

# Public Document Pack



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Date: 18 June 2012

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## LICENSING COMMITTEE

**Date:** Tuesday 26 June 2012  
**Time:** 10 am  
**Venue:** Council House, Plymouth (next to the Civic Centre)

**Members:**

Councillor Rennie, Chair.

Councillor Gordon, Vice-Chair.

Councillors Mrs Bowyer, Browne, Churchill, Sam Davey, Mrs Dolan, K Foster, Fry, Jarvis, Mrs Nelder, Mrs Nicholson, Singh, John Smith and Kate Taylor.

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.

Bob Coomber  
Interim Chief Executive

# LICENSING COMMITTEE

## AGENDA

### PART I – PUBLIC MEETING

#### 1. TO NOTE THE APPOINTMENT OF CHAIR AND VICE-CHAIR

The Committee will note the appointment of Councillor Rennie as Chair and Councillor Gordon as Vice-Chair at the Council's AGM on 18 May 2012.

#### 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 - 30)

To confirm the minutes of the meeting held on –

Licensing Sub Committee (Miscellaneous) –

- 28 February 2012
- 13 March 2012
- 24 and 27 April 2012
- 25 April 2012
- 29 May 2012

Licensing Committee –

- 14 February 2012

#### 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. INFORMATION REGARDING DELEGATED DECISIONS FOR APPLICATIONS FOR THE GRANT/VARIATION OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

(Pages 31 - 34)

The Director for Place will submit for the Committee's information a report outlining applications which have been dealt with by way of mediation and written agreement for the period between October 2011 until 31 May 2012.

**7. ENFORCEMENT ACTIVITY REPORT - 2011**

**(Pages 35 - 42)**

The Director for Place will submit a report providing the Committee with an overview of the various aspects of the work undertaken by agencies involved in regulating the Evening & Night Time Economy during 2011.

**8. 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 Committee 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

Tuesday 28 February 2012

### PRESENT:

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

Apologies for absence: Councillor Reynolds (Councillor Lock substituted for Councillor Reynolds)

Also in attendance: Pete Clemens – Senior Licensing Officer, Bev Gregory, Licensing Officer, Andy Netherton, Manager Safety, Health and Licensing, Sharon Day – Lawyer, Ann Gillbanks, Senior Lawyer and Ross Johnston – Democratic Support Officer.

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

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

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

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

77. **DECLARATIONS OF INTEREST**

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

78. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

79. **REVIEW OF PREMISES LICENCE - THE FALCON HOTEL, 22 MELVILLE ROAD, FORD, PLYMOUTH**

The committee having –

- (a) considered the report from the Director for Place;
- (b) heard from a representative of Environmental Health that –
  - (i) over the last few years complaints had been received from local residents relating to excessive noise from the premises which was surrounded by residential properties;

- (ii) the main complaints were from residents in Kent Road, but complaints from residents in Melville Road and Nepean Street had also been received;
- (iii) the complaints related to noise levels created inside the public house from live, recorded and karaoke music;
- (iv) management had made no attempts to reduce the noise levels and the windows and doors were left open during entertainment despite the conditions attached to their premises licence and despite advice and warnings being given by Environmental Health;
- (v) regulated entertainment had also taken place past their licensed hours and numerous breaches of licence conditions had been witnessed;
- (vi) the designated premises supervisor (DPS) had accepted a caution for unlicensed activities carried out on the 24 September 2011, 11 November 2011 and 19 November 2011;
- (vii) evidence of the noise complaints received was submitted in section 9 statement format from various environmental health officers who had visited the premises. This evidence was accepted by the premises licence holder (PLH) and also by the committee as showing that there had been a breach of the prevention of public nuisance licensing objective;
- (viii) additionally copies of anonymous noise diaries were submitted to the committee and these taken with the statements of the officers were accepted by the committee as showing breach of the prevention of public nuisance licensing objective;
- (ix) reference was made to the cleanliness of the premises whilst the previous DPS was resident;
  - this had not been taken into account by committee as the DPS had vacated the premises;
- (x) committee were made aware of the fact that letters had been written to the PLH and the DPS on various occasions outlining the problems that existed but that the PLH had not taken any action to address the issues with the management of the premises until the review proceedings were issued;
- (xi) the PLH had issued the DPS with notice to quit the premises by the 21 February 2012;
- (xii) the premises structure was not considered to be adequate to control noise levels. The building had single glazed windows and

doors and some windows did not shut properly. The PLH indicated that they would be willing to install a noise limiter but would not want to replace the windows or carryout substantial works.

Environmental Health were concerned that due to the structure of the building the noise limiter would have to be set at such a level that it would be unrealistic for the PLH to operate with it at such a level but that would only be able to be ascertained once a limiter was installed. It was suggested that no regulated live or karaoke entertainment be permitted at the premises until Environmental Health were satisfied that a suitable noise limiter was installed and levels set by agreement;

- (xiii) the problems with the premises were caused from Karaoke, live music and use of the Juke box when the music licence ceases. Environmental Health were of the opinion that the noise issues could be resolved if a suitable DPS was appointed who adhered to licensing conditions and a noise limiter was installed to control the noise levels. They considered that structural improvements, based on recommendations by a noise survey, may be required if noise limits were deemed unrealistic for the PLH. They suggested amended conditions be attached to the licence to address the problems and allow any future DPS to manage the noise levels effectively and these had been agreed with the PLH;

(c) heard from the premises licence holder –

- (i) that notice to quit had been served on the DPS on the 24 January 2012 and the she had vacated the premises on the 21 February 2012;
- (ii) whilst GRS were the premises licence holder they could not incur expenditure without permission from Price Waterhouse Coopers who were the administrators;
- (iii) the PLH was willing to hold quarterly meetings with local residents to ensure that they had a mechanism for airing any concerns and they were happy for a condition to be attached to the licence to deal with this;
- (iv) the PLH was also willing to accept a condition that if a pub watch scheme was available in the area they would join it;
- (v) they accepted the conditions put forward by Environmental Health at the hearing;
- (vi) they explained that they were unaware of many of the problems that existed with regard to anti social behaviour until they were served with the review papers. They had not received the first letter from Environmental Health but on receipt of the second one they had started to address the problems of noise with the DPS;

- (d) heard from interested parties present and considered written representations under the prevention of public nuisance licensing objective that –
- (i) resident's sleep was being disturbed by the karaoke nights at the premises. Noise from this activity had been audible in resident's bedrooms at 12.45am which was past the hours within which the premises could operate. Noise was so loud that songs, lyrics and announcements from the PA system could be heard. During the summer some residents were unable to have their windows open as the noise levels drowned out their TV/Radio;
  - (ii) one resident wrote in their representation that there had been ongoing problems with the premises for 20 years and that they had concerns about the DPS's ability to run the premises within the terms of the licence;
  - (iii) doors and windows of the pub had been left open. The local ward councillor advised committee that she had witnessed noise from the pub and had been subjected to anti social behaviour. She further stated that there had been a problem with the use of the door on Kent Road but that the DPS had stopped that and that she had also moved music to the back of the pub. Also, in her opinion the windows of the premises were not suitable for music to be played and would benefit from double glazing;
    - the committee considered that this was relevant and were satisfied that this showed a breach of the public nuisance licensing objective. Committee were of the opinion that these problems were mainly due to bad management by the DPS but the conditions agreed with environmental health and the voluntary conditions offered by the PLH would prevent any future problems;
  - (iv) residents complained of anti social behaviour such as users of the premises urinating up against resident's front walls (the committee heard from the ward Councillor that she had witnessed this on one occasion) and also alleged that there was drug dealing taking place;
    - the committee considered that the allegation of drug dealing was not relevant as there was no evidence to support this. However the other issues of anti social behaviour were relevant but that again these were due to the bad management of the premises by the DPS and that as she had now left no further action was necessary;
  - (v) noise from customers congregating was a problem with some being verbally abusive to passers by. There is no suitable area for smokers and this had caused additional noise;



- this was considered to be relevant however the committee considered that these problems were down to bad management by the DPS and that now that she had left no further action was necessary;
- (vi) a petition was received signed by 15 people which outlined (in addition to the noise problems referred to above) problems with getting their cars parked, dogs barking day and night, smelly chimney, rubbish and broken glass left in the gutter and damage to their cars. This was treated as one representation;
- this was noted but was not considered to be relevant to the licensing objectives and could not be linked to these premises.

Having taken into account all the relevant representations made, the members agreed to amend the current licence by the addition of the conditions agreed with Environmental Health and also to the two voluntary conditions offered by the PLH all of which are detailed below:

- (I) conditions agreed with Environmental Health:
- (i) no percussion instruments will be permitted as part of any entertainment set;
  - (ii) no regulated entertainment will take place until a noise limiting device (the specification and design to be agreed with Environmental Health Service) is fitted so that all regulated, live, Karaoke and recorded music is channelled through the device(s). The maximum noise levels will be set by agreement with the Environmental Health Service and will be reviewed from time to time as appropriate;
  - (iii) the Licence holder will ensure that the noise limiting device is sealed after commissioning, so that sound operators cannot override the system during the performance of live and recorded music;
  - (iv) all regulated entertainment will go through the noise limiter;
  - (v) the Juke Box must also be restricted and sealed after being set by agreement with the Environmental Health Service to ensure the level is restricted to background/incidental music after 11pm;
  - (vi) the Licence Holder or nominated person will be available at all times during regulated entertainment and who is responsible for cooperating and liaising with police and other responsible authorities;
  - (vii) a telephone number will be made available and displayed in prominent locations on the premises 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;

- (2) conditions volunteered by the PLH:
- (i) that the PLH will ensure that the DPS joins any pub watch scheme that is operational in the area;
  - (ii) the PLH will organise quarterly meetings with local residents to address any concerns and issues that may be relevant to premises.

80. **RENEWAL OF A SEX ESTABLISHMENT LICENCE (SEX SHOP) - SLINKIES, 16 MANOR STREET, PLYMOUTH**

The committee having –

- (a) considered the report from the Director for Place;
- (b) heard from the applicant;
- (c) heard representations/read written representations from Strategic Housing Neighbourhood Manager and local ward Councillor as detailed below;
- (d) considered representations under the licensing objectives (as set out in the Council's policy on Sex Establishment Licensing) as follows:

**(1) Prevention of crime and disorder**

- (i) it was believed that locating a sex establishment within one of the most densely populated and deprived communities which was also a conservation area and a gateway to the city did not protect the nature, amenity and character of the Stonehouse neighbourhood. It was believed that as a result of its presence there was an increased risk of crime and disorder;
  - this was not considered applicable as no representations were presented to the committee;

**(2) Protection of safety, health and public decency**

- (i) it was believed that locating a sex establishment within one of the most densely populated and deprived communities which was also a conservation area and a gateway to the city did not protect the nature, amenity and character of the Stonehouse neighbourhood. It was believed that as a result of its presence there was a substantial

risk of offending public decency; and that the wellbeing of children would be adversely impacted;

- members accepted this representation but considered that the solution offered by the applicant of change to signage would address these concerns and members would impose a condition to confirm this;

### **(3) Prevention of Nuisance**

- (i) no representations heard;

### **(4) Protection of Children from Harm**

- (i) the establishment was based not 50m away from a Children's centre providing childcare and support services for children aged 0-5yrs and their families, many of whom were considered vulnerable. It was also 50m away from 2 play parks, and 25m away from family social housing accommodation in Valletort House.
  - members accepted this statement but no evidence was presented to support this concern;

### **(5) Protecting the nature, amenity and character of a neighbourhood**

- (i) local residents groups such as Adelaide Community Project and Stonehouse Action had long been campaigning to compel Plymouth City Council to take every possible action to narrow the gap in the quality of life, that exists for residents in the Stonehouse neighbourhood and especially the Union Street vicinity as a result of the range of social pressures, including those caused by the Evening and Night Time Economy and Sex Establishment Trade. By not subjecting existing Sex Establishment businesses to the full consideration against the licensing criteria, it was viewed to be a missed opportunity to make a significant step to narrowing this gap for local residents. It also appeared to reflect the disregard of the significant housing stock located on or just off Union Street – residents have expressed anxiety that Union Street was accepted by Plymouth City Council as an area for lower end Evening and Night Time Economy provision, including Sex establishments without consideration to the impact on a sizeable residential community;
  - the licensing committee had fully considered the application in light of all the licensing issues in the council's policy;

### **(6) Quantity Limit Statement**

- (i) considered the Council's Policy and Quantity Limit Statement which stated that it was appropriate to have one sex shop in the Union

Street location;

- Members had heard no evidence to cause them to depart from the council's policy in this regard;

**(7) Other considerations**

- (i) no representations heard.

Agreed that having taken into account all of the above representations the application is granted subject to a special condition being placed on the licence as follows:

- (1) the signage at the premises should only display the business name and no reference to licensed adult shop or other description of products sold are to be included in the signage.
- (2) all other standard conditions to be applicable to the licence.

81. **EXEMPT BUSINESS**

There were no items of exempt business.

82. **REVIEW OF PREMISES LICENCE - THE FALCON HOTEL, 22 MELVILLE ROAD, FORD PLYMOUTH**

Minute 79 refers.

83. **RENEWAL OF A SEX ESTABLISHMENT LICENCE (SEX SHOP) - SLINKIES, 16 MANOR STREET, PLYMOUTH**

Minute 80 refers.

## Licensing Sub Committee

Tuesday 13 March 2012

### PRESENT:

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

Also in attendance: Kathy Davey, BID Street Operations (and Street Trading) Manager, Debbie Bradbury – Lawyer and Ross Johnston – Democratic Support Officer.

The meeting started at 10am and finished at 11.15am.

*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.*

#### 84. **APPOINTMENT OF CHAIR AND VICE-CHAIR**

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

#### 85. **DECLARATIONS OF INTEREST**

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

#### 86. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

#### 87. **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.

#### 88. **STREET TRADING ICE CREAM CONCESSIONS PLYMOUTH HOE**

The Committee having –

- (a) considered the report of the Director for Place;
- (b) heard from the BID Street Operations (and Street Trading) Manager;

(c) heard from the applicants.

Agreed that –

- (1) the terms and conditions of the ice cream trading consents is amended to reflect that the fee for the consent will be payable in monthly instalments by direct debit;
- (2) RM to be offered site B;
- (3) EW to be offered site F with permission from EW for RD to be the manager for site F;
- (4) KS to be offered site E;
- (5) DE to be offered site H;
- (6) RN to be offered site C;
- (7) KG to be offered sites G and I;
- (8) should any sites remain vacant or not be accepted by the current applicants new applications will be sought in order to maintain the amenity and income stream. In this eventuality the decision on granting any ice cream trading consents for these sites is delegated to the Assistant Director for Economic Development in consultation with the Chair of the Licensing Committee.

## Licensing Sub Committee

Tuesday 24 April 2012 and Friday 27 April 2012

### PRESENT:

Councillor Browne, in the Chair.  
Councillor Mrs Nicholson, Vice Chair.  
Councillors Rennie and Singh (Fourth member).

Also in attendance: Pete Clemens – Senior Licensing Officer, Sharon Day – Lawyer, Tim Howes – Monitoring Officer, Ross Johnston – Democratic Support Officer and Katey Johns – Democratic Support Officer.

The meeting started at 10.00am and finished at 6.25pm on 24 April 2012 and started at 1:00pm and finished 4:15pm on 27 April 2012.

*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.*

### 89. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

### 90. DECLARATIONS OF INTEREST

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

<b>Name</b>	<b>Subject</b>	<b>Reason</b>	<b>Interest</b>
Councillor Browne	Review of Premises Licence – Clipper Inn, 65 Union Street, Plymouth (minute 92 refers)	Knows the respondent	Personal
Councillor Mrs Nicholson	Review of Premises Licence – Clipper Inn, 65 Union Street, Plymouth (minute 92 refers)	Knows the respondent	Personal

### 91. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

92. **REVIEW OF PREMISES LICENCE - CLIPPER INN, 65 UNION STREET, PLYMOUTH**

The committee having –

- (a) received advice from the Monitoring Officer that whilst members needed to be aware of political sensitivities with regard to decision making as the Council was in its pre-election period, there were no public interest reasons for the review not to go ahead;
- (b) considered the report from the Director for Place;
- (c) heard Devon and Cornwall Police's representation:
  - (i) the following gave live evidence for the police: PC Austin, Sgt Loveridge, Mr McIndoe, PC Wilkins and Mr Prout. They gave details about the problems experienced with the premises in relation to drunkenness, disorder, violence and lack of cooperation from the premises licence holder (PLH) and designated premises supervisor (DPS) generally and in particular with regard to requests for CCTV;
  - (ii) the Police also read out witness statements from Officers who were not present before the committee which further detailed the problems the Police were experiencing with the premises;
  - (iii) the Police played 25 minutes worth of CCTV which detailed incidents which had occurred on the 8 December 2011, 1 January 2012, 9 January 2012, 3 February 2012, 4 February 2012, 9 February 2012, 23 February 2012, 25 February 2012, 26 March 2012 and 8 April 2012;
  - (iv) the CCTV showed incidents of violence, disorder and drunkenness. It also showed how the behaviour of the patrons of the Clipper impacted on the general public going about their normal business in the morning. In particular it showed patrons staggering in the road causing vehicles to swerve to avoid them and also groups of drunken people staggering towards the residential area of the Octagon;
  - (v) licensed premises report forms (LI0's) which were licensed premises intelligence forms were produced by the Police as a record of the problems at the premises. These were referred to in the timeline of incidents at the premises referred to by the Police;

the police told the committee of the difficulties they had had in contacting the DPS on the numbers he had provided either by text, telephone or correspondence. The police had been contacting the DPS on the mobile phone number which had been provided but were still not getting any response or even acknowledgement from him;



- (vi) there had also not been any response from the PLH in response to correspondence sent to the registered address of the company. The police therefore considered that there was a lack of cooperation from the PLH and DPS which was hampering the promotion of the crime and disorder licensing objective;
- (vii) in relation to the contact problems these were outlined in the statement of Mr Fred Prout dated the 10 April 2012;
- (viii) the problems in contacting the DPS had meant that it had been extremely difficult in obtaining CCTV from the premises to assist in the investigation of crime and disorder and had on more than one occasion resulted in criminal investigations either being dropped or with the police not having all the evidence that would assist with their investigation;
- (ix) after delays, when the CCTV was eventually produced it did not always show the correct material. This was thought to be due to the fact that the time on the CCTV clock was wrong and thus resulting in incomplete footage being provided missing the crucial piece of the action required. When the later action was requested the police had been advised that the CCTV had then been overwritten;
- (x) there had been problems with violence and disorder at the premises. On occasions this had occurred at times when no door staff were working (in compliance with the licence conditions), also staff had taken no action to call the police at all or at an early enough stage or had not been cooperative when the police did attend;
- (xi) evidence was provided of door staff standing and watching disorder taking place three feet in front of them without intervening;
- (xii) evidence was also provided of door staff not being contactable on their club watch radio to be alerted to a threatened break out of disorder resulting in a need for the police to attend on an immediate call out having to use their blue lights and sirens. This placed the public in danger as well as diverting police resources which could have been used elsewhere had the radios been used correctly;
- (xiii) there was however also evidence provided that the door staff and staff had been cooperative and helpful;
- (xiv) evidence had been collected of the community concerns about the management of the Clipper. This was provided by email and through the statement of Mr McIndoe due to one of the people fearing repercussions. The concerns were that people using Union Street during the morning had to cross the road to avoid the users of the Clipper as they were intimidated by the people who were outside and who were drunk. Nearby businesses had changed their opening

hours to avoid having persons leaving the premises coming into their shop to purchase alcohol and then were faced with abuse and racial abuse from drunk people when they refused to sell the alcohol;

- (xv) the police told the committee that conditions on the licence were not being complied with as the CCTV was not being downloaded as required and that that particular condition as it stood was not enforceable (condition 4 imposed after the review hearing on the 20 April 2010);
  - (xvi) the management of the premises was not sufficient to prevent crime and disorder occurring;
  - (xvii) one door supervisor was not sufficient to control the problems that were occurring and generally where violence or disorder occurs then two door staff were needed to deal effectively with the situation. It was stated that the council's own licensing policy that for premises of up to 100 patrons, a minimum of 2 door supervisors was required;
  - (xviii) the police stated that the problems with the premises generally occurred between the hours of 3am and 8am or until close. This, they said, was demonstrated by the charts provided at pages 13 and 14 of their bundle;
  - (xix) the police were of the opinion that further conditions would not work as the PLH failed to comply with the existing one with regard to CCTV. They suggested that removal of the DPS in this case would not work as the DPS was also the sole director of the company who held the premises licence and therefore the removal of the DPS would have no effect. They therefore suggested that the licence should be revoked;
- (d) the Premises Licence Holder and his legal representative made the following representation –
- (i) Mr MacPherson is the PLH and DPS;
  - (ii) in relation to the Police concerns about the provision of CCTV it was stated that The Clipper had been instrumental in setting up the current arrangement in relation to the use of the CCTV request forms due to the lack of a formal way when they had been requested in the past;
  - (iii) the PLH stated that he had provided the CCTV as requested. In particular with reference to the CCTV request on the 14 November he told the committee that he had received a request from the investigating officer on the actual day or day after the incident and this had been provided. He had then received what he thought was a second request from the licensing section of the police for a

different time scale. He could not explain why he had provided the complete incorrect date on that occasion though. (The police stated that the police computer did not record that the footage had been received and that was why the request was made. They could not confirm what the PLH was saying in this regard as they had not had prior notice of it and so could not make the relevant enquiries);

- (iv) with respect to the CCTV being provided and not showing the correct time as requested, leading to the vital incidents being missed off it, the PLH said that as soon as he had been made aware the time on his CCTV clock was wrong he had immediately corrected it and he now regularly checked the time against the Sky News clock to ensure it did not happen again;
- (v) the PLH told the committee that he did not watch the clips as they recorded as he had been told by the Police that this could corrupt the footage and that it was best to just leave it to run. He also said that he had been told on a previous occasion to only provide the footage of the times requested by the police and therefore this is what he did;
- (vi) the PLH further stated that he had had problems in arranging collection of the CCTV footage;
- (vii) the PLH asked for the Police's permission to introduce documentary evidence to support this and other matters but the police refused to give consent to the information being introduced as it had not been served prior to the hearing. Therefore in accordance with regulation 18 of the Licensing Act 2003 (Hearing) Regulations 2005 the committee's discretion to consider this information was not invoked and the material was not put before the committee;
- (viii) in relation to the allegation of a lack of cooperation and response to correspondence, the PLH said that he had not had any problems with the MOD police, CID and the transport Police, but there did seem to be a problem between himself and the licensing section of the police;
- (ix) out of the four letters sent to him by the Police's licensing section he had only received two of them. He thought he had responded to the one dated the 5 December 2011 by way of a phone call and the letter dated the 22 December 2011 he thought was a duplicate of the original letter which he thought he had dealt with and so ignored it;
- (x) having had another CCTV request in the new year he sought legal advice and wrote to the police requesting a meeting to the Police licensing address in Launceston. This had not been received by the Police and so he again sent a reminder about the meeting when he responded to a request for CCTV evidence;

- (xi) the PLH said that he refuted any allegation that his premises sold to people who were already drunk; he supported this by saying that there was no record of anyone being arrested on the premises for being drunk and disorderly;
- (xii) the PLH blamed a lot of the problems on the fact that the majority of the people 'pre loaded' before they came out, making it difficult for licensed premises;
- (xiii) he said that the peak trading period for his premises was from 3.30am onwards and that this coincided with a change from proactive policing by the constabulary to a reactive one due to the fact that it was coming close to a shift changeover. He said that some of the problems were down to this;
- (xiv) in relation to the Police's point about the number of incidents over a five month period, he said that whilst 10 had been recorded this taken in context was not a large amount. He said that as he was open seven days a week 10 incidents could not be considered as being high. Further if the incidents were broken down in relation to the peak period the Police referred to six incidents between 5am and 6am. One of these had been a break in which wasn't something that was in the control of the PLH, one person had been ejected by the premises door supervisor, two incidents had been because of an incompetent member of the door staff team who no longer worked for the premises, one had been in relation to a stolen purse which had nothing to do with the premises and one there had been no trace of. This therefore undermined the police's case that the problems at the premises were down to lack of management at these times;
- (xv) the L10 licensing intelligence forms were not filled out fully and so they could not be relied upon as they contained no information on whether the problems were down to a lack of management at the premises;
- (xvi) in relation to the problems outlined by the Police which had been expressed by members of the public and local businesses the PLH stated that he had an open door policy and had been aware of the fact that the police had been canvassing locals to find out what problems they had been experiencing. He had not been made aware of any problems by residents. It was pointed out that there had been no representation from any other responsible authority or from residents of the area;
- (xvii) the PLH told the committee that he already had door supervisors staying on until close on peak days and when the PLH deemed it necessary taking into account the natural cycles of patrons. The PLH is also SIA approved so can go on the door if needed.

The committee took the above into account and considered all the documents provided by the police in response to the notice of hearing.

The committee disregarded any matter referred to in the time line provided by the Police which was not tied and linked to the premises.

The Committee took the evidence of the witnesses from the police and the evidence of the PLH and the witness statements provided by the Police into account in reaching its decision.

From the evidence, the committee identified a lack of communication between the Police licensing unit and the PLH/DPS which had led to problems obtaining CCTV which had had a knock on effect on some investigations. Committee found a complete breakdown of communication by mail, texting, telephone messages and notes through the premises door.

This breakdown of communication was, in the opinion of the committee, a factor which was undermining the crime prevention licensing objective. Therefore the following condition would be imposed on the licence:

- (I) The PLH is to provide the police with a current land line number and mobile phone number and in the event that this number changes the PLH is to advise the police licensing unit of the updated number within seven days of the change occurring.

The Committee took the LI0's (licensing intelligence reports) into account but noted the comments made by the PLH's legal representative that the forms had not been completed fully so there were very few which showed whether or not the DPS was on the premises at the time of the incidents and therefore their value was limited. The committee accepted that they were of limited value with respect to whether the DPS was present or not, however they did accept that these forms showed the sort of problems which were experienced at the premises and relied on them in reaching their decision in that regard.

The committee considered the charts presented by the police and took into account the PLH's comments about the six incidents between 5am and 6am being able to be narrowed down and not being of any significance. Having looked at the time line report the members noted that it was unclear as to whether the stolen purse incident had been included in the total number as they were able to find that six incidents of crime or disorder could be counted up in that time period without reference to the stolen purse incident as follows:

- (i) 14 November 2011 – ABH;
- (ii) 28 November 2011 Common assault, drunk and disorderly outside the premises;
- (iii) 9 January 2012 - Affray outside (it was noted that this occurred between 4.50am and 5am);
- (iv) 3 February 2012 - Disorder and drunkenness at the premises (It was noted that no crime reported however this incident did demonstrate disorder);

- (v) 9 February 2012 – Affray;
- (vi) 23 February 2012 - Evidence of drunkenness at the premises and males fighting outside.

Further with respect to the charts the committee accepted these and noted that they covered a five month period between November 2011 and April 2012, the number of incidents of crime and disorder occurring at the premises rose between the hours of 3am and 9am. The problems seemed to reach a peak between 5am and 6am with six incidents being linked to the premises in that time period with 10 incidences being recorded between the hours of 6am and 8am and then four incidences between 8am and 9am. This gives a total of 20 incidents between the hours of 3am and 9am. These occurred on all days of the week with the worst days appearing to be Thursday, Friday and Sunday (six, seven and five instances respectively).

The times of day that these problems were occurring meant that members of the public on their way to work in the morning had the potential to be caught up in these problems and this had been demonstrated on the CCTV. These problems did not seem to be able to be controlled at the premises at present and therefore committee considered that action was required to promote the crime and disorder licensing objective. They agreed that the following conditions would be attached to the licence:

- (2) An SIA door supervisor will be employed from 0200 hours through to the close of the premises Monday to Sunday and a second SIA door supervisor will be present on the premises from 0400 hours until the close of the premises and at such other times as the DPS feels will be appropriate for the safety and security of patrons;
- (3) Two SIA door supervisors will remain in a principal position near the external front entrance from 0400hours to the close of the premises seven days a week to marshal patrons using the front external smoking area.

As a result condition one and two which had been imposed on the 20 April 2010 would be removed from the licence.

The committee accepted the police evidence that there were problems in obtaining CCTV from the PLH but also took into consideration the explanation put forward by the PLH. It was clear to committee that the crime prevention objective was being undermined as a result of this problem. They further noted that the condition was not being complied with in that in the absence of the DPS it was a requirement of the premises licence that someone could download the CCTV either immediately or within a reasonable time and that this was put in place to ensure the promotion of the crime and disorder licensing objective. The time taken to download the CCTV could not be said to be reasonable and the staff on the premises did not know how to download it to assist the police.

The committee therefore agreed that the following condition should be imposed in order to promote the crime prevention licensing objective:

- (4) the DPS and in their absence other authorised staff shall download images following a written request of footage by any responsible authority and within seven days of that request being made the PLH or DPS will contact the responsible authority who requested the footage to tell them where the footage can be collected from. The footage from the incident/day in question must then be retained for a further period of 14 days to ensure that if any further information is required it can be provided within the same terms as the original request.

Members therefore agreed that the above mentioned conditions would be attached to the premises licence in order to promote the crime prevention licensing objective and those conditions were considered to proportionate, necessary and appropriate in all the circumstances of this matter. The committee had consideration to the statutory guidance and their own licensing policy in reaching their decision.

93. **EXEMPT BUSINESS**

There were no items of exempt business.

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## Licensing Sub Committee

Wednesday 25 April 2012

### PRESENT:

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

Also in attendance: Debbie Bradbury – Lawyer, Amelia Boulter – Democratic Support Officer, Rachael Harris – Senior Environmental Health Officer and Rhodri Morgan – Environmental Health Officer,

The meeting started at 10.00 am and finished at 11.40 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.*

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

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

95. **DECLARATIONS OF INTEREST**

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

96. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's Urgent Business.

97. **GRANT OF PREMISES LICENCE - ODYSSEY, 32 - 36 UNION STREET, PLYMOUTH, PL1 3EY**

The Committee agreed to the request by the Police and Environmental Health to adjourn the meeting for a period of three weeks in order to give everyone the opportunity to assess the new information presented at the meeting by the applicant. The applicant's legal representative agreed to this request for an adjournment.

98. **EXEMPT BUSINESS**

There were no items of exempt business.

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## Licensing Sub Committee

Tuesday 29 May 2012

### PRESENT:

Councillor Rennie, in the Chair.  
Councillor Mrs Bowyer, Vice-Chair.  
Councillor Singh.  
Councillor Mrs Dolan (fourth member).

Also in attendance: Debbie Bradbury (Lawyer), Linda Perez (Licensing Officer), and Katey Johns (Democratic Support Officer).

The meeting started at 10 am and concluded at 6.10 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 Rennie is appointed Chair and Councillor Mrs Bowyer is 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. **GRANT OF PREMISES LICENCE - ODYSSEY, 32 - 36 UNION STREET, PLYMOUTH, PL1 3EY**

The Committee –

- (a) considered the report from the Director for Place outlining the application for an entertainment venue with licensed bars, dance floors and a café bistro facility;
- (b) responded to concerns raised by the applicant's legal representative in respect of information which had been published in error on the Council's website;
- (c) heard from the applicant's legal representative that -
  - the premise comprised a massive building on three floors purpose built as a cinema;

- the premise had been boarded up since 2003;
- the applicant wanted to bring the building back to life, create jobs and revenue from the operation of a properly run and managed entertainment centre with an adjoining café bistro facility;
- the applicant had a full feasibility and business plan;
- an in-house taxi service was to be implemented;
- a scan net system was to be in operation (the benefits of which were demonstrated to the Committee);
- there were no adjoining residential properties;
- the number of licensed premises in the area has fallen over the last few years, two had had their licences revoked and two were no longer operating;
- during a meeting with the Police on February 2012 they had indicated that when the Millennium was in operation it appeared to have a positive effect on crime and disorder because of the staffing levels, CCTV facilities and security levels;
- a specific smoking area was to be provided within the parameters of the premise which would be covered by CCTV and monitored by security staff, so smokers would not be on the street and could only exit the premise via the main door;
- the applicant had provided sixty-two initiatives and practices designed to address the licensing objective and cumulative impact policy;
- there was considerable support for the building to be brought back from the dead;

(d) considered verbal and written representations under the licensing objectives from interested parties, including Environmental Health, Devon and Cornwall Police and Ward Councillors, as follows -

i) **Prevention of Public Nuisance –**

Environmental Health believed that, due to the proximity of nearby local residential properties, there was the potential for use of the premises to cause a public nuisance from noise from the proposed smoking area, from people noise and noise from taxi vehicles;

Councillors Sue McDonald and Tuffin were not convinced there were sufficient vehicles to take people out of Union Street quickly during the night hours given the volume of clubgoers and there may be ‘spillover’ of clubgoers out in the street waiting for taxis and at food outlets. They said there was already litter in the streets nearby which residents attribute to the night time economy.

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

A local resident had concerns that the premise backs on to the Flora Court Estate and had in the past had to call the Police in the early hours due to fighting breaking out between drunken clubbers in their car park when the clubs and pubs kick out. Drunken youths had been seen shouting, swearing and urinating at 5 – 6am, unsettling the local residents and disturbing their sleep.

Councillors Sue McDonald and Tuffin had witnessed people fighting and been informed of drug taking and dealing.

Devon & Cornwall Police said the majority of crime in this area occurred between the hours of Midnight and 6am and could not be attributed to individual premises. The peak time for all crime was between 1am and 4am Friday, Saturday and Sundays.

When the premise last operated as a nightclub in 2004, between 01.03.02 to 29.02.04 328 offences were tied and linked to the premises and of these 224 fell into the violence related category.

Devon & Cornwall Police contend that if granted those attending the club were likely to have been already drinking and would congregate and queue outside the premises and due to the 2250 capacity would cause congestion and occupy a substantial part of the public pavement when queuing for entry substantially increasing the potential for public disorder and anti-social behaviour.

Devon & Cornwall Police say it is unclear where the management wish to place the smoking area or how this area will be controlled by the management

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

Councillors Sue McDonald and Tuffin believed sleep disturbances were experienced by children and some adults due to the noise clubgoers made when leaving premises and this club had a capacity for 2250. They said there was anecdotal evidence from school governors within local primary schools within the Stonehouse neighbourhood of children sometimes arriving at school very sleepy when a busy night had occurred on Union Street.

Councillors Sue McDonald and Tuffin were not convinced that age restrictions on young people would be checked given the volume of numbers involved. As school governors in local primary schools they said they had seen underage young girls whom they knew as children queuing to get into clubs.

iv) **Public Safety –**

Councillors Sue McDonald and Tuffin said that the narrowness of the street and potential for long queues forming for entry, particularly when drink was sold cheaply at the start of the night time economy would lead to incidents on the street that would compromise public safety together with the potential for fights over access to taxis and people wandering in the road making driving hazardous.

With respect to the application being within the cumulative impact area, Environmental Health believed there was the potential for the application to impact negatively on the cumulative impact already determined in the area. They said the size and capacity of the club had the potential to increase the public nuisance associated with a high concentration of bars/clubs in Union Street.

Following assessment of the applicant's business plan and policies and procedures, a number of the department's concerns had been addressed although concerns remain, a number of conditions have been recommended by Environmental Health and were agreed with the applicant.

However, issues such as the dispersal of customers, patron noise, and concerns over the smoking area provided for patrons remained and the Environmental Health department therefore recommended refusal of the application.

Councillor Penberthy believed there would be a cumulative impact and he did not believe there were any actions that the applicant could take to mitigate this to the satisfaction of local residents.

Devon & Cornwall Police said the premise was located in a cumulative impact area and the applicant had not provided sufficient detail of how they intended to manage the problems associated with queues, the smoking area or the dispersal of patrons at the end of trading.

Members believed that the queuing and dispersal of large numbers of patrons into the cumulative area, would add to the existing cumulative impact on the prevention of crime and disorder and prevention of public nuisance licensing objectives.

Members considered the measures put forward by the applicant by way of CCTV, taxi marshalling, lighting, door supervision and the scan net system, however, they did not consider that these measures were sufficient to demonstrate there would be no negative cumulative impact and it was agreed that it was appropriate for the application to be refused.

5. **EXEMPT BUSINESS**

Whilst parts of the information contained within the documentation presented to Committee were confidential, it was not necessary for the Committee to move to Part II during their discussions on this application.

## 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.

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

**Committee:** Licensing Committee (Miscellaneous)

**Date:** 26 June 2012

**Cabinet Member:** Councillor Brian Vincent

**CMT Member:** Director of Place

**Author:** Peter Clemens

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

**Ref:** ERS/LIC/PREM

**Key Decision:** None

**Part:** I

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**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.

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**Corporate Plan 2011 – 2014:**

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

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

Not applicable

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**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.

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**Recommendations & Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and reasons for recommended action:**

None

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**Background papers:**

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

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**Sign off:**

Fin		Leg	AG/14902/ 7.6.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

- 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*

VIP Studio 2	Keyham
Odd	Drake Circus
Number 8	Drake Circus
Plymouth Dome	The Hoe
Victoria Inn	Hooe
Plymouth Life Centre	Central Park
Plymouth Cricket & Community Centre	Devonport
Walrus	The Hoe
34 Mayflower Street	City Centre

### 2.2 *Devon and Cornwall Police*

Odd	Drake Circus
Taskinha	Union Street
Christmas Market	Place de Brest
Il Pezzettino	Stoke
Plymouth Dome	The Hoe
Victoria Inn	Hooe
Plymouth Life Centre	Central Park
Plymouth Cricket & Community Centre	Devonport

### 2.3 *Trading Standards*

VIP Studio 2	Keyham
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### 2.4 *Interested Parties*

Plymouth Dome	The Hoe
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## 3.0 CONSIDERATIONS

- 3.1 Section (9.27) 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 October 2011 until 31 May 2012 and this report is submitted for the information of the committee.

R. Carton  
 Manager of Public Protection Service

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**Subject:** Enforcement Activity Report – 2011

**Committee:** Licensing Committee (Miscellaneous)

**Date:** 26 June 2012

**Cabinet Member:** Councillor Brian Vincent

**CMT Member:** Anthony Payne – Place Directorate

**Author:** David Hughes

**Contact:** Tel. 01751 - 304742  
e-mail: [licensing@plymouth.gov.uk](mailto:licensing@plymouth.gov.uk)

**Ref:** PPS/LIC/Enforce

**Key Decision:** No

**Part:** I

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**Executive Summary:**

This is the third report of its kind and has been compiled to give the Licensing Committee (Miscellaneous) an overview of the various aspects of the work undertaken by agencies involved in regulating the Evening & Night Time Economy during 2011.

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**Corporate Plan 2011 – 2014:**

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

I. Delivering Growth

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

There are no financial implications associated with this report.

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**Other Implications: e.g. Section 17 Community Safety, Health and Safety,  
Risk Management, etc.**

Members should be aware that Section 17 of the Crime and 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.

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**Recommendations and Reason for recommended action:**

That Committee note the attached report.

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**Alternative options considered and reasons for recommended action:**

None

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**Background papers:**

[Licensing Policy 2011 - 2014](#)

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**Sign off:**

Fin		Leg	<b>AG/14901/ 12.6.12</b>	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member : Anthony Payne											



## **Enforcement Activity Report – 2011**

### **1.0 Introduction**

1.1 This report has been compiled to give Members of the Licensing Committee (Miscellaneous) an update of the work undertaken by agencies involved in regulating the Evening and Night Time Economy (ENTE) and the licensing team during 2011.

The main initiatives were as follows:-

- An annual review of fees payable by Gambling establishments
- Adoption of a new Sex Establishments policy
- Consideration of an application for a DPPO for Freedom Fields and Tothill Parks
- A public consultation on a new Street Collection and House to House Charitable collection policy
- Preparation for and the implementation of changes to the licensing legislation
- Members room licensing web page

### **2.0 Licensing (Miscellaneous)**

2.1 Licensing Officers with administrative support, undertake all aspects of the licensing function covered by the Licensing Act 2003. These responsibilities cover the regulatory process for premises and club premises certificates, personal licences, and Temporary Events Notices (TEN's). During 2011, Officers processed 357 licensing applications, transfers, DPS and variations; 168 personal licences; 425 TEN's. There was a significant increase on the number of TENs submitted during 2011 when compared to previous years although there is no obvious reason that would explain this increase.

2.2 Responsible authorities, in particular the Police and Environmental Health continue to submit formal representations in respect of licensing applications having regard to the licensing objectives. In the majority of cases the applicant will agree with the submitted representations thereby allowing them to be mediated out. Members receive regular updates of all the mediated applications by way of report.

2.4 The Licensing Sub-Committee (Miscellaneous) has held 14 meetings to consider 23 reports which included 12 applications (new, variations, transfers) where representations could not be mediated. Committee has also considered 5 applications for review of premises licences (including one summary review) submitted by the Police, Environmental Health and/or local residents.

On the 14 February 2012, Officers updated Committee Members of the outcome of an appeal against a decision not to grant a late night refreshment licence. After a two day hearing the Magistrates Court dismissed the appeal. This was significant in that it involved an appeal in a cumulative impact policy area. The case involved a huge amount of work for Officers from legal services, licensing, environment health, the police and for those Councillors

involved. Other appeals have been lodged but withdrawn by the applicant prior to the hearing.

### **3.0 Gambling Establishments**

- 3.1 Licensing Officers with administrative support are also responsible for licensing establishments such as casinos, betting shops, adult gaming centres, bingo halls covered by the Gambling Act 2005. Licensing Committee has delegated responsibility for the setting of annual fees payable by gaming establishments and was approved by Members on the 14 February 2011. All establishments are the subject of inspection to ensure compliance with regulatory standards.
- 3.2 Officers first set up a test purchase operation of gambling establishments in October 2010 to ascertain whether young persons could access age restricted activities. The outcome was disappointing as 7 adult gaming centres and 4 betting shops did not have adequate controls in place to prevent a young person from using age restricted machines. Up to this time it was the second largest operation of its kind undertaken anywhere in England.
- 3.3 A further operation was undertaken in August 2011 retesting betting shops that previously failed and to test purchase those that had not been visited during the first operation. The outcome was again disappointing in that in one betting shop the test purchaser was not challenged in that he was allowed to play an age restricted gaming machine and then place a bet. 9 betting shops allowed the test purchaser to play a gaming machine before being challenged.
- 3.4 After detailed discussions, the Gambling Commission decided that it would not pursue formal proceedings against any of the companies. However Officers followed up each failure and after discussion with representatives of national companies a range of measures were put in place to address the specific reasons for failure in each to the premises concerned. These measures included the re-training of staff; the issue of formal warnings; re-location of machines; installation of door buzzers and re-location of CCTV cameras. In all cases officers received the full co-operation of the licensed operators in resolving the failures at each of the premises.

### **4.0 Sex Establishments Policy**

- 4.1 A new Sex Establishments Policy was approved by Council on the 30 January 2012 effective from the 5 March 2012. This brought premises such as lap dancing clubs within the legislative control of the Local Government (Miscellaneous Provisions) Act 1982 as opposed the Licensing Act 2003. Officers are now in the process of discussing the new arrangements with those operators that fall within the new provisions and requesting that formal applications are submitted for consideration by this Committee. Any applications submitted by existing operators will be considered together but not before the 5 September 2012.
- 4.2 Following the receipt of representations Committee recently considered an application for a renewal of a sex shop licence which resulted in an additional condition that the premises should only display signage showing the business name with no reference that the premises is licensed as an adult shop or other description of products sold.

## **5.0 Application for a DPPO to cover Freedom Fields and Tothill Parks**

- 5.1 Members considered a report for a Designated Public Places Order (DPPO) to cover Freedom Fields and Tothill parks on the 15 March 2011 and after due consideration granted the request. This Committee has previously approved an application for an order to cover the City Centre and Stonehouse Neighbourhood to be effective from the 1 August 2009.
- 5.2 The Government has just published a White Paper entitled 'Putting Victims First – More Effective Responses to Anti-Social Behaviour'. The paper sets out changes in the way that anti-social behaviour will be dealt in future and that Criminal Behaviour Orders are set to replace Anti-Social Behaviour Orders (ASBO) to tackle crime and nuisance behaviour. It is intended to replace the DPPO with a more generic Community Protection Order (public spaces); the main advantage is that the new order will be used in a variety of situations allowing areas to respond flexibly to local issues as they arise.
- Committee will be updated during the progress of any draft Bill that may result.

## **6.0 Street Collection and House to House Charitable Collection Policy**

- 6.1 Throughout 2011 officers have undertaken a public consultation on the adoption of a new updated street collection and house to house charitable collection policy. It is anticipated that a Delegated Decision report is considered by in due course to adopt a new policy that will regulate the activities of charities so that they do not put an unnecessary burden on the residents of Plymouth and protect from fraud.
- 6.2 Professional 'face to face' canvassers commonly referred to as 'chuggers' who are employed to collect direct debit details for their nominated national charity currently fall outside of the street collection regulations, as they collect bank details rather than cash. The City Centre Management Company have a formal agreement with the Public Fundraising Regulatory Association (PFRA) who are the nominated 'gatekeepers' to manage the activities of these fundraising organisations within the city centre to an agreed frequency and location schedule.
- 6.3 A recent survey undertaken by the Local Government Association (LGA) revealed that the majority of local council's who responded, considered that chugging was a problem and had the potential to put shoppers off visiting their local high street. The LGA has called on the Government to improve powers to intervene in city and town centres to enable local restrictions to be put in place controlling when and where street fundraising can take place.

## **7.0 Changes to Licensing Legislation**

- 7.1 The Police Reform and Social Responsibility Act 2011 has introduced a number of changes to the Licensing Act 2003. The most significant changes that came into force on 25 April 2012 are as follows;
- Health Bodies (Primary Care Trusts) will become one of the Responsible Authorities and will be entitled to make representations to licence applications.

- Licensing Authorities (as well as the statutory agencies) will be entitled to make their own representations to licence applications.
- Residents, businesses or associations will be able to make representations to applications even if they do not live or work in the 'vicinity' of the premises – the only test on validity is whether their representation is 'relevant' to the licensing objectives.
- In determining an application, a licensing committee will be required to consider what is "appropriate" to promote the licensing objectives rather than what is considered "necessary".
- There are new entitlements for Temporary Event Notices (TENs). In addition to the Police, Environmental Health are now able to submit representations. Where representations are submitted a responsible authority will endeavour to mediate a modification to the notice if this is not possible a hearing will be required where Members will consider the application. There is also a new facility for "late" TEN that can be submitted between 5 – 9 days prior to the event which may be accepted in exceptional circumstances.
- Licensing Authorities will be able to suspend a licence for non-payment of an annual fee.
- Further sanctions for the persistent selling of alcohol to children.
- Licensing Policy Statements will be reviewable every 5 years as opposed to 3 years.

Further proposals planned for October 2012 include;

- Allow licensing authorities to set their own fee structure (up to a statutory maximum) to allow for full cost recovery.
- An 'Early Morning Restriction Order' will allow licensing authorities to introduce a terminal hour from midnight and 6am where the licensing authority considers it to be appropriate for the promotion of the licensing objectives.
- A 'Late Night Levy' where licensing authorities may levy a charge for premises that have an alcohol licence. Whether or not the levy is introduced will be left to the discretion of the licensing authority. The revenue generated would be split between the licensing authority (30%) and police (70%).

7.2 The aim of the levy is to ensure their businesses contribute financially for the extra costs generated in the police and local authorities on managing the late night economy.

7.3 Early Morning Restriction Orders and the Late Night Levy will be the subject of further national public consultation and it is unclear at present as to the operational requirements, restriction or exemptions that would be applied. The adoption of either option would require careful consideration prior to its implementation.

## **8.0 Members Room Licensing Web Page**

- 8.1 An information page has been developed to assist Ward Councillor's access information on existing licensed premises and monitor new applications. The page offers guidance on how a councillor can submit a representation on their own behalf or if representing a local resident(s). The page also sets out a step by step guide on how to use the licensing register to review current licensing applications or existing premises licenses.

## **9.0 Noise and Public Nuisance**

- 9.1 During 2011, 217 formal noise complaints were registered against licensed premises, which represent an increase with previous years. Three noise abatement notices were served on licensed premises as a result of noise that materially affected the use and enjoyment of near-by residential properties.
- 9.2 Environmental Health Officers continue to use an escalation process when investigating noise complaints, discussing the circumstances of the complaint with the responsible person at the earliest opportunity in order to allow them to resolve the matter quickly without the need for further formal action, such as the issue of simple cautions for non-compliance with licensing conditions.

## **10.0 Partnership Working**

- 10.1 Enforcement agencies meet on a regular basis to discuss enforcement options and consider strategies for dealing with 'problem premises'. Premises operating in the evening and night time economy (ENTE) continue to receive constructive advice from enforcement agencies such as Licensing, Environmental Health, Fire Service, Trading Standards and the Police to help encourage a responsible ENTE.
- 10.2 Interventions include unannounced and announced visits to assess the licensed premises against licensing conditions and other workplace regulations. The licensees, managers and staff are encouraged to participate in community schemes for the licensed trade such as Best Bar None, Pubwatch and Clubwatch.
- 10.3 Officers from all enforcement agencies do undertake joint inspections where appropriate to ensure a consistent approach to enforcement and demonstrates to the licensee and designated premises supervisor that agencies work together. Enforcement agencies also undertake night-time inspections in order to assess how licensed premises comply with their regulatory responsibilities.

## **11.0 Under Age Sales**

- 11.1 The Police Licensing Team continued to undertake test purchase operations of licensed premises. 42 off sales premises were tested of which 7 (16%) were positive which is in line with national failure rates. In every case where a sale was made no identification was asked for and the age of the purchaser was not challenged. In each case the seller received a £80 Penalty Notice for Disorder and the premises Designated Premises Supervisor received a letter advising of the consequences of further failures. No premises sold more than once.

**12.0 Work Initiatives for 2012**

- 12.1 The responsible authorities will continue to support licensed premises to ensure that they are best placed to contribute towards providing a positive and well managed ENTE.
- 12.2 All agencies will continue to meet quarterly to discuss enforcement strategies, best practice and on-going operations to ensure that resources are best targeted at those premises that contribute significantly to undermining the licensing objectives.
- 12.3 Test purchasing operations will continue to test procedures at licensed premises where age-restricted products are on sale.
- 12.4 The Early Morning Restriction Order and Late Night Levy provisions will require careful consideration. The necessary research, consultation and analysis will be undertaken during a decision making process on whether to adopt either of the proposed provisions following the enactment of legislation and publication of further statutory guidance.
- 12.5 The Gambling Act policy will be subject to its 3 year review in preparation for implementation on the 30 January 2013.
- 12.6 The Government has proposed that licensing authorities will have the power to set their own fee structure (up to a statutory maximum) to allow for full cost recovery. The introduction of a local structure will require careful consideration following the enactment of legislation and publication of further statutory guidance.

**13.0 Conclusion**

- 13.1 This report has sought to provide members with an insight into the range of work initiatives and enforcement operations undertaken by enforcement agencies responsible for regulating the evening and night time economy throughout 2011. In addition to provide details of the work initiatives planned for the coming year and how partner agencies will continue to interact to ensure that limited resources are targeted effectively.