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27 December 2012

LICENSING COMMITTEE

Tuesday 8 January 2013

10 am

Council House (Next to the Civic Centre), Plymouth

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.

Tracey Lee
Chief Executive

LICENSING COMMITTEE

AGENDA

PART I – PUBLIC MEETING

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. MINUTES

To confirm the minutes of the meetings of the:

Licensing Sub Committee held on –

- 16 October 2012 (Pages 1 - 6)
- 23 October 2012 (Pages 7 – 10)
- 13 November 2012 (Pages 11 – 34)

and the Licensing Committee held on –

- 30 October 2012 (Pages 35 – 36)

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. STREET TRADING REPORT - AMENDMENT TO ANNUAL CONSENT DATE 2012/13 (Pages 37 - 40)

The Director for Place will submit a report seeking to amend the dates for street trading consents and permits to end of March 2013.

6. STREET TRADING REPORT 2013/2014 (Pages 41 - 46)

The Director for Place will submit a report seeking to set the process for issuing street trading consents for the 2013/2014 trading year.

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

Tuesday 16 October 2012

PRESENT:

Councillor Rennie, in the Chair.
Councillor John Smith (Fourth Member), Vice-Chair.
Councillor Mrs Dolan.

Apology for absence: Councillor Gordon.

Also in attendance: Debbie Bradbury (Lawyer), Pete Clemens (Licensing Officer), Katey Johns (Democratic Support Officer), Mr Ravi Sarvaiya (Applicant), Mr Campbell (Applicant's Lawyer), Councillor Nicky Williams and Mr Philip Miller (Objectors), Mr Aktas (Applicant), Mr McIndoe (Police) and Mr Rhodri Morgan (Environmental Health).

The meeting started at 10.05 am and finished at 12.50 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.

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

Agreed that Councillor Rennie is appointed Chair and Councillor John Smith is appointed Vice-Chair for this meeting.

45. **DECLARATIONS OF INTEREST**

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

46. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

47. **BARGAIN BOOZE SELECT CONVENIENCE, 440 CROWNHILL ROAD, WEST PARK, PLYMOUTH - GRANT OF PREMISES LICENCE**

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) heard that Devon & Cornwall Police had agreed conditions with the applicant;
- (iii) heard representations from interested parties and considered written representations;

(iv) heard from the applicant's legal representative that:

- There had been no representations from any responsible authority;
- The representations received relate in the main to problems perceived to be occurring in the vicinity which cannot be linked to the applicant;
- Criticisms are directed at existing premises however none of these premises have been subject to review or variation in order to deal with any issues;
- The representations do not consider how the proposed conditions can alleviate any concerns;
- The area is not subject to the cumulative impact policy of the Council;
- Some of the representations appear to have been encouraged by owners of existing premises who may not wish to face competition;
- Despite the name of the premise it is not only an outlet to serve alcohol it is a convenience store which sells alcohol and the overall shelf space reflects that food, newspapers, snacks and general sundry items are the main focus of the goods on offer and a large plan was provided;
- All point of sale terminals have till prompts that keep a record of ID checks having taken place and Challenge 25 will be applied to all customers;
- The applicant is an experienced personal licence holder whose other 'Bargain Booze' outlet is an integral part of the Plympton community and he is committed to upholding the licensing objectives;
- There is an incentive scheme whereby a reward of up to £500 is provided to any member of the public who passes on information relating to alcohol being sought by adults on behalf of minors;
- Bargain Booze is a franchise type operation and this franchise could be lost by the applicant should he commit a criminal offence relating to the Licensing Act 2003;
- CCTV systems will be operational prior to the proposed store opening;
- There should be careful scrutiny of the motives of individuals raising concerns in relation to demand;
- The applicant does not believe that the licensing objectives would be undermined by the grant of this application, if subject to the conditions presently suggested and any other conditions the committee consider are appropriate and proportionate to the premise;

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

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

Groups of young people congregate around the existing shops and it will encourage local youth gangs to frequent and loiter in this area; *This was considered to be relevant but cannot be associated with*

this premise.

There is already drinking on the playing fields and in the shopping area causing problems of noise and vandalism and makes elderly residents fearful; *This was considered to be relevant but cannot be associated with this premise.*

A local resident has been approached by youths to purchase alcohol for them and this will escalate; *This was considered to be relevant but cannot be associated with this premise. Members considered the incentive scheme provided by Bargain Booze.*

Last month the Chinese Takeaway had their windows smashed and last year West Park Wine's windows were smashed; *This was considered to be relevant but cannot be associated with this premise.*

There are many problems with anti-social behaviour and vandalism including drinking and riding unlicensed motor bikes; *This was considered to be relevant but cannot be associated with this premise and is an issue for the police.*

A bar in West Park has caused outbreaks of fights, loud noise and antisocial behaviour in a small area where crime is rife; *This was considered to be relevant but cannot be associated with this premise.*

Councillor Nicky Williams provided statistical evidence to the committee including that since the beginning of April 2011 up to the end of August 2012 there had been 858 incidents of anti-social behaviour in Honicknowle. She also provided an email from PCSO Martin Whitehouse that said often anti-social behaviour isn't reported to police and notes of the 'Have Your Say' neighbourhood meeting & Priorities and information regarding the number of child protection plans in the City. This was considered to be relevant however members felt that these were issues to be dealt with by councillors, police and other agencies.

b) Prevention of Public Nuisance –

There are concerns there will be an increase in litter and vomit; *This was considered to be relevant but cannot be associated with this premise.*

Bottles and cans have been found in a resident's gardens, the car park and playing fields; *This was considered to be relevant but cannot be associated with this premise.*

Other premises close at ten and there will be noise between 10pm and Midnight; *This was considered to be relevant and members have attached special condition 1.*

May intimidate vulnerable families wishing to use the centre; *This was considered to be relevant however members did not believe there was any evidence to substantiate this.*

c) Protection of Children from Harm –

Children may hear or witness shouting, swearing, drunken violence, smoking and excessive littering; *This was considered to be relevant but cannot be associated with this premise.*

It will entice more young people to drink and there is a high number of young people living in the neighbourhood; *This was considered to be relevant however members did not believe there was any evidence to substantiate this.*

It will attract the young and there is a risk of underage sales of alcohol and cigarettes; *This was considered to be relevant however members heard from the applicant that the challenge 25 policy will be applied to all customers.*

d) **Public Safety** –

Will attract more traffic and drivers already ignore the yellow lines, don't use the car park and park anywhere making it dangerous to cross the road; *This was not considered to be relevant.*

Too many youths are riding bicycles on the pavement and are being abusive to passers-by and customers; *This was not considered to be relevant.*

e) **Other representations** –

There is a café bar, wines and spirits shop and newsagent and is near Tesco's and there are more than enough outlets in the area; *This was not considered to be relevant.*

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

- (1) Subject to mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicants operating schedule, conditions agreed with Devon & Cornwall Police and the following special condition:

Special condition 1

- all alcohol sales will cease at 10 pm Monday - Sunday

48. **KENAN AKTAS BURGER VAN SITUATED IN THE CAR PARK, PLYMOUTH SOCIAL CLUB, 38/39 TAVISTOCK PLACE, PLYMOUTH**

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) Heard representations from Environmental Health and Devon & Cornwall Police as detailed below under the relevant licensing objective;
- (iii) Heard from the applicant that:
 - CCTV cameras would be in all areas covering the car park and front

of the road;

- He would collect rubbish and clean the areas as much as he could;
- There would be no under 18 year olds working in the trailer;
- He just wants to work and trade from the car park;

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

a) **Prevention of Public Nuisance –**

Environmental Health say this premise is located within the cumulative impact policy area and there is the potential for the application to impact negatively on the cumulative impact already determined in the area. They say the applicant has failed to address within their operating schedule suitable controls to prevent any negative cumulative impact on the prevention of public nuisance licensing objective.

They say there is the potential for an increase in noise levels from patrons using the mobile food vehicle that may disturb local residents.

An increase in existing noise levels due to the operation of equipment associated with the mobile food vehicle, such as a generator affecting local residents.

An increase in levels of litter and spilled food waste from patrons in the vicinity.

An increase in levels of grease and by-products of cooking in the immediate vicinity.

They refer to a report produced in October 2010 titled 'Plymouth Customer Data Integration Project: Upload of Survey data-initial findings. The findings of this survey indicated that the residents were unhappy about anti-social behaviour in their neighbourhood and that the residents have been affected by the saturation of takeaways in the North Hill area.

The Environmental Health department has historically received a number of complaints regarding mobile food outlets in the area causing noise disturbance due to the operation of the equipment associated with the mobiles, such as the generator. They say there is a likelihood of odour nuisance from cooking smells affecting the residential properties in close proximity to the premise. They recommend that this application is refused.

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

Devon & Cornwall Police identify that the premise is located in a cumulative impact area and said there was an increase in crime

levels within this cumulative impact area. Their evidence showed that the majority of crime in this area occurs between 10pm and 6am and cannot be attributed to individual premises. The peak time for all crime is between 3am and 4am particularly on Wednesday, Thursday, Friday and Saturdays.

They say if the licence is granted people who attend the van are likely to have been drinking, will consume their purchase in the vicinity of the premise in a public place and this is likely to impact on levels of violence and disorder reported.

A statement was provided by Mr Prout an Alcohol Licensing Officer which showed that from 1 January 2012 to October 2012 there had been a total of 217 violent crimes recorded of which 108 were violence with injury, 14 were of serious violence and 107 as other violence. 70% were street related and 30% were linked to premises. The times of the violence showed a steady rise after midnight until it peaked between 3am and 4am then started to reduce again.

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

There was no representation.

d) **Public Safety –**

There was no representation.

e) **Other representations –**

None

Members believed having heard from the Police and 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 given sufficient answers to demonstrate there would be no negative cumulative impact on the prevention of crime and disorder or prevention of public nuisance licensing objectives.

Members agreed that having taken into account all of the above representations the application is refused.

49. **EXEMPT BUSINESS**

Whilst parts of 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 Sub Committee

Tuesday 23 October 2012

PRESENT:

Councillor Rennie, in the Chair.
Councillor Gordon, Vice Chair.
Councillors Mrs Bowyer and Kate Taylor (fourth member).

Also in attendance: Sharon Day – Lawyer, Linda Perez – Licensing Officer and Amelia Boulter – Democratic Support Officer.

The meeting started at 10.00 am and finished at 4.30 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.

50. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

51. DECLARATIONS OF INTEREST

There were no declarations of Chair's Urgent Business.

52. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

53. VENUE, 99 - 101 UNION STREET, PLYMOUTH, PL1 3NB - REVIEW OF PREMISES LICENCE

The committee:

- Considered the report from the Director for Place
- Considered the police evidence as follows from written and verbal submissions that:
 - On the 28 September 2012 Devon and Cornwall Constabulary applied for a review under section 53A Licensing Act 2003 in respect of 99-101 Union Street Plymouth (the premises) as the premises was associated with serious crime and disorder.
 - On the 1 October 2012 at the interim steps hearing the Licensing Authority agreed to suspend the licence pending the final review hearing in order to promote the crime prevention licensing objective

- The premises licence was held by Plymouth Nightlife Limited between 31 October 2011 until the 13 July 2012 when it was transferred to Devon Pub Services Limited. The director of both companies was Gary Miller.
- There has been serious violence with injury both at the premises and within the immediate vicinity of the premises. The level and frequency has escalated and the police investigations indicate that the management and door staff are failing on a regular basis to show the expected duty of care to those affected:
 - The statement of Mr Prout detailed the management failings with respect to their duty of care and detailed visits he had made to the premises to engage with the management.
 - L10's produced also demonstrated incidents where the door staff had been ineffective, uncooperative and sometimes heavy handed.
- The management and door staff regularly fail to effectively engage with the police in the promotion of the licensing objectives as they fail to contact the Police to report incidents of serious assaults, violence and disorder.
- A timeline shows:
 - 23 incidents of violent crime from October 2011 to the end of September 2012. This showed four crimes of wounding with intent to cause GBH, four crimes of wounding without intent to cause GBH, 13 assaults occasioning actual bodily harm and 2 common assaults.
 - Disorder and reports from Police of drunkenness, management and door staff failings and violence
- PC McClean's statement detailed an audit that had been carried out in July 2012 following a serious assault in the premises and had spoken to manager Dan Robinson about the door staff's lack of awareness. Following this it was noted that a banning book and incident book had been introduced and that door staff were being more robust. However further serious incidents then occurred. PC McClean told the committee that the premises had been helpful to her and that she considered that Mr Robinson was the manager. She said that she had told the premises of her concerns about the door supervisors and had said that there were some good ones but that others were really bad. She added that the fact that the door supervisors were still in place indicated that the premises were not taking her complaints about the door supervision seriously.
- CCTV evidence was shown of recent serious assaults occurring inside and immediately outside the premises and a statement from the male assaulted on the 22 September 2012. In this incident the door staff and management had failed to call the police or call an ambulance for the victim who had had part of his ear bitten off. The incident showed that no first aid was provided to the victim and ice was only produced to him five minutes after the incident.
- Evidence was produced of the history of the management's involvement in previous premises and relevant committee determinations on the issues that arose in those cases. It was stated that the same individuals involved in those premises were involved here and the same issues of poor door supervision, poor management and violence had arisen again.
- The police had tried to work with the premises but violence incidents continued to occur and increased in seriousness.
- The incidents had occurred within a period that the club was monitoring and trying out new actions following the Police's Serious Event Audit in August.

- In light of the evidence it would be proportionate and necessary to revoke the licence to promote the crime prevention licensing objective.

- Considered what was said by the Premises licence holder and his representatives:

- Mr Robinson went through the police's time line and commented on each incident
- Drugs had never been found on the premises and he questioned why individuals in possession of drugs had not been arrested
- They had not been told that CCTV was not good enough otherwise they would have dealt with it.
- They accepted that there had been an unlicensed door supervisor working on the 7 January 2012 but he had not worked once discovered.
- On the 22 January 2012 these were not the Venue's customers and they did report the matter to the police
- On the 28 January 2012 it was a negative drugs search
- The premises do not use glasses they use polycarbonate drinks vessels although they do supply glass bottles.
- In relation to the incident on the 12 February 2012 the person did not gain entry and they did radio the incident through
- If the incident was not on their premises or right outside they did not allow the door supervisors to become involved; this was on the advice of police
- The police do not always follow up issues with the door supervisors with the premises.
- One doorman has been charged with assault and as a result they tell them not to get involved and they also questioned the legal responsibility of doorman
- They were being blamed for incidents that didn't occur at their premises and whilst they may be their customers the incidents were occurring elsewhere
- The time line shows 30/40 incidents but in reality it is only 3 or 4.
- The smoking area incidents are not actually in their area and relate to another club.
- They have 1000 patrons in their club on a Saturday and they all feel safe.
- They do not have a lot of incidents compared to other clubs
- This is the first time the club has been brought before the committee.
- Mr Robinson is always there to help the police and just because he is not the Designated Premises Supervisor or Premises Licence Holder he should not be criticized for this.
- The premises are being victimised.
- They were only made aware of 80% of the incidents on the time line on receipt of the information in relation to this committee.
- Mr Robinson agreed that he had a good working relationship with some police officers.

The committee had the following concerns having considered all the evidence and comments made by those present:

- To say that the victim of the ear biting incident didn't want to go to hospital was not acceptable. The victim would have been traumatised and the management should

- have taken control and had first aid provision available. They should have called the police and arranged an ambulance. They failed in their duty of care to the victim.
- With regard to the aggressor in the above incident there did not appear to be any action taken by the premises in regard to him. The committee were of the opinion that he should have been apprehended especially considering that a door supervisor had been directly behind the aggressor when the incident occurred. These actions would have assisted the police and promoted the crime prevention licensing objective.
 - There was a general lack of knowledge of the licensing conditions. This was of particular concern in relation to the incident on the 5 August 2012 as those representing the premises licence holder indicated that when the incident occurred at 0604 the premises were closed (having closed four minutes earlier) and that the Door Supervisors were no longer being paid and were therefore not responsible or obliged to act. The premises licence however requires the door supervisors to supervise and ensure the safe dispersal of patrons.
 - The director of the company which is the premise licence holder is unaware of his roles and responsibilities under the licence or licensing act. He was unable to describe his management systems and checks and was not able to say who his management team was when the serious incidents had occurred at his premises. He did describe Mr Robinson as the promoter and Mr Williams as the maintenance man. However in committee's opinion these gentlemen appeared to be involved in the management of the premises. The committee considered that the premise licence holder had little or no management of the club.
 - The committee accepted the police evidence that since the premises opened there have been various areas of concern at the premises and in particular an escalation of violence on and in the immediate vicinity of the premises since June 2012; it was these incidents that raised the most concerns for the committee. The committee did however disregard the incidents on the 11 and 18 August.

The committee considered what if any action should be taken against the licence.

The committee considered that action was required but that modification of the conditions of licence would not address their concerns as the management had demonstrated a lack of awareness of their current conditions of licence and also a lack of cooperation with the police and therefore modification of conditions would be ineffective.

The committee considered statutory guidance at paragraphs 11.22 and 11.23 and considered that the failure to promote the crime prevention licensing objective was down to poor management by the premises licence holder and therefore it was considered proportionate and appropriate to the revoke the premises licence.

On the coming into effect of this decision the interim steps imposed on the 1 October 2012 will cease to have effect.

54. **EXEMPT BUSINESS**

Whilst parts of 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 Sub Committee

Tuesday 13 November 2012

PRESENT:

Councillor Rennie, in the Chair.
Councillor Gordon, Vice-Chair.
Councillors Mrs Bowyer and John Smith (Fourth Member).

Also in attendance: Debbie Bradbury, Lawyer, Katey Johns, Democratic Support Officer, Pete Clemens, Senior Licensing Officer, Rhodri Morgan, Environmental Health Officer, Mr McIndoe, Licensing Officer (Devon and Cornwall Police), Ann Gillbanks, Senior Lawyer, Dave Hughes, Senior Environmental Health Officer (Licensing), Linda Perez, Licensing Officer, and Caroline Jones, Plymouth Children's Safeguarding Board Lead Officer.

The meeting started at 10 am and finished at 3.55 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 Rennie is appointed Chair and Councillor Gordon is appointed Vice-Chair for this meeting.

56. DECLARATIONS OF INTEREST

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

(In the absence of any interests being declared by Committee members, Councillor John Smith (Fourth Member) left the meeting).

57. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

58. ODD BAR, 34/36 DRAKE CIRCUS, PLYMOUTH - VARIATION OF PREMISES LICENCE

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) heard representations from Environmental Health and Devon & Cornwall Police as detailed below under the relevant licensing objective;
- (iii) heard representations from the applicant that:

- They already have safety precautions and noise containment in the outside area;
- There is a capacity of 30 people in the outside area and this will not change;
- All drinks must be in polycarbonate glasses;
- A door supervisor is permanently stationed in the area controlling capacity and noise levels;
- Music is turned off at 11pm;
- There is a high fence surrounding the garden to separate the area from passers-by;
- A smoking shelter covers half the area and aids in containing the sound;
- CCTV covers the entire area and the monitor is visible from the bar;
- Other premises in the area permit drinkers in their outside area until later at night and with higher capacities;
- They provided two photos of the outside area and a summary of the other licensed premises within the area and their allowances for outside drinking;

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

a) **Prevention of Public Nuisance –**

A representative of Environmental Health said the premise is located in a cumulative impact area and there is potential for the application to impact negatively on the surrounding area.

There are a large number of licensed premises in North Hill and surrounding areas which predominantly focus on the student market. This attracts high volumes of people to the area until the early hours of the morning with the effect of increasing the general noise from people that are under the influence of alcohol, such as shouting and swearing and causing incidences of anti-social behaviour.

They said there is the potential for persons to be encouraged to stay outside the premises for longer and the limit of 30 persons is likely to be achieved for longer periods of time and the potential noise issues could increase.

They say it is highly unlikely the smoking shelter will mitigate any noise breakout from the premises and the applicant has not provided any details.

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

A representative of Devon & Cornwall Police presented evidence to show an increase in crime levels within the cumulative impact area. The evidence showed that the majority of crime in this area including the increase occurs between 10pm and 6am and cannot be attributed to individual premises.

Statistics were provided by the Police of the recorded offences between

01.05.12 to 31.10.12 and 01.05.11 to 31.10.11.

They conclude that this research shows there has been an overall increase in violence in the Mutley/Greenbank area from 332 violent offences recorded for the 2011 period to 353 violent offences recorded for the 2012 period. There has been an increase in the amount of offences that the evening and night time economy (ENTE) violence accounts for the 2012 period.

There has been an increase in the amount of ENTE violent offences that can be attributed to violence with injury. The number of street offences has increased and North Hill, Mutley Plain and Tavistock Place have experienced the highest number of street offences throughout both periods.

They were concerned how the customers who wanted to use the outside area would be managed and how they would be managed when the capacity of the outside area has been reached to prevent crime and disorder.

They were also concerned that patrons would move to the front and rear of the premises to smoke if the rear area is full and there would then be the potential for these patrons to come into conflict with passers-by.

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

None

d) **Public Safety –**

None

Members were satisfied that relevant representations had been made by both Devon & Cornwall Police and Environmental Health and that the onus was on the applicant to demonstrate that there would be no negative cumulative impact on the prevention of crime and disorder and prevention of public nuisance licensing objectives.

Members did not believe the applicant had demonstrated there would be no negative cumulative impact on the prevention of crime and disorder and the prevention of public nuisance licensing objectives in respect of the following concerns:

Members did not believe the applicant had given adequate consideration to the changes that would occur on the premises should this application be granted. They failed to provide members with any details of how patrons would be controlled should the outside area be at full capacity and patrons were waiting for access. They heard that this would be controlled by the door supervisor on the outside area but no details of how they would manage this. This they believed had the potential to result in crime and disorder on the premise between patrons.

Members did consider that patrons would be likely to go to the front and rear of the premise to smoke should the rear garden be at full capacity. This would have the potential to add to crime and disorder in the area.

Members did believe that allowing drinks into the outside area until 2am would result in an increase in the noise levels in the rear area. They believed that patrons would stay in the area for longer and would be more likely to be in the area in a group. They considered the door supervisor in the area and the new shelter constructed by the applicant. However they did not feel that this would be adequate to control the inevitable increase in noise levels created by allowing drinks in the rear area after 11.30pm.

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

59. **TEMPTATIONS T2, 6-8 UNION STREET, PLYMOUTH - GRANT OF SEXUAL ENTERTAINMENT VENUE LICENCE** (Pages 1 - 16)

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) considered representations from the applicant's Solicitor as submitted at Appendices A and B to this decision and expanded on as follows –
 - if the premises could not open at all on a Sunday earnings would reduce. The premises are in a locality which is wholly given over to entertainment, with premises either side and opposite, all of which are open on Sundays, serving food and alcohol. These premises will not stand out from anyone else around them during these trading times;
- (iii) considered representations from the police –
 - age verification – proposed that Challenge 25 should be adopted as the Police have found where other establishments have moved to Challenge 25 there have been a decrease in incidents although they acknowledged that there was no problem with this particular premise;
 - confirmed that the remaining representations regarding proposed conditions are contained in the written representation attached to the report;
 - confirmed that the Police generally had no problems with this establishment or this application;
- (iv) heard from the Plymouth Children's Safeguarding Board Lead Officer –
 - there is statutory guidance for the Council and part of that is raising awareness in the private sector. There have been a number of high profile cases across the country relating to child sexual exploitation and there is a need to raise the profile and be proactive by raising awareness;
 - there were no concerns about this application it was recommended that

training should form part of the conditions.

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

- (1) for the trading hours of 9 pm to 5 am Monday to Sunday, excluding Christmas Day, New Year's Eve and New Year's Day when the premises shall be closed. After considering the applicant's solicitor's representation on Sunday hours, Members considered it reasonable to depart from the Council's policy in agreeing this condition;
- (2) as set out in Appendix C to this decision, subject to the following variations –
 - age verification – members have amended the conditions to require that the Challenge 25 condition proposed by the Police is imposed;
 - house rules – the Police conditions concerning payment for performance must be included so as to read “Payment for a performance will be by cash. If a credit/debit card is offered the customers is to be taken to the duty manager or other person designated by that manager to complete any transaction. The credit/debit card will always remain in the possession of its owner;
 - house rules – the condition regarding participation by any member of the audience shall read “relevant entertainment shall only be performed by the performers and no member of the audience shall be permitted to touch the performers and shall not undress the performers or themselves”;
 - house rules – members require a condition “that house rules and other relevant licensing conditions will be made available in languages to inform performers who are foreign nationals”;
 - house rules – members require a condition “that house rules are to be displayed in public/common areas of the premises”;
 - door supervision – members require a condition “that not less than two registered door supervisors shall be on duty at the premises when performers are performing except that when there are no more than 30 customers at the premises then there shall be at least one registered door supervisor and at least one manager on duty. The management shall have access to a Plymouth based security firm to increase the registered door supervisors to at least two in the event of customer numbers being above 30”;
 - child safeguarding – members require the condition recommended in connection with safeguarding children “that the license holder and managers/supervisors must undertake structured child sexual exploitation training in accordance with the Plymouth Safeguarding Children's Board's approved training programme when this becomes available”.

60. **ANGELS GENTLEMEN'S CLUB, 38-40 UNION STREET, PLYMOUTH - GRANT OF SEXUAL ENTERTAINMENT VENUE LICENCE**

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) heard from the applicant's representative –
 - requesting that the condition of at least 2 licensed door supervisors be on duty at all times be amended to a ratio of 1 door supervisor to 30 customers;
 - that each performer had a contract of employment, a copy of which was tabled under part II for members' consideration;
 - it would be preferable for performers to be able to leave the performance area and immediately return to the dressing rooms rather than the officer's suggested condition that performers must redress fully after each performance;
- (iii) considered representations from the police –
 - age verification – proposed that Challenge 25 should be adopted as the Police have found where other establishments have moved to Challenge 25 there have been a decrease in incidents;
 - confirmed that the remaining representations regarding proposed conditions are contained in the written representation attached to the report;
 - confirmed that the Police generally had no problems with this application;
- (iv) heard from the Plymouth Children's Safeguarding Board Lead Officer –
 - there is statutory guidance for the Council and part of that is raising awareness in the private sector. There have been a number of high profile cases across the country relating to child sexual exploitation and there is a need to raise the profile and be proactive by raising awareness;
 - there were no concerns about this application it was recommended that training should form part of the conditions;
- (v) considered information within Members own knowledge as follows:
 - the premises are in a locality which is wholly given over to entertainment which are open on Sundays, serving food and alcohol. These premises will not stand out from anyone else around them during these trading times.

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

- (1) for the trading hours of Mon and Tue 9 pm to 11 pm, Wed to Sat 9pm to 4 am and Sun 9pm to 11 pm. Given the premises location, members considered it reasonable to depart from the Council's policy in agreeing Sunday trading hours;
- (2) subject to the conditions as set out in Appendix D of the report, subject to the variations as set out by the Police in the report and also to the following additional condition –

- door supervision – members require a condition “that not less than two registered door supervisors shall be on duty at the premises when performers are performing except that when there are no more than 30 customers at the premises then there shall be at least one registered door supervisor and at least one manager on duty. The management shall have access to a Plymouth based security firm to increase the registered door supervisors to at least two in the event of customer numbers being above 30”.

61. **EXEMPT BUSINESS**

Agreed that under Section 100(A)(4) of the Local Government Act, 1972, the press and public are excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

62. **ANGELS GENTLEMEN'S CLUB, 38-40 UNION STREET, PLYMOUTH - GRANT OF SEXUAL ENTERTAINMENT VENUE LICENCE**

As additional evidence in support of their application, the Applicant's representative tabled for members' information an example of a performer's contract of employment which, amongst other things, clearly demonstrated what they could or could not do when performing.

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TEMPTATIONS, 6-8 UNION STREET, PLYMOUTH

REPRESENTATIONS FOR HEARING – 13TH NOVEMBER 2012

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

A. HISTORY

1. The business has been in operation for approximately eight and a half years under the present ownership and control. Prior to that time it operated at Keyham Road for about two years.
2. The Manager, [REDACTED] has worked in the business for eight and a half years and has been a part of the management team for the majority of that time – and is currently the manager. She holds a Personal Licence and is the Designated Premises Supervisor under the Licensing Act 2003. Her deputy [REDACTED] has worked in the business formerly as a dancer and as bar staff and as deputy manager since May 2012 for over eight years. Both are, therefore, very familiar with the business and the rules and conditions under which it is run.

When possible all staff (excluding security personnel) are female and there are currently approximately ten to twelve staff employed with between twenty and twenty five contracted dancers.

3. The premises were granted their original Licence under the Licensing Act 1964 specifically as a lap-dancing venue and that has always been the principle business to which the bar and music facilities are ancillary. The premises were from the start fitted out as a lap-dancing venue with stage and private dance booths.
4. The premises are well managed and well run and have never been a source of trouble. The police have no problems with the operation and indeed called upon the management to assist them in relation to the clubs policy for dealing with credit/debit card payments by patrons – which are embodied in the conditions within the application.
5. The conditions and rules have been developed over a long period based on experience and the practicalities of running such a business. They embody the procedures in place which have contributed to the good reputation which the business has within the community and which have ensured it is well run and guarantees the safety and security of its customers and all those working there.
6. The owners of the business are part of a local family who have successfully operated establishments in catering, clubs and hotels and the entertainment industry within Plymouth for approximately fifty years and who enjoy an enviable reputation. They currently operate numerous businesses in the leisure, catering and hospitality sector providing work for hundreds of local people.
7. The owners operate via a separate Company a lap-dancing club in Bristol which has been granted a SEV Licence by Bristol Council with similar and

certainly no more restrictive conditions than those sought within this application. That is well run and causes no problems within its community.

8. The business currently operates normally from 9 p.m. to 3 or 4 a.m. on weekdays and for the same hours on Sundays before Bank Holiday Mondays and the Sunday before Christmas and on Sundays for special bookings for private functions. The average number of Sundays is about eight in any year. The premises closes on Christmas Eve, Christmas Day, New Year's Eve and New Year's Day. It is submitted there is no good reason to justify any alteration in these hours or days within the Licensing Objectives or within any other criteria.

B. COUNCIL OFFICERS CONDITIONS/APPLICATION CONDITIONS AND RULES/POLICY

The Applicants have identified a number of areas where the conditions they seek may differ or derogate from the draft conditions and/or policy of the Council and where the applicants submit their tried and rested conditions should prevail in the grant to them of a SEV:-

1. General Paragraphs 1.1 to 1.3 inclusive.

The Applicants wish to be able to operate on Sundays and Good Friday. Sunday opening would, however, at present as a result of market forces, be limited to those Sundays preceding a Bank Holiday Monday, the Sunday before Christmas and where there is a booking of a private function – to which the public would not have access. The suggested restriction to there being no opening on Sundays and Good Friday or Easter Sunday is not justified under the Licensing Objectives. It is submitted that it is antiquated and discriminatory. The Licensing Act 2003 did away with the Victorian concept of Sundays and Good Friday being days when there should be little or no entertainment. The fact of the matter is that there are numerous establishments in the vicinity of the Applicant's premises which operate on Sundays and Good Friday without restriction. To seek to prefer a Christian Festival or Sabbath to that of other faiths (for example the Jewish Sabbath or Yom Kippur, Muslim Beliefs, e.g. Ramadan) or indeed the rights of Atheists could be regarded as discriminatory and contrary to those individuals rights or the rights of those following a particular faith within a human rights context. Given that these premises have without complaint or problem operated for about eight and a half years with certain Sunday openings, would suggest that to follow such a policy is not justified and restrictive conditions outside the Applicant's application could not be justified.

2. General – 1.6

The Applicants are quite happy for basic house rules to be displayed at reception, on the approach to the toilet area and on the approach to the dance booths, but to have them displayed at each table and each bar area and with all the detail suggested by this Condition is simply over regulation and there would be a danger of the whole premises taking on the character of some sort of public building where a plethora of notices becomes totally counter-productive. For example, a price list is all that is needed on tables.

It is the practice of the Applicants for customers to be advised when they enter the premises of the essential rules of the house – both in relation to payment and there being no contact. It seems totally counter productive to have a notice at each table and each bar pointing out that no person under the age of eighteen will be admitted to the premises. Such a notice is displayed at the entrance and that is where it needs to be. The Applicants already have basic rules in different languages for customers, and if one is not careful one could end up with most of the walls being filled with notices both in English and foreign languages – which is not the atmosphere which the Applicants have sought to establish over very many years.

3. 1.8

This proposed Condition is unacceptable because the Applicants display on a television screen – but not before 9 p.m. and not after close of business - professionally produced images and material promoting the business. This is tasteful and no one has ever complained about it over the years that it has been displayed.

1.9

This as it stands is unacceptable and is why the Applicants have attempted to distinguish between a performance where there is total nudity and where there is not. The fact of the matter is that from the outset in the general dance/stage area, a performer who is not totally nude will on occasions if there is a party for example birthday or stag party arrange for the gentleman whose occasion it is to come up on the stage and be seated on a chair and as part of the act be the centrepoint of attention. It has always been felt that this constitutes a “fun” situation and the emphasis is on entertainment as opposed to sex. It is always well received and there have never been any complaints. Any Condition which stops this taking place – and enquiries reveal it takes place in all similar establishments, cannot really therefore be justified. It is emphasised that the individual concerned remains fully clothed throughout and the performer is never totally naked.

4. Premises

1.11

This has already been dealt with above in relation to the television display, which it is felt is both discreet and tasteful.

1.14

A restriction on advertising is unacceptable. Promotions are displayed on the television screen as part of the shop front and flyers are distributed, as they have been for years. A professional promotions team is engaged to deal with this work and again there have never been any complaints arising from the distribution of flyers. Personal solicitation does not take place, and it is conceded that this is not desirable, but any leafleting or advertising takes place

during the evenings and this seems to be the case with all similar establishments.

1.24

The nationality of performers is ascertained at the outset of their engagement. The management requires performers to be able to read and communicate in English, so that they can understand the house rules. It is felt it is more important that they should be able to understand them in English than there should be the potential for dozens of different translations. In fact, it is very rare for foreign nationals to be performers, and where they are, the experience of the Applicants is that they have been resident in this country for some time and are articulate within the English language.

1.32

It appears that this Condition is already referred to and in any event is within the Conditions proposed by the Applicants.

1.36

This is the sort of condition where the words could result in litigation. What exactly does “redress fully” mean. Does it mean that they should put back on the clothes that they had on when they started? Does it mean that they should adjourn to their dressing room and put on the clothes that they arrived at the premises in. Similarly what does “immediately” actually mean. Would it not be in order for them to gather up any clothing and go straight to their dressing room and put clothes on before re-entering the public area? So far as the Applicants are concerned, once performers have finished, they are required to leave either the booths or the public area and make their way to the changing rooms without delay, so that they do not remain in the public areas in any state of undress.

CCTV

1.39

It is felt the Applicants’ conditions with regard to CCTV should be acceptable. In any case, it must be made clear that the management must have access to the CCTV and it must also be made quite clear that the Police cannot request instant production of CCTV footage when the business is in operation as this would mean interrupting the recording to make a disc for the Police which would mean that the monitoring would have to cease for that period. The Applicants have explained this to the Police on a number of occasions – not because the Police want to view the footage within the premises for the purposes of ascertaining compliance with Conditions, but because they want access either to the external camera footage or internal cameras to identify individuals. The Applicants have always done their best to assist the Police as

the Police must accept but clearly reason must prevail and any Conditions should reflect that. The fact of the matter is that the CCTV within the premises is to a very high standard, professionally maintained, is downloadable to a DVD disc and the only instances of breakdown have been when a camera has failed, and this being one of 16 has normally been fixed within hours.

Door Supervision

1.46

The Applicants have already indicated that they would agree to two Licensed Door Supervisors – except that one door supervisor should be sufficient when there are less than thirty patrons on the premises. It is understood this is perfectly acceptable to the Police and it does mean that there is an efficient use of resources – which is in everybody’s interest in any properly run business.

Age verification

1.58 and 1.59

The premises have always applied very successfully a “Challenge 21” proof of age policy. The Applicants are not aware of any occasion when it has been alleged that someone under 18 has accessed the premises, which shows that their system works properly. They only employ experienced door personnel and security staff. Both the Manager and Assistant Manager are experienced and mature ladies. If there is an insistence that Challenge 25 is for some reason necessary, then it can be adopted. The Applicants do not accept PASS accredited identification, because they do not regard it as secure and free from forgery.

Staff Training

1.61 to 1.65

The Applicants maintain that this is not applicable to them. There is no evidence whatsoever of any child sexual exploitation at these premises. No one under eighteen is admitted. No performer under eighteen is engaged and the management is fully alert and experienced enough to ensure that anyone working as a performer is in no way being exploited. In fact, the average age of performers is twenty five to thirty; their age is checked before they are taken on, as is there right to work. The Police have raised this latter issue in their proposals and it is acceptable by the Applicants. The Applicants have always checked the right of anyone to work within their business and the management is fully trained and experienced in this. A training programme is therefore superfluous. It is regarded as unnecessary, because there is

- (a) Not the slightest chance of anyone coming within the definition of “child” working at the premises and
- (b) It is considered impossible that anybody could be exploited at the premises.

A Condition of this sort will add to the cost for the business and will impose even more regulatory and burdensome duties on the management. It is emphasised that the policy is designed to “provide the framework” and page 1 of the report is referred to where it states “the licensing system MUST MINIMISE THE BURDEN ON BUSINESS”. The Applicants can see no basis under the Licensing Objectives for such a requirement in relation to their premises. If in fact it transpired that some evidence appeared which indicated that there might be some exploitation of performers or indeed customers within the premises which needed to be addressed under this sort of provision, then it could be added at a future date. At the moment the risk simply does not exist because of the way in which the Applicants operate and have operated in a very responsible manner.

It is submitted, therefore, that where necessary the policy on all these matters should have regard to the reality and the history of the operation of the business and that the Licence applied for should be granted with the Rules and Conditions as proposed by the Applicants.

So far as the Police observations are concerned, there is no problem with the Conditions being amended to incorporate their suggestion – with the exception of 1(iv) and 3 and (x). It is accepted that the performers should not simulate sex acts and this does not happen, and it may well be that the words “or remain in a state of nudity after their performance” is preferable to the Council’s proposals that a performer should “redress immediately”.

So far as the suggestion that the words “in any performance involving total nudity is concerned”, this was added so as to allow for the very limited amount of audience participation where the performer is not fully nude and where within a group of patrons, there is one who is called on stage so as to be “highlighted” in front of the rest of his party – such entertainment never having caused any problems at all.

13th November 2012.

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System for checking age and the right to work within the UK

- All performers are to bring in their identification. They are to provide their driving licence or passport and their national insurance number on the first night they arrive to work. A photo copy of this is taken for the clubs records.

Monitoring and Enforcing

- All performers are to bring in photographic identification such as driving licence/passport and a copy of which is kept on record.
- Temptations T2 has a strict no touching policy. Any performer who is found to be touching is fined £50. A log is kept of these offences. If they are found to commit a second touching offence then they are instantly dismissed.
- During opening hours a member of security will monitor every dance at all times along with the duty manager.
- There are to be no sex acts performed within the club. The duty manager and member of security will ensure no acts are performed not only between customers but also between performers performing.
- No personal details such as addresses or phone numbers are to be given or taken by any performer.
- No performer is to meet any customer outside of the club.
- Performers must remain ladies at all times. Performers must behave as such, we expect you not to over indulge in alcohol and a fine is given if you are found to be too intoxicated and the performer is asked to leave.
- Temptations T2 have the same S.I.A security on duty at all times. This ensures they are familiar with each of our performers. As the security are monitoring the CCTV cameras along with the manager at all times, any rules that are subsequently broken are dealt with immediately and any action can be enforced instantly. It is then the responsibility of the performer to deal with the outcome taken from any enforced action.

Rules for Customers

- Temptations T2 has a strict no touching policy. If you are found to be handling any member of staff you will be escorted from the premises.
- No recording equipment including mobile phones. If you are found to be using any form of photographic equipment then any footage is deleted and you will be escorted from the premises.
- Strictly no admittance to anyone under the age of 18
- Dress code is smart casuals only
- Chewing gum is banned from Temptations T2. If you are found to be chewing gum, you will be asked to remove it.

Welfare of Performers

- All performers have their own changing room, toilet and shower area which is locked. An electronic key is required to gain access to these areas and for security, only staff can gain access to these areas using the electronic key.
- All performers are aware not to give any of their personal details such as phone numbers to any customer, subsequently they are also forbidden to take any such details from any customer also.
- All areas of the club are covered and monitored by CCTV. During club opening hours there is a member of security monitoring them at all times. During non working hours they will continue to record 24 hours a day.
- All performers must be escorted to cars/taxis at the end of their shift by a member of security.

(E)

TEMPTATIONS T2

SCHEDULE OF CONDITIONS

1. House Rules

- (i) All customers are to be advised on entry to the premises that there is an absolute prohibition against any physical contact between performers and customers and notices to this effect shall be displayed at the reception and within the premises.
- (ii) Literature is to be available in other languages to inform foreign nationals of the absolute prohibition against any physical contact between the performers and customers.
- (iii) Contact between a performer and customer by way of an introductory handshake/kiss or when a tip is placed in their garter/armband or hand when payment is made for a performance shall be allowed and will not be deemed to contravene (i) above.
- (iv) There shall be no participation by any member of the audience in any performance involving total nudity.
- (v) Customers are not permitted to photograph, record, film or electronically transmit any performance. Any person suspected of doing so will be required to leave the premises.
- (vi) No customer shall accept from or give to any performer or member of staff any telephone number, business card or note.
- (vii) Customers shall remain seated whilst receiving/watching any lap dancing performance.
- (viii) No persons other than the performers engaged in the approved adult entertainment shall be in the designated areas of the premises used for such entertainment in a state of undress.
- (ix) A list of prices shall be displayed at suitable locations within the premises so that customers are made aware of the cost of performances.

2. Premises

- (i) No person under the age of 18 years (including employees) will be permitted on to the premises. An acceptable form of proof of age will be required from any

person appearing to be under 21 years of age prior to their admission on to the premises.

- (ii) Prominent notices shall be displayed at the premises prohibiting anyone under the age of 18 from entering the premises.

3. Performers

- (i) Performers shall be aged not less than 18 years of age.
- (ii) The Premises Licence Holder is to ensure that prior to engagement all performers and staff working at the premises provide documents to include facial photographic identification of proof that they are not less than 18 years of age. Copies of such documents shall be kept up to date and retained at the premises and be made available for inspection by enforcement agencies at all times.
- (iii) A register of performers will be maintained on the premises which will identify the responsible manager and the performers with their days and hours of duty. The register shall contain the performers real name, stage name, date of birth and current address.
- (iv) Dressing room(s) must be available for performers and will not be accessible to customers.
- (v) No performer shall accept, exchange or give telephone numbers or contact details to customers.
- (vi) No performer shall be allowed to work if they appear to be intoxicated whether by alcohol or through the use of prescribed medication or illegal substances.
- (vii) Performers will stop immediately and move away from any customer who is offensive or attempt to touch them and shall report any such incident and any other inappropriate behaviour or breach of house rules to the manager on duty.
- (viii) All performers are to be seen by a nominated person at the commencement of their shift and are to sign to confirm they have been verbally reminded of the absolute prohibition against any physical contact between performers and customers (otherwise than as permitted by 1(iii) above).
- (ix) A record of any breaches of the condition against the prohibitions against any physical contact between performers and customers together with the action taken shall be maintained at the premises and made available to the appropriate enforcement agencies on request.

4. CCTV

- (i) The premises shall be equipped with CCTV installed so as to cover all areas where approved adult entertainment will take place and will continually record during these performances. Recordings will be retained for at least 14 days and be made available only to a Police Officer or duly authorised officer of the Licensing Authority on request.
- (ii) CCTV must be continuously monitored by a designated member of staff whilst adult entertainment is in progress to ensure compliance with licensing conditions and the Company's operating policy.
- (iii) Other than recordings made in accordance with Condition 4(i) above, no photographic, filming, recording or electronic transmission of performance shall take place without the prior express written consent of the Licensing Authority.

5. Door Supervision

Not less than two registered Door Supervisors shall be on duty at the premises when performers are performing.

6. General

- (i) Whilst the Licensee is a body corporate any change of Director or Company Secretary or other person responsible for the management of the Company shall be notified in writing to the Licensing Authority within 21 days of such change and such written details thereof as the Licensing Authority may reasonably require in relation to any new Director, Secretary or Manager are to be furnished within 21 days of the receipt of a request in writing from the Licensing Authority.
- (ii) The Licensee shall ensure that some responsible person being a Director or a Manager nominated by it whose details have been supplied to the Licensing Authority in the Form of Annex A accompanying the application for the grant of the Licence shall be in charge of and upon the premises during the time they are open to the public.
- (iii) The Licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises.
- (iv) The Licensee shall maintain good order in the premises.

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Licensing Committee

Tuesday 30 October 2012

PRESENT:

Councillor Rennie, in the Chair.

Councillor Gordon, Vice-Chair.

Councillors Mrs Bowyer, Browne, Sam Davey, Mrs Dolan, K Foster, Fry, Mrs Nicholson, Singh and John Smith.

Apologies for absence: Councillors Jarvis and Kate Taylor.

Also in attendance: Ann Gillbanks, Senior Lawyer, Andy Netherton, Manager Health, Safety and Licensing, David Hughes, Senior Environmental Health Officer (Licensing) and Katey Johns, Democratic Support Officer.

The meeting started at 10 am and finished at 10.15 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.

8. **DECLARATIONS OF INTEREST**

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

9. **MINUTES**

Agreed the minutes of the Licensing Committee meeting held on 26 June and the Licensing Sub-Committee meetings held on 29 May, 26 June, 24 July, 7 and 21 August, 4 September, subject to an amendment to show Councillor Mrs Dolan being in attendance as Fourth Member, 18 September and 1 October, 2012.

10. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

11. **AN INTRODUCTION TO THE AMENDED SEX ESTABLISHMENTS LICENSING SYSTEM AND ADOPTION OF A POOL OF CONDITIONS**

The Committee considered the report of the Director for Place outlining the Sex Establishment Licensing Policy and proposing the adoption of a pool of conditions for use by applicants and responsible authorities. David Hughes, Senior Environmental Health Officer (Licensing) and Andy Netherton, Manager Health, Safety and Licensing, were in attendance to present the report and drew Members' attention to the following –

- (a) that recent legislative changes which provided the Council with the ability to exert a greater level of control on the position and operation of sex

establishments had been adopted by the Council on 30 January 2012, along with a Sex Establishments Licensing Policy;

- (b) a sexual entertainment venue was defined as “any premise at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”;
- (c) relevant entertainment was defined as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience(whether by verbal or other means)”;
- (d) as a result of the recent legislative changes, officers had been visiting premises in the city with a view to identifying any which may require reclassification under the new definition. To date, two had been identified and applications were shortly to be considered by the Licensing Sub-Committee;
- (e) alongside (d) above, officers had been working on developing a pool of suggested licensing conditions to be available to applicants and responsible authorities for use in application preparations in order to ensure that decision making was rational, necessary and proportionate to the licensing objectives. This pool of suggested conditions was by no means exhaustive or conclusive and could be added to at any time.

In response to questions raised relating to the pool of conditions, Members heard that officers had looked at what other local authorities were doing elsewhere, and had consulted with the trade and responsible authorities neither of whom had raised any major objections.

Agreed –

- (1) that the contents of the Sex Establishment Licensing Policy is noted;
- (2) to adopt the pool of licensing conditions that will provide a resource for Members during the consideration of applications or any other decision-making in respect to sex establishments;
- (3) that authority is delegated to officers to amend the pool of licensing conditions as appropriate in consultation with the Chair and lead opposition member of the Licensing Committee.

12. **EXEMPT BUSINESS**

There were no items of exempt business.

PLYMOUTH CITY COUNCIL

Subject: Street Trading Report
Amendment to annual consent date 2012/13

Committee: Licensing Committee

Date: 8 January 2013

Cabinet Member: Councillor Evans

CMT Member: Director for Place

Author: Annette Laurie Assistant Manager, Plymouth Waterfront Partnership
Tel: (01752 305993)
e-mail: annette.laurie@plymouth.gov.uk

Ref: AL/S/CCC/STTREP 2012 amended
Part: 1

Purpose of the report:

This report seeks to amend the dates for consents and permits to end of March 2013.

Corporate Plan 2012 – 2015:

This report links to the delivery of the corporate priorities defined in the Corporate Plan. In particular:

- 1 Create a vibrant City Centre and support schemes that give renewed life to the City.
-

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

2.2 Street Trading is operated under the Local Government (Miscellaneous Provisions) Act 1982. The Council's policy is to administer street trading as a trading account and to finance all expenditure from the Consent fees. All activities including enforcement, administration, stall maintenance and improvements are financed from the Street Trading account. The proposal is now to amend the current permits and consents to extend by 14 days so expiration of such consents falls at the end of the financial year and additional income is taken into account. All new consents/permits are proposed to run from the start of the new financial and trading year and end accordingly.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

The issuing of Street Trading Consents under the Council's street trading policy ensures that all Consent holders are properly licensed and operate in a hygienic and safe manner within the street trading policy guidelines. It also finances the management of Street Trading enforcement.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

It is recommended that Members agree to:

1. Issue short term consents for existing City Centre Consent holders for the period 18 March 2013 to 31 March 2013 (14 days.).
2. Delegate authority to the Assistant Director for Economic Development to issue short term consents for the period 18 March 2013 to 31 March 2013 to the existing consent holders.
3. Approve the additional consent fees shown in Appendix 1.
4. Agree that all future new City Centre Consents and Hoe ice cream consents are to run for 12 months from the start of each financial and trading year (1 April to 31 March).

Reason for recommendations:

These actions are recommended to align Street Trading Consents to the financial year, thus enabling ease of year end reconciliation

Alternative options considered and rejected:

Leave renewal and invoicing process as it currently stands which takes up unnecessary time to split fees across separate financial years.

Published work / information:

S:\Development\Economic Development Service\Place Management\City Centre Company\City Centre Company\Street Trading\Reports\street trading report 2012.doc

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	

Sign off:

Fin	Pc.PlaceF EDD1213 001.201212	Leg	16412/20. 12.12/ag	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

1. INTRODUCTION

- 1.0 The Council operates a scheme under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for the control of Street Trading in the City Centre, the Hoe and Barbican areas.
- 1.1 Under the scheme certain streets have been designated “Prohibited Streets” where Street Trading (with limited exceptions such as news vendors) is totally prohibited and other “Consent Streets” where Street Trading is permitted only with the consent of the Council. Within the designated areas the monitoring and enforcement of the Terms and Conditions of Street Trading licences and the prevention of unauthorised Street Trading is undertaken by enforcement staff, funded in part from the Street Trading Consent fees.

2. Duration of Consents for 2012/2013

- 2.1 Members considered the annual street trading report for the period 2012/13 at the meeting held on the 14 February 2012 and approved the consent period for City Centre Consents for 2012/2013 to run from Monday 19 March 2012 to Sunday 17 March 2013. Members also approved the consent fees for this period.
- 2.3 The proposal is now to:
 - 2.3.1 Extend the consents for the existing City Centre Consent holders for the period 18 March 2013 to 31 March 2013 (14 days) so expiration of such consents falls at the end of the financial year enabling ease of year end reconciliation. This would have to be achieved by issuing a new consent to the existing consent holders for the 14 day period as the provisions of the Act only allow consents to be issued for a maximum period of 12 months.
 - 2.3.2 Charge an additional 14 days consent fee, calculated as shown in Appendix 1. This proposed additional fee is a pro-rata calculation of the current annual fee.
 - 2.3.3 All future new City Centre Consents and Hoe ice cream consents are proposed to run for 12 months from the start of the each financial and trading year (1 April to 31 March).

APPENDIX 1

SITE	LOCATION	CONSENT FEE 2012/13	ADDITIONAL
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			CONSENT FEE FOR 18 MARCH 2013 TO 31 MARCH 2013
2A	New George Street	5964	£228.76
2B	New George Street (Waterstones)	5,964	£228.76
2D	New George Street (Waterstones)	5,964	£228.76
9	New George Street (Waterstones)	5,964	£228.76
3A	Bedford Way (Royal Parade)	3,591	£137.73
3B	Bedford Way (New George Street)	5,964	£228.76
4A	Old Town Street	3,591	£137.73
7	New George St Operating from top outside of Drake Circus to the area opposite Bedford Way	2,758	£105.79
8	New George Street Winter (Sundial area) seasonal	2,316	No change only taken up for 2 months at a time
8	New George Street Summer (Sundial area) seasonal	1,213	No change - unoccupied
10	Sundial/Armada Way Opp. Ernest Jones approved 2010 known as Sundial East	7,112.80	£272.82
11	Sundial,/Armada Way, opposite MadHouse. Known as Sundial West	7,112.80	£272.82
12	Cornwall St. flower bed opposite Superdrug	4,000	£153.42
13	Place de Brest, flowerbed opposite Specsavers	4,000	£153.42
14	Cornwall St. flower bed outside Specsavers	4,000	No change - unoccupied

PLYMOUTH CITY COUNCIL

Subject:	Street Trading Report 2013/2014
Committee:	Licensing Committee
Date:	8 th January 2013
Cabinet Member:	The Leader
CMT Member:	Anthony Payne (Director for Place)
Author:	Annette Laurie, Assistant Manager, Plymouth Waterfront Partnership (on secondment)
Contact details	Tel: 01752 305993 e-mail: annette.laurie@plymouth.gov.uk
Ref:	AL/CCC/STTRADING/ANNUALREP2013
Key Decision:	No
Part:	I

Purpose of the report:

This report seeks to set the process for issuing Consents for the 2013/2014 trading year.

Corporate Plan 2012-2015:

This report links to the delivery of the corporate priorities defined in the Corporate Plan. In particular:

- 1 Create a vibrant City Centre and support schemes that give renewed life to the City.

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

Street Trading is operated under the Local Government (Miscellaneous Provisions) Act 1982. The Council's policy is to administer street trading as a trading account and to finance all expenditure from the Consent fees. All activities including enforcement, administration, stall maintenance and improvements are financed from the Street Trading account. Progress now needs to be made to generate applications and issue Consents to maintain this income stream for the 2013/2014 financial year.

Consent fees were adjusted/increased for the period 2011/2012, however many traders struggled during this period due to the current economic climate. In order to support struggling traders through these difficult times there are no plans to increase fees for the period 2013/2014

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

The issuing of Street Trading Consents under the Council's street trading policy ensures that all Consent holders are properly licensed and operate in a hygienic and safe manner within the street trading policy guidelines. It also finances the management of Street Trading enforcement.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

It is recommended that:

- I. The Consent dates for 2013/2014 are approved.
- II. The consent fees set out in Appendix 1, for 2013/2014 are approved.
- III. 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 2013/2014
- IV. The Assistant Director for Economic Development has delegated authority to approve within Committee policy the issuing of Consents to new traders for vacant sites.
- V. 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.
- VI. The Assistant Director for Economic Development has delegated authority to approve and set fees for ad hoc street trading applications, within Committee policy.

Reason for recommendations:

These actions are recommended as the quickest option in facilitating the process of renewing Street Trading Consents for the start of the 2013/2014 trading year and maintaining the income stream.

Alternative options considered and rejected:

The authority to renew annual Consents and set Consent fees by referred to the Licensing Committee for approval. This would take up Committee time on routine renewals and due to Committee timetables would slow down renewal process which could result in a loss of income.

Published work / information:

NONE

Background papers:

NONE

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7

Sign off:

Fin	JR/PlaceF EDD1213 002.21.12.12	Leg	16443/19 .12.12/ag	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

1.0 INTRODUCTION

- 1.1 The Council operates a scheme under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for the control of Street Trading in the City Centre, the Hoe and Barbican areas.
- 1.2 Under the scheme certain streets have been designated “Prohibited Streets” where Street Trading (with limited exceptions such as news vendors) is totally prohibited and other “Consent Streets” where Street Trading is permitted only with the consent of the Council. Within the designated areas the monitoring and enforcement of the Terms and Conditions of Street Trading licences and the prevention of unauthorised Street Trading is undertaken by enforcement staff, funded in part from the Street Trading Consent fees.
- 1.3 The Council has identified 22 sites or locations within the designated Consented Streets where it will grant Street Trading Consents comprising:
- 14 sites, in the pedestrianised City Centre.
 - 7 sites in the Hoe and Waterfront area for the sale of ice cream from mobile vans.
 - 1 site in the City Centre from a mobile unit for the sale of ice cream
- 1.3 The purpose of the report is:
- a) To set the consent dates and fees for 2013/2014
 - b) To ask that the Assistant Director for Economic development be given delegated powers to approve the issuing of Consents

2. Duration of Consents for 2013/2014

- 2.1 It is proposed that all City Centre Consents commence on Monday 1st April 2013 and end on Monday 31st March 2014
- 2.2 It is proposed that all Hoe ice cream sites (vans) commence on Monday 1st April 2013 and end on Monday 31st March 2014

3. Consent fees for 2013/2014 background

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 (Sch 4 para 9) provides that a Council may charge fees as it considers reasonable for the granting or renewal of Street Trading Consents. In particular, it may take account of the duration of the Consent, the street in which it authorises trading and the description of articles in which the holder is authorised to trade
- 3.2 The Council’s policy is to administer its street trading scheme as a trading account and to finance all of its expenditure on street trading from the consent fees. The Council cannot, however, budget to make a profit on its street trading activities. Therefore the overall budgeted level of consent fee income must not exceed the amount that the Council reasonably consider will be required to cover the total cost of operating the

scheme, including the cost of taking criminal and/or civil proceedings against those who trade without consent

Consent fees were adjusted/increased for the period 2011/2012, however many traders struggled during this period due to the current economic climate. In order to support struggling traders through these difficult times there are no plans to increase fees for the period 2013/2014

Consent Fees for 2013/2014

3.3.1 Current consent fees are set out in Appendix 1 to this report.

4. Allocation Procedure

4.1 Existing consent holders in the City Centre are granted a degree of preference in the re-allocation of their consents unless applications are received for alternative trades that are sufficiently attractive to possibly warrant displacing an existing consent holder. It is recommended that the Assistant Director for Economic Development is authorised to grant Street Trading Consents to the existing city centre trader

4.2 In the City Centre, any Consents not renewed to existing traders are advertised and it is recommended Consents be allocated under delegated authority by the Assistant Director for Economic Development.

4.3 For the Hoe/Barbican the allocation of Ice cream consents to be undertaken by the Licensing Sub Committee, date to be set once applications have been received.

5 Street Trading during City Centre Events

The City Centre Company organises a number of events and entertainment each year in the City Centre. City Centre space is also used commercially for promotional activity. Opportunities for short-term street trading during these periods are often requested. This type of short-term street trading can add to the attractiveness of the City Centre making the City Centre a more desirable place to visit. It is proposed that in these instances the Assistant Director for Economic Development may approve short-term licences for street trading associated with events or promotional activity.

6. Ad Hoc Street Trading

6.1 From time to time applications are received from entrepreneurs with propositions who wish to trade in the City Centre for a period less than 12 months. They are self-sufficient and do not require a street trading stall. An example of these may be an artist wishing to draw and sell personal caricatures and another person seeking to sell his poetry on scrolls. Neither of these activities has the potential to clash with permanent shops or traders but would add to the vibrancy of the city centre and help to maintain the income stream. This type of trading does not require a fixed site and could be located comfortably and safely within the city centre.

6.2 The Committee is asked to give delegated authority to the Assistant Director for Economic Development to allocate ad hoc street trading Consents and set fees for this within Committee policy.

APPENDIX 1

SITE	LOCATION	CONSENT FEE 2011/2012 (Still current)	PROPOSED FEE 2013/2014
2A	New George Street (nr. former Woolworths building)	5,964	5,964
2B	New George Street (WHSmiths)	5,964	5,964
2D	New George Street (nr. Sundial)	5,964	5,964
9	New George Street (Waterstones)	5,964	5,964
3A	Bedford Way (Royal Parade)	3,591	3,591
3B	Bedford Way (New George Street)	5,964	5,964
4A	Old Town Street	3,591	3,591
7	New George St Operating from top outside of Drake Circus to the area opposite Bedford Way	2,758	2,758
8	New George Street Winter (Sundial area) seasonal	2,316	2,316
8	New George Street Summer (Sundial area) seasonal	1,213	1,213
10	Sundial East	7,112.80	7,113
11	Sundial West	7,112.80	7,113
12	Place de Brest East	4,000	4,000
13	Place de Brest, o/s Specsavers	4,000	4,000
	ICE CREAM SITES		
B	Madeira Road	4,238	4,238
C	Madeira Road	4,238	4,238
E	Hoe Road	10,457	10,457
F	Hoe Road	10,457	10,457
G	Hoe Road/Grand Parade	5,269	5,269
H	Pier Street	1,260	1,260
I	Cliff Road	1,025	1,025