

Licensing Sub Committee

Tuesday 26 February 2013

PRESENT:

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

Also in attendance: Ann Gillbanks, Senior Lawyer, Katey Johns, Democratic Support Officer, Pete Clemens, Senior Licensing Assistant, Lee McDowell, former PCC Specialist Environmental Health Officer (Licensing), James Taghdissian, Counsel for Devon and Cornwall Police, Fred Prout (FP), Licensing Officer, Devon and Cornwall Police, Councillor Tuffin, Councillor McDonald, Mr Roscoe and Mr Manoch Bahmanzadeh, premises licence holder.

The meeting started at 10 am and finished at 12.22 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.

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

Agreed that Councillor Rennie is appointed Chair and Councillor Mrs Bowyer is appointed Vice-Chair for this meeting.

74. **DECLARATIONS OF INTEREST**

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

(Councillor John Smith left the meeting after consideration of this item).

75. **CHAIR'S URGENT BUSINESS**

There were no items of Chairs urgent business.

76. **REQUEST FOR AN ADJOURNMENT**

The licence holder advised the Committee that he had submitted an appeal to the European Court of Appeal and proposed that it may be appropriate for the review to be adjourned pending the outcome.

Members considered the application from Mr Bahmanzadeh to adjourn the hearing pending the outcome of his application to the European Court of Appeal. The hearing was originally adjourned to await the outcome of the criminal proceedings and these had now been completed through the full judicial process. In accordance with s.182 Licensing Act 2003 guidance the licensing authority's duty is to take steps on the licence with a view to the promotion of the licensing objective in the interests of the wider community and should not

go behind the findings of the Court. Therefore Members agreed to continue with the hearing and reject the application to adjourn.

77. **DANCE ACADEMY, 121-123 UNION STREET, PLYMOUTH - REVIEW OF PREMISES LICENCE**

The Committee having –

- (i) Considered the report from the Director for Place
- (ii) Heard from the legal representative for Devon and Cornwall Police and considered the evidence from the Police witness and in the witness statement provided –

with regard to the background to the criminal convictions that:

- In 2005 they had been in receipt of intelligence to suggest that drugs were being supplied and used within the club which lead to them conducting an operation to investigate the extent of the activities and the increasing levels of violence in the club and admittance of under 18s to the premise.
- That as a result of test purchases carried out by Police Test Purchase Officer fifteen persons, who were identified dealers, were prosecuted for either the supply of drugs or possession with intent to supply. Thirteen of these were sentenced to terms of imprisonment ranging from twelve months to four and a half years and two received terms of imprisonment suspended for two years with 150 and 100 hours of unpaid work.
- There was a bar worker prosecuted for theft who received a 2 year conditional discharge and a further 7 persons who had sold drugs to the Test Purchase Officers who were never identified.
- The Management Team consisting of the Premises Licence Holder, the Designated Premises Supervisor, the Manager/DJ, were all charged jointly with permitting the premises to be used for the supply of class A drugs; a trial was held at the Plymouth Crown Court in June and July 2008.
- The outcome of the trial was:
 - The Designated Premises Supervisor was found not guilty
 - The Manager/DJ was found guilty on the 21 July 2008 and sentenced to 5 years imprisonment. He also was found guilty of possession of Class C drugs (Cannabis resin) and Class A (MDMA) found following a search of his home and received a sentence of one month imprisonment on each to run concurrent.
 - Manoch Bahmanzadeh (the Premises Licence Holder) was found guilty on the 21 July 2008 and sentenced to 9 years imprisonment.
 - On 17 December 2008 an application for leave to appeal the sentence was refused at the Criminal Court of appeal
 - In September 2010 a Confiscation Order in the sum of one million pounds was made pursuant to the Proceeds of Crime Act and has been paid

- On the 29 November 2012 a further application for leave to appeal was heard before the Criminal Court of Appeal. The conviction was upheld but the sentence was reduced to 90 months imprisonment.

With regard to the application for review of premises licence that:

- An application for review of the premises licence was lodged in May 2006. The application was adjourned until all the criminal proceedings were completed.
- An application to close the premises pursuant to s1 Anti-Social Behaviour Act 2003 was heard by the Plymouth Magistrates' Court and granted.
- The review was adjourned as a consequence of the criminal appeals and the order that the Dance Academy should retain its premises licence whilst the Proceeds of Crime Act timetable was in place. When the Confiscation Order was made, the Dance Academy not being included, a further appeal against sentence was commenced by the Premises Licence Holder

(iii) Heard from the Premises Licence Holder that –

- He had no intention of running any business in Plymouth or elsewhere, that he was retiring from business altogether and was only here today to clear his name.
- He also made other representations relating to the way the evidence had been presented at his trial which were not relevant for consideration by members for this decision

(Mr Bahmanzadeh left the meeting immediately after making his representations to Committee).

(iv) Heard from the representative for the Environmental Health Regulation Service on issues of public safety that –

- A visit was carried out to the premises in May 2006 where it was found that a number of slip and trip hazards existed in the premises
- The male toilets to the side of the main entrance had water all over the floor posing increased risk of slip hazard.
- The female toilets to the right of entry to main dance floor area, had very poor hygiene conditions, missing seats to the majority of the WC's and increased risk of slips and falls when using the facilities due to the build-up of debris and water on the floor.
- The standard of hygiene and cleanliness of the premise was extremely poor; levels of maintenance were substandard and the general condition of the premises posed a hazard to the patrons and performers, which showed the management had a systemic disregard for public health and public safety.

(v) Heard from the representative for interested party that –

- Had suffered for many years with noise pollution and anti-social behaviour caused by the premises which had been reported to the Ward Councillor and the Environmental Health department
- Had experienced some kind of peace and quiet since the premises was closed.
- Feared a return to patrons urinating or vomiting in doorways and noise from taxis and cars should the premises re-open

Members have considered the representations before them and the information of the criminal convictions for drug offences connected with the use of the premises and the representations from Environmental Health regarding the systemic failure of the management with regard to public health and safety. Members have considered whether it would be appropriate to consider either modifying licence conditions, excluding a licensable activity from the licence, removing the Designated Premises Supervisor or suspending the licence for a period of three months but in view of the evidence they have heard today Members consider that the crime prevention objective and public safety objective were being undermined to the extent that it is proportionate and appropriate to revoke the premises licence and have therefore agreed to revoke the premises licence.

78. **EXEMPT BUSINESS**

There were no items of exempt business.