

Licensing Committee

Tuesday 14 February 2012

PRESENT:

Councillor Browne, in the Chair.

Councillors Mrs Dolan, K Foster, Gordon, Lock, McDonald, Mrs Nelder, Rennie, Singh, John Smith and Wright.

Apologies for absence: Councillors Delbridge, Drean and Mrs Nicholson.

Also in attendance: Ann Gillbanks (Senior Lawyer), Kathy Davey (City Centre Street Operations Manager), Dave Hughes (Senior Environmental Health Officer), and Helen Rickman (Democratic Support Officer).

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

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

38. **DECLARATIONS OF INTEREST**

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

39. **MINUTES**

Agreed that the following minutes of the 18 October 2011 Licensing Committee (Miscellaneous) and the 18 October 2011, 1 November 2011, 13 December 2011, 14 December 2011, 5 January 2012 and 31 January 2012 Licensing Sub Committees are approved.

40. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

41. **STREET TRADING REPORT**

Kathy Davey, City Centre Street Operations Manager, provided the Committee with an update on street trading.

In response to questions raised it was reported that –

- (a) the City Centre Street Operations Manager was unaware that the advertisement for street trading, which had recently been published in the Herald, should go through the Licensing Committee first before being published;
- (b) paragraph 4.3 on page 40 of the agenda pack should be deleted;

- (c) the City Centre Street Operations Manager agreed to have an informal discussion with local traders regarding their charges;
- (d) the City Centre Street Operations Manager had not experienced problems with underage individuals working in ice cream vans; the legal advisor informed the committee that this issue would be dealt with under employment law;
- (e) a-boards used for advertising premises were becoming more prevalent in the city, however the Council didn't have the authority to remove the boards. It was highlighted that the a-boards should be near the shop it was advertising;

Agreed –

1. the consent dates for 2012/2013 are approved;
2. the consent fees set out in Appendix I, for 2012/2013 are approved;
3. the Assistant Director for Economic Development has delegated authority to approve, within Committee policy, the issuing of consents to existing city centre traders seeking to continue trading during 2012/2013;
4. the Assistant Director for Economic Development has delegated authority to approve, within Committee policy, the issuing of consents to new traders for vacant sites;
5. the Assistant Director for Economic Development has delegated authority to approve, within Committee policy, short-term street trading consents in association with other city centre events and commercial activity;
6. the Assistant Director for Economic Development has delegated authority to approve and set fees for ad hoc street trading applications, within Committee policy.

The Committee also agreed that a letter should be sent to Councillor Wiggins, Cabinet Member for Transport, Clive Perkin, Assistant Director for Transport and Infrastructure, and Tom White, Head of Network Management, regarding the increasing problematic issue of a-boards within the city.

42. **UPDATE ON OUTCOME OF LICENSING APPEALS**

Dave Hughes, Senior Environmental Officer, provided the Committee with an update on the outcome of recent licensing appeals.

The Committee was informed that –

- (a) that the Sub-Committee refused a premises licence application for a late night mobile food van (Buddies) to be situated at Sherwell Arcade, North Hill in August 2011;

- (b) the application was refused based on representations heard from the Police, Environmental Health Service and local representatives. Members believed that the applicant could not demonstrate that there would be no negative impact on crime and disorder or public nuisance caused by noise, anti-social behaviour and litter. This decision used the provisions of the Cumulative Impact Policy contained within the Licensing Policy;
- (c) Plymouth City Council adopted the Cumulative Impact Policy in 2008, which aimed to reduce nuisance and crime on the streets which cannot be attributed to one premise in areas where there are lots of bars and pubs, including Mutley Plain, North Hill, Union Street (including Derry's Cross), Stoke Village and the Barbican. The Policy was reviewed again at the end of 2010. Under the policy, new or applications to vary existing licences would normally be refused in these specific areas unless applicants could prove there would be no increase in drink-related problems. The applicant would also have to present a case to show what they are doing to prevent crime and disorder, to ensure public safety, prevent public nuisance and protect children from harm;
- (d) the applicant appealed the Council's refusal for the late night licence which was taken to Plymouth's Magistrates Court in December 2011. After a two day hearing the case was dismissed by the Judge who upheld the decision of the Licensing Committee. Costs were awarded to the Council to the value of £6,000. The District Judge said there was no criticism of the appellant or of the business she operates. He did however say that having heard the evidence he did not consider the decision of the committee was wrong and said the reasoning of the committee was fully supported by the evidence. If granted he believed there would be an increase in persons in the area along with an increase in litter and crime and disorder. He said the proposals put forward e.g. Litter bins, identifiable packaging, security staff did not allay these concerns;
- (e) new larger bins have been put in situ as a result of a survey in the area which has resulted in a reduction of litter;
- (f) a Council survey carried out in the Mutley and Greenbank area in October 2010 showed that people living in the area had concerns about the amount of rubbish, litter and ASB in the area;
- (g) this appeal was important as it was the first appeal which involved an application within the scope of, and involved, the use of the cumulative impact policy. Other appeals have been lodged but withdrawn by the applicant prior to the hearing;
- (h) the appeal process involved a huge amount of work for all officers of legal, licensing, environment health, police and for those Councillors involved;
- (i) the appeal has highlighted that the decision making process, based on the evidence presented, and the recording of that decision complies with the necessary requirements and legal scrutiny in the court;

- (j) Councillors should therefore take increased confidence in the process followed by the Committee when taking decisions. The appeal has not identified any changes that are required to be made.

The Committee was happy with the decision of the Magistrates court and thanked officers from Licensing, Legal and Environmental Health for their professional guidance and support.

43. **EXEMPT BUSINESS**

There were no items of exempt business.