLIC PLACE ORDER (DPPO) TO CONTROL DRINKING IN FREEDOM FIELDS PARK AND TOTHILL PARK.**

Dave Hughes - Senior Environmental Health Officer, Martin Worthington – Devon and Cornwall Police and Jacqui Hunt – Devon and Cornwall Police provided the Committee with an update on the application for the Designated Public Place Order (DPPO) to control drinking in Freedom Fields Park and Tothill Park.

Members were informed that –

- (a) consultation for the DPPO was launched on 6 January 2011; an information pack was delivered to local residents, interested parties and other community groups that operated in the area;
- (b) 113 responses were received which help to formulate part of the report submitted to the Committee for their consideration;
- (c) the Police had logged 16 calls directly related to drinking in Freedom Fields Park; of those 16 calls, four related to young people whereas 12 related to the core group of street drinkers that frequented the park;
- (d) local residents felt intimidated by the street drinkers and tended to avoid the park;

In response to questions raised it was reported that –

- (e) 2000 packs were delivered to local residents, groups and interested parties and 113 responses were received; this was considered a significant response in terms of the consultation policy;
- (f) Police officers were unable to arrest the street drinkers as they sat drinking in the park as they were not committing an offence;
- (g) the DPPO would not have the power to stop individuals drinking in the park; it would however allow early intervention from Police officers if anti social behaviour occurred;
- (h) it was difficult for Police officers to arrest individuals for urinating in the park as they had to prove it;
- (i) the Police were looking to try and improve surveillance in the park, the cost and benefits needed analysing;

- (j) there were concerns about underage and vulnerable individuals joining the street drinking group
- (k) the police did not have the power to ban alcohol in the park ;
- (l) there was a possibility that the street drinkers could disperse to Astor Park however it was considered that the individuals would not move someone too remote as they would not be able to buy alcohol
- (m) Police officers regularly patrol Freedom Fields park;
- (n) PCSOs would have the same powers as Police officers when removing alcohol from individuals;

The Committee agreed –

- (1) that there was sufficient evidence to show that a nuisance or annoyance or disorder was caused to members of the public or a section of the public in Freedom Fields Park which was associated with the consumption of alcohol;
- (2) that there was sufficient evidence to show that a nuisance or annoyance or disorder was caused to members of the public or a section of the public in Tothill Park which was associated with the consumption of alcohol and that there was likely to be a displacement of street drinking as the DPPO has been granted to cover Freedom Fields Park;
- (3)
 - (a) to the creation of a DPPO for Freedom Fields Park for the area shown on the map in Appendix A and authorise Officers in the Public Protection Service to take the appropriate steps to create the order to come into effect on 1 April 2011 or as soon as reasonably practicable after that;
 - (b) to the creation of a DPPO for Tothill Park for the area shown on the map in Appendix B (including all walkways leading under the railway embankment) and authorise Officers in the Public Protection Service to take the appropriate steps to create the order to come into effect on 1 April 2011 or as soon as reasonably practicable after that;
 - (c) to authorise officers to place a public notice in the local press as is required under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007;
 - (d) authorise officers to arrange the production and installation of the signs prior to the coming into force of the order (any order is not enforceable until after the signs have been erected);

- (e) that a progress report be submitted in two years time to outline the effectiveness of the Order in helping to reduce alcohol related anti-social behaviour and disorder.

(Councillors Rennie and Mrs Bowyer declared an interest in this item).

31. **EXEMPT BUSINESS**

There were no items of exempt business.

PLYMOUTH CITY COUNCIL

Subject: Information regarding delegated decisions for applications for the grant / variation of premises licences and club premises certificates

Committee: Licensing Committee (Miscellaneous)

Date: 18 October 2011

Cabinet Member: Councillor Michael Leaves

CMT Member: Director for Community Services

Author: Peter Clemens – Senior Licensing Officer

Contact: Tel: 01752 305465
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Key Decision: No

Part: 1

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.

Corporate Plan 2011 – 2014:

This report links to the delivery of the City and Council priorities. In particular:
1. Delivering Growth

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable

Other Implications: e.g. Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

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.

Recommendations & Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

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

Sign off:

Fin		Leg	AG/12957/ 3.10.11	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

1.0 INTRODUCTION

- 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*

G Casino	Derrys Cross
Commercial Wharf	The Barbican
Dial 4 Beers	Efford
8	Drake Circus
Commercial Wharf / West Pier	The Barbican
Aglioolio	New George St
Maritime Social Club	Keyham
Boomerangs	Mutley
Kitty O'Hanlons	City Centre
Souk	Sutton Harbour

2.2 *Devon and Cornwall Police*

Commercial Wharf	The Barbican
Dial 4 Beers	Efford
8	Drake Circus
Commercial Wharf / West Pier	The Barbican
Aglioolio	New George St
Boathouse Café	Commercial Wharf
Maritime Social Club	Keyham
Boomerangs	Mutley
Kitty O'Hanlons	City Centre
James Street Vaults	Sutton Harbour

2.3 *Trading Standards*

Jamaica House	The Barbican
Kitty O'Hanlons	City Centre

2.4 *Child Protection*

Kitty O'Hanlons	City Centre
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2.5 *Interested Parties*

Jamaica House	The Barbican
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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 January and September 2011 and this report is submitted for the information of the committee.