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Tracey Lee
Chief Executive

Plymouth City Council
Civic Centre
Plymouth PL1 2AA

Please ask for Helen Rickman,
Democratic Support
T (01752) 398444
E helen.rickman@plymouth.gov.uk
www.plymouth.gov.uk/democracy
17 May 2013

LICENSING COMMITTEE

Tuesday 28 May 2013
10 am
Council House (Next to the Civic Centre), Plymouth

Members:

Councillor Rennie, Chair.

Councillor Gordon, Vice Chair.

Councillors Mrs Bowyer, Drean, K Foster, Jordan, Dr. Mahony, Monahan, Mrs Nelder,
Mrs Nicholson, Parker, Singh, John Smith, Kate Taylor and Wright.

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. TO NOTE THE APPOINTMENT OF CHAIR AND VICE CHAIR

The Committee will note the appointment of Councillor Rennie as Chair and Councillor Gordon as Vice Chair at the Council's AGM on 17 May 2013.

2. APOLOGIES

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

3. DECLARATIONS OF INTEREST

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

4. MINUTES

(Pages 1 - 46)

To confirm the minutes of the meetings of the:

Licensing Sub Committee held on –

- 15 January 2013
- 20 February 2013
- 26 February 2013
- 5 March 2013
- 19 March 2013
- 16 April 2013
- 23 April 2013
- 30 April 2013

and the Licensing Committee held on –

- 8 January 2013

5. CHAIR'S URGENT BUSINESS

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

6. INFORMATION REGARDING DELEGATED DECISIONS FOR APPLICATIONS FOR THE GRANT/ VARIATION OF PREMISES LICENSES AND CLUB PREMISES CERTIFICATES (Pages 47 - 50)

The committee will be provided with a report containing information regarding delegated decisions for applications for grant/ variation of premises licenses and club premises certificates.

7. PROPOSED NEW STREET TRADING CONSENT SITES (Pages 51 - 98)

The Director for Place will submit a report on proposed new street trading consent sites.

8. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 1 of Part 1 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.

9. MINUTES (Pages 99 - 100)

To confirm the minutes of the Licensing Sub Committee meeting held on 16 April 2013.

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Licensing Sub Committee**Tuesday 15 January 2013****PRESENT:**

Councillor Rennie, in the Chair.

Councillor Gordon, Vice Chair.

Councillor Mrs Dolan.

Councillor John Smith – Fourth Member (In attendance, but left before the start of the meeting).

Also in attendance: Pete Clemens – Senior Licensing Assistant, Debbie Bradbury – Lawyer and Amelia Boulter – Democratic Support Officer.

The meeting started at 10.00 am and finished at 11.30 am.

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

63. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

64. DECLARATIONS OF INTEREST

There were no declarations of interest.

65. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

66. EXEMPT BUSINESS

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

67. GRANT OF PERSONAL LICENCE (EI)

The Committee having –

- (a) considered the report of the Director for Place;
- (b) heard from the representative of Devon and Cornwall Police;
- (c) heard from the applicant and his witness.

Agreed that Members having heard from all parties considered it was necessary for the promotion of the crime prevention objective to refuse the application.

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Licensing Sub Committee

Wednesday 20 February 2013

PRESENT:

Councillor Gordon, in the Chair.
Councillor John Smith, Vice Chair.
Councillors Mrs Bowyer.
Councillor K Foster - Fourth Member (in attendance).

Also in attendance: Debbie Bradbury – Lawyer, Pete Clemens – Senior Licensing Officer, Amelia Boulter – Democratic Support Officer.

The meeting started at 10.00 am and finished at 12.30 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.

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

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

69. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

70. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's Urgent Business.

71. **CLIPPER INN, 65 UNION STREET, PLYMOUTH - VARIATION OF PREMISES LICENCE**

The Committee having –

- (i) heard from the parties present;
- (ii) considered the report from the Director of Place
- (iii) considered the written representations from interested parties;
- (iv) heard from the applicant's legal representative that:
 - the applicant asks to reduce the number of door supervisors required Monday to Thursday from 4am during the midweek period if there are less than 45 customers on the premises;

- details were provided of the number of patrons on the premises at various times of the day between July and November 2012;
- it may be possible to manage the smokers in the outside area and this would be a proportionate response;
- there had been an application for a new DPS which is being processed;
- the occupancy figure of 45 was calculated by looking at the suggested ratio of 2 door supervisors to 100 patrons in the Council's Licensing Policy;

(v) heard from the premise licence holder that:

- she would ensure matters are conducted as they should be and said her partner, the proposed DPS would work with her to ensure there are SIA registered door staff as required;

(vi) heard from the proposed designated premises supervisor that:

- midweek the premise is a lot quieter, consisting mainly of workers coming in around 3am to 4am;
- during the week they have no more than 15 people;
- he is doing relevant courses and is training for SIA registration so he would be available as a second door supervisor if required;
- if a second door supervisor is required he can phone someone or when he is qualified he would be able to be the second supervisor;
- their opening times are from 10pm to 8.30am during the week and 10pm to 9am at the weekend;

(vii) heard from the legal representative for Devon & Cornwall Police that:

- Devon & Cornwall Police applied for a review of the Clipper Inn's premise licence in April 2010 and again in April 2012. Both applications were based on the licensing objective for the prevention of crime and disorder;
- The grounds for these appeals were poor management of the premises, drunkenness, breaches of the premise licence conditions, increase in crime and incidents tied and linked to the premise, the lack of supervision and control of the outside smoking area, inability to contact the DPS and problems encountered in obtaining CCTV footage;
- At the Licensing Sub Committee in April 2012 it was decided that in order to promote the licensing objective of the prevention of crime and disorder, additional door supervisors at relevant times and in principal positions was required to reduce the crime and disorder occurring;
- The Police referred to the statistical evidence upon which the Licensing Sub Committee relied and the decision of that committee;
- The early indication is that crime and disorder, tied and linked to the premises is currently moving in the right direction and the conditions imposed are having a positive effect;
- It is the review of the constabulary that it would be a retrograde step should the application to vary be granted;

- With regard to changing the wording for the CCTV referred to the guidance under s.182 of the Licensing Act 2003 at paragraphs 4.18, 4.19 and 10.26.
- Mr Prout, the Alcohol Licensing Officer had researched all crime and disorder, tied and linked to the premise from April 2012 and has compared date and time charts in the same format as produced at the review hearing in April 2012 for comparison;
- The conditions imposed at the review hearing in April 2012 came into effect on 4 October 2012. From April 2012 to 4 October 2012, 17 crimes were recorded that are tied and linked to the Clipper Inn. These offences are recorded as theft (4), criminal damage (1), assault occasioning GBH (4), assault occasioning ABH (1), battery (1), affray (3), possession of drugs (1) and drunk and disorderly (1). There are a further five Police logged incidents for assault/disorder (4) and drug information (1). These occurred on various days of the week as outlined;
- From 5 October 2012 to 31 January 2013, 7 crimes were recorded that are tied and linked to the Clipper Inn. These offences are recorded as affray (1), assault occasioning ABH (2), theft (3) and drunk and disorderly (1). There are a further 2 Police logged incidents for disorder. These occurred on various days of the week as outlined;
- This showed there were still incidents of crime and disorder occurring which are linked to this premise but they have fallen dramatically from 17 incidents to 7 following the introduction of two door supervisors from 4am;

The committee took the above into account, the written representations received in support of the premise and considered all the documents provided by the parties.

Members were concerned that the removal of the door supervisor from 4am Monday to Thursday would lead to an increase in the levels of crime and disorder linked to the premise.

They were pleased to hear from the Police that the reported incidents of crime and disorder linked to the premise had fallen since the introduction of the requirement for a second door supervisor from 4am.

Members heard evidence from the Police that the reports of crime and disorder linked to the Clipper Inn all occurred outside the premise.

Members heard that it was necessary to clarify the requirement with regard to the condition in respect of the CCTV footage.

Agreed that having taken into account all of the above representations it was appropriate and proportionate that the variation application be determined as follows:

(1) Annex 3 – Conditions attached after review on 27.04.12.

An SIA door supervisor will be employed from 2am through to the close of the premise Monday to Sunday and a second SIA door supervisor will be present on the premise from 4am until the close of the premise and at such other times as the DPS feels will be appropriate for the safety and security of patrons.

The application to delete/amend this condition was refused.

(2) Annex 3 – Conditions attached after review on 27.04.12.

Two SIA door supervisors will remain in a principal position near the external front entrance from 4am to the close of the premise seven days a week to marshal patrons using the front external smoking area;

The application to delete/amend this condition was refused.

(3) Annex 3 – Conditions attached after review on 27.04.12.

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

The application to amend this condition to the following was granted:

The registered ICO Data Controller shall in response to any lawful written request to the DPS, download images and within 7 days of such request the DPS, shall contact the relevant responsible authority to tell them where the footage can be collected. The footage from the incident/day in question must then be retained for a further period of 14 days to ensure that if any further information is required it can be provided within the same terms as the original request.

72. **EXEMPT BUSINESS**

There were no items of exempt business.

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.

Licensing Sub Committee

Tuesday 5 March 2013

PRESENT:

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

Also in attendance: Ann Gillbanks, Senior Lawyer, Katey Johns, Democratic Support Officer, Linda Perez, Licensing Officer, Mr. Mitchell. Slinkies Manager (on behalf of the applicant), Mr Dallaway, Slinkies Sales Assistant, and Mr Dave Strudwick, Headteacher Designate of the Plymouth School of Creative Arts (on behalf of the objector).

The meeting started at 10 am and finished at 11.15 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.

79. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

80. DECLARATIONS OF INTEREST

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

(Councillor Mrs Bowyer (Fourth Member) left the meeting immediately following consideration of this item).

81. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

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

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) heard from the applicant's shop manager (the applicant's appointed representative) that:
 - the premises had been there for 40 years without issue with the

police;

- there was a large row of trees which, along with parked vehicles, obscured the premises from the school;
- staff had observed parents walking past without issue or crossing the street to avoid the premises;
- they had a wide client base;
- CCTV installed now includes monitoring the front of the premises and a double door entrance prevents unauthorised admittance;
- they had offered to revise the premises opening hours as per the objector's request (delay opening until 9.30 am and close between 3.15 – 4.15 pm for the first year, to be reviewed to 3.15 – 4.30 pm after that);
- no complaint had been received from Keystone Surestart Centre;
- they had complied with the Sub-Committee's condition imposed in February 2012 and changed the signage;

(iii) heard representations from the Headteacher Designate of the Plymouth School of Creative Arts (the School) (the objector's appointed representative) and considered the written representation that:

- the School had intended to locate in Millbay, subject to planning and final government approval in funding and that the planning application for the school will be submitted in spring;
- the School intended to launch in September 2013 with 150 pupils in the Cargo Building, Phoenix Street with an intake of Reception, Year 1 and 2. In September 2014 a brand new campus between Phoenix Street and Martin Street would be opened. At that point the Secondary school will take 240 Year 7 and 8 pupils and a further 90 pupils into the Primary years. Within 5 years the school will be full with 420 Primary pupils and 600 Secondary pupils;
- the School would help to regenerate the area and there was a perception that the shop could potentially have a negative effect on the character of the area;
- when the school reaches full capacity it is anticipated that the catchment will be mainly from the local neighbourhood and as such the pedestrian usage past the shop is likely to be increased.

(The meeting adjourned for ten minutes at 10.20 am for the applicant and objector to discuss whether mutually acceptable opening hours could be agreed).

(iv) considered representations under the licensing objectives (as set out in the Council's policy on Sex Establishment Licensing) as follows:

(a) **Prevention of crime and disorder –**

No representations heard;

(b) **Protection of safety, health and public decency –**

No representations heard;

(c) **Prevention of Nuisance –**

No representations heard;

(d) **Protection of Children from Harm**

That the School were concerned about the protection of children from harm in travelling to and from the school and the impact on safeguarding of the shop attracting customers to the Union Street area;

(e) **Protecting the nature, amenity and character of a neighbourhood –**

The proposed location of the school is under 400 ft from the applicant's shop, directly across Union Street and a likely route into the school for local families living north of Union Street;

(f) **Quantity Limit Statement –**

Considered the Council's Policy and Quantity Limit Statement which states that it is appropriate to have one in number sex shop in the Union Street location.

Agreed that having taken into account all of the above representations the application is GRANTED with a condition on opening hours be made as follows:

From September 2013 not to open before 9.30 am and to close between the hours of 3.15pm to 4.15 pm with a final closing hour of 8 pm.

83. **EXEMPT BUSINESS**

There were no items of Chair's urgent business.

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Licensing Sub Committee

Tuesday 19 March 2013

PRESENT:

Councillor Rennie, in the Chair.

Councillor Singh, Vice Chair.

Councillors Mrs Bowyer and John Smith (fourth member).

Apologies for absence: Councillor Gordon.

Also in attendance: Jamie Yabsley – Senior Project Officer (Business Team), Sharon Day – Lawyer and Amelia Boulter – Democratic Support Officer.

The meeting started at 10.00 am and finished at 11.05 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.

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

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

85. **DECLARATIONS OF INTEREST**

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

86. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

87. **EXEMPT BUSINESS**

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

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

The Committee having –

- (a) Considered the report from the Director of Place;
- (b) Heard from a representative of the City Centre team;

(c) Heard from the applicants.

Agreed that –

1. RM to be offered site B and site G;
2. KS to be offered site E;
3. EW to be offered site F;
4. KG to be offered site I;
5. DE to be offered site H and site C;
6. should any sites remain vacant or not be accepted by the current applicants, new applications will be sought in order to maintain the amenity and income stream. In this eventuality the decision on granting any ice cream trading consents for these sites will be delegated to the Chair of the Licensing Committee in consultation with the lead licensing member for the opposition.

Licensing Sub Committee

Tuesday 16 April 2013

PRESENT:

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

Also in attendance: Sharon Day (Lawyer), Katey Johns (Democratic Support Officer), Linda Perez (Licensing Officer), Mr David McIndoe (Licensing Officer, Devon and Cornwall Police), Rohdri Morgan (Environmental Health Officer).

The meeting started at 10 am and finished at 3.40 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.

89. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

90. DECLARATIONS OF INTEREST

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

91. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

92. PHOENIX TAVERN, 11 PHOENIX STREET, PLYMOUTH - GRANT OF PREMISES LICENCE

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) Heard from the applicant (both in written and verbal submissions) that:
 - They considered their operating plan addressed all areas of concern and that it took into account all potential problems concerned within the cumulative impact policy
 - Music levels will be closely monitored and noise reduction methods would be put into place. The same measures would be put in place as were now in place and working at the other premises operated by the applicant

- It was intended that all loud music would cease at 11pm and that from then until midnight calming music would be played prior to the disbursement of patrons.
- There have been no objections from local residents
- The nearest living space is in excess of 25 metres from the premises and the smoking area is located at the furthest point from the local flats
- They consider they are fully able to cover more than one premises by using strong management controls and in house training. They have written protocols for the staff which are detailed in the operating plan. The applicant and daughter will be actively involved in running the premises although a manager will be brought in at a later date.
- The use of PIR lighting and CCTV will have a positive impact on the area and will reduce the issue of drunks abusing passing locals, the use of the area as an open WC as well as reducing the area being regularly used by prostitutes
- The premises will help improve the area for local residents with a place of entertainment that does not require a late trip to a night club type facility
- The premises will support the regeneration of the Millbay and Stonehouse areas
- The controls and operation protocols submitted within their operating plan fully covers and enhances the control issues for the neighbourhood and would be positive action towards crime issues in the area. They considered it must be better to have the premises being used rather being an empty building in the area
- As they have not been able to access crime statistics for the area they have had to work with general information in their operation plan but they feel it covers best practice and covers a wide ranging risk assessment of the area and the premises operation.
- The main trouble times for Union Street are between 2am and 4am. The premises will be closing by half past midnight at the latest and so the area around the pub will be cleared well before the above times when trouble usually starts.
- Due to the financial climate it is unlikely that the pub will stay open for the times that have been put forward
- The applicant submitted an operation plan for consideration.
- The premises will not be a late night venue
- Mr Welch was not going to be involved in the running of the business and was only involved in building, renovation and staff training.
- The applicant would be willing to accept conditions put on the licence and would work with any conditions put forward
- The applicant wanted to make this a local pub with team events and local affordable food. The aim was to make the 'family Phoenix'.
- The applicant has run other premises for the last six years and has worked with the responsible authorities to address any issues that have arisen and it was acknowledged by the police and Environmental Health that this was correct.

- The applicant had been the chairman of the Plympton Pub watch scheme
 - The applicant handed in best bar none certificates and other documents in support
- (iii) Heard representations (both written and verbal) under the licensing objectives as detailed below:

a) **Prevention of Public Nuisance –**

Environmental Health stated that granting the application had the potential to undermine this licensing objective due to the licensable activities proposed and the proximity to residential properties.

The premises are situated directly across the road from large block of residential properties (approximately 20 metres away). Noise from live and recorded music until midnight and noise from patrons using the outside areas for drinking and smoking had the potential to impact upon the residents of these properties.

Complaints of noise had been received from residential properties in the area about noise from other licensed premises in the locality.

The premises is situated in a cumulative impact area and in the opinion of Environmental Health the application submitted had failed to put forward any steps to address the potential negative impact of the operating hours on this licensing objective with regards to local residents. In particular in relation to the operating hours until midnight and also the use of the outside areas. Whilst some controls had been put in place Environmental Health did not consider these to be sufficient.

To support this view Environmental Health stated they had concerns over the track record of the applicant due to the fact that the applicant has had two other premises and noise issues which arose at those premises had been slow to resolve. Additionally they were concerned that noise issues may recur through poor management as the applicant had not demonstrated in the current application how they will operate three separate premises in three wide ranging areas of the city.

Particular concerns with respect to this application related to:

- The operating hours of regulated entertainment
- Sound insulation qualities of the premises
- Control of noise breakout

- How complaints from residents would be prevented
- The control of patrons using and leaving the premises
- The capacity of the premises

Environmental Health stated that amendment of the licensable activity hours and the addition of conditions may address the licensing objective. They put forward the following conditions:

Proposed Hours and Conditions

- A. All licensable activities to cease at 23.00hrs
- B. Alcohol to be supplied 'on' the premises only.

Nuisance Management and Monitoring Controls

1. The Premises Licence Holder shall nominate a senior member of staff as the person responsible for the management, supervision, compliance with licensing conditions and general control of regulated entertainment. This person will also be responsible for instructing performers on the restrictions and controls to be applied.
2. Entrances are provided with lobbies and doors with automatic door-closers and shall be maintained in good working order.
3. No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.
4. An announcement will be made prior to closing requesting patron's co-operation in leaving the premises and vicinity as quickly and quietly as possible.
5. The Premises Licence Holder or nominated person shall ensure that exits will be manned at closing time to ensure that patrons leave the area quickly and quietly as possible.
6. A telephone number will be made available and displayed in prominent locations in CARGO building and the Phoenix Tavern for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection either by any relevant responsible authority

throughout the trading hours of the premises.

7. The Premises Licence Holder or nominated person will be available at all times during regulated entertainment and who is responsible for cooperating and liaising with any relevant responsible authority.
8. (i) The Premises Licence Holder or nominated person shall carry out observations in the vicinity of the properties at Phoenix Street/Sawrey Street, on at least 30min intervals whilst live music, karaoke, DJ's playing recorded music or any similar entertainment is taking place to establish whether there is a noise breakout from the premises.

(ii) If the observation reveals noise breakout at a level above background noise then the volume of music shall be reduced to a level is not above background noise levels.

(iii) A record of such observations shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise break out and any action taken to reduce noise breakout.

(iv) Such records must to be made available at all times upon request to a police officer or an officer of the local authority.
9. No percussion instruments will be permitted as part of any entertainment set.

Noise Limiting Devices

10. The Premises Licence Holder will ensure that the noise limiting device is sealed after commissioning, so that sound operators cannot override the system during the performance of live and recorded music
11. All doors and windows will be kept shut during regulated entertainment.
12. All doors and windows shall be maintained in good order and where appropriate acoustically sealed to minimize noise breakout.
13. Staff will check prior to the commencement of regulated entertainment, and periodically during regulated entertainment that all windows and doors are shut.
14. The exit door(s) will be fitted with a suitably constructed

lobby minimize noise break out from the premises.

15. The entrance doors to the premises will be fitted with automatic self-closers and maintained in a sound condition.
16. The windows and other exit doors will be acoustically glazed or suitably insulated to minimize noise breakout from the premises. (Details of any such works will be specified to the Environmental Health Department.)

External Area Controls

17. The Premises Licence Holder or nominated person shall erect and maintain, in a prominent position at every exit a clear, conspicuous and legible notice requesting patrons to avoid causing noise, nuisance or disturbance to local residents.
18. The designated smoking area will be for 'smoking only' and the licence holder or nominated person will take reasonable steps to prevent the consumption of any drinks in this area.
19. Management will control levels of noise in the outside area and advise customers of the need to respect local residents where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises.
20. A designated, de-lineated and bordered smoking area will be allocated outside the premises.
21. Suitable receptacles will be provided for cigarette litter within the designated smoking area.
22. There shall be no consumption of beverages purchased from the premises outside of the premises.
23. The outside seating area would be limited to a maximum number of persons at any one time with the figure to be determined by the applicant following a suitable risk assessment and agreed with the Environmental Health Authority prior to commencement of the licence.

Delivery/Collection/Storage

24. The handling of kegs, bottles cleaning equipment, bottle disposal and similar items will not take place before (*Insert*) hours or after (*Insert*) hours when the noise generated could cause a nuisance particularly outside the buildings.

Taxi Provision

25. A specific taxi operator has been nominated for staff and customers use. The company's telephone number is advertised to customers. The operator and all drivers are aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily. In addition, staff will leave as quietly as possible, particularly at night and early in the morning.

The committee considered that this representation was relevant but did not consider that they had heard sufficient information to justify a reduction in the times of operation or to limit alcohol sales to on sales only. However the committee were of the opinion that the other conditions (save for condition 24) put forward were appropriate and would address the above licensing objective.

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

Devon and Cornwall constabulary stated that the retail sale of alcohol and the provision of regulated entertainments was likely to have a negative effect of the above licensing objective. This was due to the location of the premises so close to residential homes and the impact of people who will gather in and around the premises (for example in the smoking area) would lead to a likely increase in levels of violence, disorder and anti-social behaviour.

Devon and Cornwall Constabulary stated that their records show that alcohol related crime levels and anti-social behaviour in the Union Street area remain high.

In relation to statistics it was stated that:

- the majority of crime in the neighbourhood occurs during the hours of 7pm to 7am and is not attributable to an individual premises with the peak times for crime being on Fridays and Saturdays.
- 88-94% of crime occurs between 7pm-7am within these hours in the cumulative impact area as a whole.
- Crime both in the neighbourhood and in the cumulative impact area generally increases from 10pm and peaks between 2am and 4am and then decreases until 7am.
- These premises last operated as a licensed premise in 2009 and were in the past been subject to police activity regarding the use of it by prostitutes, noise levels from live bands, and sales of alcohol to underage people and excessive drunkenness.

The police had concerns that the premises licence holder and DPS

will not be involved in the day to day running of the premises and that if her business partner is be involved in the premises that will further undermine the licensing objective due to previous his involvement in other premises. The police outlined the previous problems they had had with the applicant's business partner and his previous conviction.

The police further stated that the application did not demonstrate sufficiently the steps that would be taken to ensure that the grant would not impact upon the licensing objectives.

The committee considered that this was a relevant representation however they accepted the applicant's statement that Mr Welch would not be involved in the running of the business.

The committee took into account the fact that the Premises won't be open past half past midnight and also accepted that lighting and CCTV would assist in reducing crime and disorder in the area. The committee therefore did not consider that granting the application would add to existing problems with Crime and Disorder in the area.

However the committee did not consider that the applicant's operating schedule sufficiently detailed suitable conditions for CCTV and therefore in order to promote the crime prevention licensing objective the committee found that the following conditions would be appropriate to promote the crime prevention objective:

26. The Premises Licence Holder will ensure that a CCTV system which is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document regarding installation of CCTV.
27. The CCTV will cover all areas of the premises to which the public have access including any outside areas
28. Images will be retained for a minimum of 31 days
29. The system will be capable of downloading images to a recognizable viewable format.
30. At all times the premises are open for business a member of staff will be present who is capable of operating the system and downloading images at the request of police or a member of a responsible authority.
31. The CCTV system will be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.
32. The Premises Licence Holder or nominated person shall provide and maintain suitable and sufficient CCTV

surveillance systems to a specification provided by the Police Licensing Team, Charles Cross Police Station, Plymouth

33. The Premises Licence Holder or nominated person shall notify the Police Licensing Team, Charles Cross Police Station, Plymouth on any occasion when the CCTV system is inoperative during normal opening hours and shall then notify them when measures have been taken to restore the system.
34. The CCTV system shall incorporate a recording facility which shall be retained and stored in a suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the integrity of the recorded image and a complete audit trail maintained. The system will comply with the Data Protection Act 1998 and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. For premises using a video recording systems, to maintain the quality of the recorded image the cassette tape shall be used on no more than 12 occasions.
35. The CCTV system must be registered with the Office of the Information Commissioner (ICO)
www.informationcommissioner.gov.uk
36. The positions of all CCTV cameras shall be clearly shown on the deposited plans and any alteration to the system should only be carried out after consultation with the Police Licensing Team. Charles Cross Police Station, Plymouth

In addition the following condition was also considered appropriate to promote the crime prevention licensing objective:

37. That the premises become a member of best bar none scheme

A representation which was received from a business in the area which fully supported the application and considered the premises having a good CCTV system would cut down any anti-social behaviour and would increase security in the local area. This was considered to be relevant by the committee and was taken into consideration in reaching its decision.

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

No representations were received

d) **Public Safety –**

No representations were received

In reaching its decision the Committee has had regard to its licensing policy and the guidance issued by the Home Office.

The licensing policy provides for a special policy in respect of the Union Street area; the area within which the premises are situated. The policy states that where an application for the grant of a licence is made in that area, there is a presumption that the application will be refused where relevant representations are received and it is anticipated that the application will add to the problems of crime and disorder and/or public nuisance in the area and the applicant has been unable to demonstrate, within their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Relevant representations were received from Environmental Health and the Police that to grant the application would impact on the licensing objectives of crime and disorder and public nuisance in that it would add to existing problems in the area with regard to noise and crime and disorder.

The committee did not consider that the applicant had been able to sufficiently demonstrate through her operating schedule that the application would not have a negative impact on the licensing objectives referred to in the representations.

However following the guidance from the Home Office at paragraph 13.35 prior to refusing an application the licensing authority must still be able to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

With this in mind the committee considered that conditions 1-23, 25 and 26–37 above would be effective in promoting the licensing objectives.

Therefore it was agreed that having considered all of the above the licence would be granted subject to the mandatory conditions contained within the Licensing Act 2003, conditions consistent with the applicant's operating schedule and the conditions 1-23, 25 and 26-37 set out above as being appropriate to promote the relevant licensing objectives.

93. **WETHERSPOONS (FORMER LIBRARY), 95 - 99 RIDGEWAY, PLYMOUTH - GRANT OF PREMISES LICENCE**

This item was withdrawn from the agenda as representations had been withdrawn.

94. **EXEMPT BUSINESS**

Agreed to exclude the press and the public for the following item in accordance with regulation 14(2) of the Licensing Act 2003 (Hearing) Regulations 2005.

95. **THE AVONDALE ARMS, 206 KEYHAM ROAD, PLYMOUTH - APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR (EI)**

The Committee –

- (i) considered the report from the Director for Place;
- (ii) considered representations from Devon and Cornwall Constabulary that to grant the licence would undermine the crime prevention licensing objective;
- (iii) heard from the applicant.

Agreed that having taken into account all of the above representations the application would be refused as the Committee accepted the evidence provided by the Police that to grant the licence would undermine the crime prevention licensing objective.

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Licensing Sub Committee

Tuesday 23 April 2013

PRESENT:

Councillor Rennie, in the Chair.

Councillor John Smith, Vice Chair.

Councillors Mrs Bowyer and Mrs Nicholson (fourth member).

Also in attendance: Ann Gillbanks – Senior Lawyer; Linda Perez – Senior Licensing Officer, Mike Artherton – Parking and Highways Manager; Phil Conday – Senior Environmental Health Officer; David McIndoe – Devon and Cornwall Police and Amelia Boulter – Democratic Support Officer.

The meeting started at 10.00 am and finished at 2.30 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.

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

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

97. **DECLARATIONS OF INTEREST**

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

98. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

99. **MOBILE BURGER VAN, REGENT STREET, PLYMOUTH**

The Committee having -

(i) considered the report from the Director for Place;

(ii) heard from the applicant that:

- The application does not fall within the Council's Cumulative Impact Area therefore there is no added fear of disorder with regards to the catering van
- The van will be situated very close to the police station
- the applicant has considerable experience working in this type of business and has worked in Union Street for many years without problem.

- Has experience on how to manage busy periods by making sure that the vans are staffed properly to operate a very quick service
- if there were queues of rowdy drunk people waiting for food they would be served as quickly as possible to get them away and that they would be served within a couple of minutes of ordering
- hot drinks are not sold so that people do not stand around the van
- that there is CCTV fitted in the van which has 2 cameras running
- there is a fully charged mobile phone in the van for use in emergencies
- will use batteries on-board the van and LPG gas rather than use a generator to cut down problems of noise
- do not play music at the van so do not feel that there will be additional noise levels from people at the van as it would be just the same noise as occurs there
- would be willing to sponsor a couple of bins further down the road from the van to deal with litter and will ensure that there is no litter on site when leaving for the night
- will do litter inspections every hour or more frequently if necessary whilst open
- will check around the establishment at Regent Court, 280 meters away to ensure no litter has been thrown around there.
- The van will be parked adjacent to a brick wall which is not an obstruction to the exit of the car part and people will not be forced to walk on the road.
- The car park is not in use when trading
- LPG gas bottles are in a secure cabinet attached to the van and are regularly checked - there would be no oil residue left around the area
- The applicant holds a food safety rating of 5 from Plymouth City Council
- The application was made as there was a need for more work for current staff
- Students need more food outlets so they don't need to go home and put frying pans on
- There is no trouble at the present van operated by the applicant and staff move people on quickly
- Trained staff to help people
- There will be jobs created if the application is granted.

(iii) Heard representations (both written and verbal under the licensing objectives as detailed below:

a) Prevention of Crime and Disorder

Heard from Devon and Cornwall Constabulary that:

- The officer met with Mr Hamilton and discussed sites and made it clear the site would be an issue before the application was made
- The proposed location is adjacent to the entrance of the Regent Street car park in Plymouth
- The proposed location is on a small grass verge to the right of the car park exit as you face it
- To get to this location the vehicle will have to be driven onto a pavement and manoeuvred into place and the dimensions of the vehicle will mean it is parked partly on the grass verge and partly on the pavement

- There is a main fire hydrant situated at this location which will be masked by the vehicle
- Apart from the Road Traffic offences that would be committed driving the vehicle into position it is considered that the difficulty in gaining access to the fire hydrant during the hours of operation would have a detrimental effect on the licensing objective of Public Safety and would be a serious hazard should there be a fire in the unit or nearby property
- The area of Regent Street is adjacent to the Cumulative Impact area of North Hill adopted by the Plymouth City Council.
- Although the application falls outside of that area it is only approximately 50 meters away so it is considered that the Cumulative Impact Policy is a relevant consideration
- Having researched the Police Crime recording system can state that Violent Crime within the Greenback and University areas over a three year period has increased
- Provided details of statistics relating to violent crime within the night time economy for the period of 7pm to 6.59am
- The operation of this mobile catering van overnight will undoubtedly attract the presence of people who have been drinking alcohol, some to excess which will in turn lead to an expectation that the footfall in the area will increase
- It was a reasonable assumption that there will be an increase in noise, litter, anti-social behaviour and crime
- Experience shows that the operation of such units does encourage people not only to gather but to linger in the area which is a cause for concern as it indicates a potential increase in complaints regarding, noise, crime and disorder and public nuisance due to the presence of student, residential family dwellings and a retirement complex all within one hundred meters of the location
- CCTV and mobile phones will only address any problems with disorder after it has occurred
- In view of the above would recommend refusal of this application.

The Committee considered that all the representations were relevant.

b) Public Safety

Heard representations (both written and verbal) under the licensing objectives as detailed below:

Heard from Environment Health Officer that:

- The location of the mobile van would be a hindrance to the view of cars leaving the car park and will increase the likelihood of accidents at the exit to the car park and increase the danger during any emergency situation requiring the evacuation of the car park

- The proposed siting of the vehicle has the potential to force both customers and members of the public into the road, causing possible collision with passing vehicles
- The applicant has failed to consider the wider implications of public safety when proposing to site the mobile food vehicle.

The Committee considered this representation was relevant.

c) Prevention of Public nuisance

Heard from Environmental Health Officer (and also considered written representation) that:

- There is a potential for
 - increase in noise levels from patrons that may disturb nearby local residents
 - increase in existing noise levels due to the operation of equipment such as a generator, affecting local residents
 - increase in levels of litter and spilled food waste from patrons in the vicinity
 - increase in levels of grease and by-products of cooking in the immediate vicinity
 - potential odour nuisance from cooking smells affecting residential premises in the immediate vicinity
- Complaints have been received from local residents regarding issues of nuisance emanating from the operation of mobile food vendors trading in the North Hill area concerning issues of noise from generators, odour from cooking smells, grease, food debris and rubbish in general; with 10 specific complaints since 2008.
- Produced data from a survey of local residents entitled “Plymouth Customer Data Integration Project: Upload of Survey data-initial findings” and explained how the data was obtained from questionnaires being returned from households in the area and explained some the data contained in the survey
- As a result of the survey, further work was undertaken by officers of the Public Protection Service and operations were conducted on the 10 December 2010, 4 February 2011 and 4 March 2011 until 03.00 hours. A number of issues were highlighted and a number of incidents documented of people walking from both Mutley Plain and from North Hill dropping food wrappers on their way home. This is not from any specific premises and the wrappers are often found some distance from the source. New larger bins have been installed in this area but it is considered that the introduction of another take-away food outlet is likely to create further litter issues
- The survey demonstrates that the residents have been affected by the saturation of take-aways in the North Hill area
- That people will gather outside and may make noise in a residential area which is likely to include shouting. Shouting is difficult to control on a public highway.

- No measures on public safety have been presented by the applicant and not all people would be customers. No suitable conditions would control these issues.
- Recommended that the application be refused.

The committee consider this representation was relevant.

Heard from the Parking and Highway Manager (and also considered written representation) that –

- The physical location may not cause an obstruction and but would cause an obstruction to people exiting the car park
- the car park operates for 24 hours and although there is no access after midnight cars may exit at any time
- the weight of the vehicle will break down the pavement slabs creating greater maintenance requirements
- concerns on the LPG gas bottles being located close to the multi storey car park
- increased foot fall and people will have consumed alcohol and therefore raised concerns for safety
- proposed location would be subject to enforcement as there is a traffic order which imposes no parking or no waiting at any time which includes all the pavement
- recommended that the application be refused.

The committee considered the representations relevant with the exception of the traffic order contravention which is something that the committee cannot consider under the Licensing Act.

Heard from a number of other parties including Councillor Singh whose representations (written and verbal) covered issues:

- That residents suffer from noise and mess of late night revellers in this area.
- The streets are already littered with fast food cartons and bottles left by drinkers who return home in the early hours of the morning
- The clubs at the end of Regent Street thump out noise which spoils many a summers evening in residents gardens and which continues on into the morning
- That there is already a permanent similar establishment nearby, with a closing time of 04.30 and a fast food service van a few hundred metres away in Addison Road and the additional outlet would increase the already excessive noise and litter at night and early morning
- The previous manager of Regent Court submitted that litter in the garden fronting Regent Street has increased year on year during the time in management and also the residents have seen a significant increase since Regent Court opened in 1989 (litter consisting of discarded bottles, drinks cans, greasy paper and food cartons)
- In the summer months residents could not open their windows or use the gardens as they would be subject to smells and noise

- Food served was unhealthy and would not follow current government guidelines to encourage people to eat more healthily
- Although litter bins may be available not all members of the public would use them
- Doubted that the battery to power the van would last that long and would have to revert back to use a generator and that the generator could not run silently
- CCTV although fitted would only capture nuisance after it has occurred and would not control
- The van could cause damage to the grass verge and cause the pavements to become slippery
- The present manager of Regent Court submitted that rubbish is still thrown into the front garden into regent street, especially during the applied for hours and this application if granted would encourage more noise and litter
- That there was concern about the use of the car park in that it may attract people to eat in there and also possibly use as a public toilet. Residents had complained about urinating in the street to Councillor Singh at residents meetings
- The entrance and exit to the proposed development of the College of Art is likely to be blocked by the siting of this van
- One of the parties had visited other vans operating within the area and had noted that they left a greasy residue on the pavements and the area in general
- There are already other vans in the area and a designated food outlet in the area so there is no need for any more
- Recommend that the application is refused.

The Committee considered all relevant except for the comments about serving unhealthy food and damage to the grass verge as these are not something that the committee can consider under the Licensing Act. The comments about the visit made to other vans where greasy deposits were found was not considered relevant as they did not relate to vans that the applicant managed.

d) Protection of Children from Harm

No representations.

When questioned about staff and public safety the applicant explained that there was arrangements for toilet breaks to be taken at a local hotel and these would be timed so that did not coincide with busy periods to ensure that the van had staff when it was busy. The applicant considered that she had experience from running her other vehicles to be able to estimate peak times.

It was pointed out by the Parking and Highways Manager that parking in the proposed area would be in contravention of the traffic regulations order and therefore subject to enforcement. The applicant was not aware of this and declined the opportunity to adjourn to seek legal advice on the point.

The committee had concerns about these points but they are not relevant considerations under the Licencing Act.

The Committee agreed that having considered all of the above the applicant has failed to demonstrate that they will operate the premises in such a way as to promote the licensing objectives and the Committee therefore consider it appropriate to refuse the application

(Councillor Mrs Nicholson left the meeting prior to the Committee reaching its decision as she was not required as fourth Member).

100. **EL CAFE, 135 HOE ROAD, PLYMOUTH**

The Committee having –

- (i) Considered the report for the Director for Place;
- (ii) Heard from the applicant both in written and verbal submissions that:
 - The application was for a seafront café with art gallery below and associated artist studios
 - They have accepted the conditions proposed by the Environmental Health Officer
 - They will run the current café and extend the service to serve alcohol with sandwiches and meals and it is not intended to run the premises as a pub
 - Live music was applied for indoors and outdoors
 - They do appreciate the concerns about the noise concerning the salsa event but have agreed to the restrictions imposed by Environmental Health Officer
 - Have made arrangements to record the noise levels of the salsa music at a friend's premise in Grand Parade
 - Was happy to provide the residents with their contact numbers if noise levels rose
- (iii) Heard representations (both written and verbal) under the licensing objectives as detailed below:
 - a) **Prevention of Crime and Disorder**

No representations have been received from Devon and Cornwall Constabulary.
 - b) **Public Safety**

No representations.
 - c) **Public Nuisance**

Heard from other parties (written and verbal submissions) that:

 - The site is a small site, situated above the sea with access to the foreshore by way of steep, deep narrow steps and there are concerns for safety and accidents and potentially with people jumping into the sea

- Considered that the café was a credit to the city but does not want to see it turned into a pub with the granting of the licence
- There was no quarrel with applicant and felt the café was well run but did not want to change the character by the granting of any licence and that if a licence was to be granted that it should particularly contain the condition number 6 contained in the conditions put forward by environmental health
- The main concern about the premises related to the noise which is amplified due to the geography where the café is sited by the sea
- The noise from salsa performance has caused a nuisance in the past particularly the tone and the beat of the salsa music

The Committee considered this representation relevant but will be addressed by the conditions put forward by the applicant and also agreed by the applicant with Environmental Health Officers.

d) Protection of Children from Harm

Considered the written representation from the Safeguarding Business Unit that:

- They had agreed with the applicant that a condition would be added to the licence around the collection of glasses to prevent the possibility of partly left alcohol being consumed by the under aged
- That they had agreed with the applicant that a condition would be included that films would be censored before screening to ensure that they are suitable for children to view and for a condition to be added to the licence to deal with this (Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the premises, shall indicate clearly the category of the film).

The Committee considered this representation relevant.

Therefore it was agreed that having considered all of the above the licence would be granted subject to the mandatory conditions contained within the Licensing Act 2003, conditions consistent with the applicant's operating schedule and conditions put forward by the applicant; The conditions put forward by Environmental Health also to be added to the licence and also to include the following condition to deal with the Safeguarding Business unit concerns - Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the premises, shall indicate clearly the category of the film.

101. **EXEMPT BUSINESS**

There were no items of Chair's urgent business.

Licensing Sub Committee

Tuesday 30 April 2013

PRESENT:

Councillor Rennie, in the Chair.
Councillor Mrs Bowyer, Vice-Chair.
Councillors Mrs Dolan (Fourth Member) and Kate Taylor.

Also in attendance: David McIndoe, Devon and Cornwall Police Representative, Marie Price, Licensing Officer, Mr Guney Naci, Applicant, Ann Gillbanks, Senior Lawyer, and Katey Johns, Democratic Support Officer.

The meeting started at 10 am and finished at 1.16 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.

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

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

103. **DECLARATIONS OF INTEREST**

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

104. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

105. **CORNER SHOP, 81 NORTH HILL, PLYMOUTH - REVIEW OF PREMISES LICENCE**

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) adjourned for one hour to allow the applicant a further opportunity to seek legal representation and, in the absence of this being achieved, reconvened having agreed that it was in the public interest to continue the hearing having regard to the licensing objective “protection of children from harm”
- (iii) heard from a representative of Devon & Cornwall Police (the Police) and considered written representations that –

The application for review of the premises licence was being made under the licensing objective of protection of children from harm

On Friday 14 September 2012 the Police conducted a test purchase operation aimed at off licence premises in Plymouth. During this operation 16 premises in total were tested. Two premises including the Corner Shop failed

The test purchaser was a 16 year old female (briefed to reveal true age if challenged) but she was not challenged and no identification was requested. The offender was at the time the business partner of the premises licence holder. This was a first test failure.

On the 7 February 2013 the Police received information that the premises were selling tobacco and alcohol to persons who were underage

On 13 February 2013 the Trading Standards Department of the Council in partnership with the Police carried out a test purchase operation aimed at off and on licence premises in the Plymouth area. The test purchaser was briefed that they could lie about their age but to produce ID if requested.

One of the premises that failed was the Corner Shop where the premises licence holder and DPS sold alcohol to a 16 year old male test purchaser. He did not request identification but did ask his age and date of birth, to this the test purchaser replied by giving a false date of birth which the premises licence holder considered meant that he had complied with the law and made the sale. In the interview that the Police carried out on 13 February the premise licence holder stated that the policies the shop had in place were challenge 18 for tobacco and challenge 25 for alcohol

On 19 February 2013 the Police received further information that the Corner Shop was selling alcohol and tobacco to persons under the age of 18 years

Other underage people have heard that the shop are making underage sales and intelligence is that they are travelling from all other Plymouth to this shop

Following this operation the premises licence holder received a letter from Plymouth City Council dated 20 February 2013 indicating his failure and advising him to obtain the necessary training and adopt the "no proof of age no sale" procedure

On Wednesday 6 March 2013 the premises licence holder attended a meeting at Charles Police Station and established that he had not provided or received any training in underage sales since taking the examination to obtain his personal licence.

It was also established at that meeting that when the premises licence holder personally made the sale on the 13 February that he had relied on the female to answer his questions but had not asked to see any identification; and that he had not made an application to update his training nor follow the advice given by the Council in their letter dated 20 February 2013

At the end of the meeting on the 6 March 2013 the premises licence holder was informed that it was considered that he had breached both condition 3 of the Protection of Children from Harm section of his premises licence and also conditions 3 and 4 of the Mandatory conditions attached to the premises licence.

On 16 March police intelligence was that a group of teenagers entered the premises and bought in the region of £80 worth of alcohol

On Friday 26 April 2013 a further positive test purchase was carried out where a shop assistant sold alcohol to a 16 year old test purchaser. This is the third failure since September last year

The Police are of the opinion that the failure to comply with conditions has resulted in the commission of the offences listed and consequently has had a negative result on the licensing objective of the protection of children from harm.

The premises are small and Mr Naci is the premises licence holder and the DPS. There are already mandatory and voluntary conditions attached to the licence that are not being adhered to. The Police had checked with PCC underage sales officer and no records could be found either with PCC or SWERCOTS requesting advice or training on the issue of underage sales

It was confirmed that the premises licence holder had been advised by the Police of the need for training as he appeared to be disregarding the age of customers

The premises licence holder has been directed by the Police and PCC about the conditions on his licence which he is failing to comply with

The sale on 26 April is the third failure of sales since September last year and the Police have concerns not just regarding the underage sales to children but are concerned that the premises licence holder has no concerns about the effects this is having on the community.

As a result of these test purchases and the premises licence holder's failure to comply with current licence conditions it is considered that no further conditions will satisfactorily address the issue and

therefore the Police submission is that the committee consider revoking the licence

The Police consider that the premises licence holder has failed to engage effectively with any responsible authority to address the training issues

(iv) heard from the premises licence holder that –

The first failed test purchase was carried out by the premises licence holder's business partner and that, as a result of a discussion after this time, he has now bought out his business partners share of the operation

With regard to the third failed test purchase on 26 April this had been carried out by one of his staff whom he has now dismissed

With regard to the second failed test purchase on 13 February the premises licence holder confirmed that he conducted this himself but he said it was a genuine mistake on his part. He had asked for the persons age but had not been aware that a test purchaser would not give the correct age and therefore relied on the fact that the age given was over 18 so made the sale

He had trained himself and his staff informally via information he obtained from the internet but that he did not keep a written record of this

He and his staff do refuse under age sales but they do not keep a formal record of any refusals but said that his CCTV would record refusals made for the 30 days that information was kept on the system

In his experience people do not always carry ID such as passports with them and that they get abusive when ID is requested and he said that there was an incident at his shop which was alleged that the persons friend smashed the window when they were unable to provide ID when requested

There have been a number of occasions where the staff have had abuse from people who had been refused sales and it was alleged that there had been incidents of theft of alcohol following one such refusal

He informed committee that only the day before the hearing he had made a refusal of sale

The shop is located near the University and most University students are over 18 and do not always carry ID with them

The Police have only seen three failed test purchases but we do refuse sales all the time but there have been a couple of times when there has been a genuine mistake

(v) considered written representations in support of the premises that –

One person has regularly used the shop and that on more than one occasion had witnessed people being asked for ID and being refused to be served without ID, and that the person in the shop does a great job and is good for the area

One person has been a resident in the area for 14 years and that the premise was nearest to home and had the most convenient opening hours and reasonable prices. The person also confirmed that they had been asked to identify themselves when purchasing alcohol and had also witnessed other customers being asked to identify themselves when making age restricted purchases

The Committee considered responses to questions made during the hearing as follows:

The Committee had concerns about the premises licence holder's ability to follow the challenge 21 policy which is advertised in the posters provided to him by the police and which are displayed in his shop

In response to question about whether he reported the incidents of damage to the property the premises licence holder said he had reported some incidents and received little support from the Police

Members were also concerned by the response to questioning regarding the premises licence holder's understanding of the conditions on his premises licence where he said he considered he needed more advice about this despite the fact that the licensing officer confirmed the licence had been issued in 2011 with advice and also in 2012 with advice on conditions

The premises licence holder confirmed under questioning that he did not keep a written record of refusals to sell alcohol nor did he keep any written record of training undertaken or provided to staff in accordance with licence conditions

The Committee considered that the response that the premises licence holder still required advice on the conditions demonstrated that he clearly did not understand the conditions and responsibilities of a premises licence holder and of a designated premises supervisor in the requirements of sales of alcohol and this became apparent under questioning

The Committee also asked the Police representative why so many test purchases had been carried out in a relatively short period of time and were advised that this was due to the level of intelligence and frequency of activity in the premises

Having taken into account all the relevant representations made, the Committee have considered whether they could deal with this matter by imposing additional conditions, or removal of DPS or suspending the licence for three months but regrettably do not consider

that these actions would properly address the licensing objective of protection of children from harm given the fact that an underage sale took place on the Friday prior to this hearing.

The Committee are also concerned that there is a complete disregard by the premises licence holder of compliance with the licensing conditions already imposed and a breach of licence conditions by the premises licence holder admitting failure of keeping necessary records in accordance with mandatory conditions.

The Committee consider for all the above reasons that it is appropriate to revoke the licence and have therefore agreed to revoke the licence.

(Councillor Mrs Dolan left the meeting at the start of this item having not been required as Fourth Member).

106. **EXEMPT BUSINESS**

There were no items of exempt business.

Licensing Committee

Tuesday 8 January 2013

PRESENT:

Councillor Rennie, in the Chair.

Councillor Gordon, Vice-Chair.

Councillors Mrs Bowyer, Churchill, K Foster, Fry, Mrs Nicholson, Singh and John Smith.

Apologies for absence: Councillors Browne, Sam Davey, Jarvis and Mrs Nelder.

Also in attendance: Ann Gillbanks, Senior Lawyer, Annette Laurie, Assistant Manager, Plymouth Waterfront Partnership, Katey Johns, Democratic Support Officer.

The meeting started at 10 am and finished at 10.22 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.

13. **DECLARATIONS OF INTEREST**

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

14. **MINUTES**

Agreed the minutes of the Licensing Sub Committee held on 16 October, 23 October and 13 November 2012 and the Licensing Committee held on 30 October 2012.

15. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

16. **STREET TRADING REPORT - AMENDMENT TO ANNUAL CONSENT DATE 2012/13**

The Committee considered the report of the Director for Place seeking to amend the dates for street trading consents and permits to end of March 2013. Annette Laurie, Assistant Manager, Plymouth Waterfront Partnership, was in attendance to present the report and advised members that -

- (a) currently, Street Trading permits and consents ran from mid-March to mid-March;
- (b) the expiration of consents should fall at the end of the financial year enabling ease of year end reconciliation. It would therefore be necessary to put in place a temporary extension for existing consents for the period between 18 March

and 31 March 2013 in order that all future new consents/permits would run from the start of the new financial and trading year and end accordingly.

Concerns were raised that the Portfolio Holder had not seen the report prior to its submission to Committee. Members sought and received assurances that this would not happen again.

Agreed –

- (1) that short term consents for existing City Centre Consent holders are issued for the period 18 March 2013 to 31 March 2013 (14 days);
- (2) to 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) the additional consent fees shown in Appendix I to the report;
- (4) 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).

17. **STREET TRADING REPORT 2013/2014**

Further to minute 16 above, the Committee considered the report of the Director for Place seeking to set the process for issuing street trading consents for the 2013/14 trading year. Annette Laurie, Assistant Manager, Plymouth Waterfront Partnership, was in attendance to present the report and advised Members that following consultation with traders, and in light of the current economic climate, it was not proposed to increase the fees for the 2013/14 trading year.

Members welcomed the report and were happy to agree the recommendations subject to the following slight amendments –

- the addition of the words “subject to annual review” to the end of recommendation (2);
- the addition of the words “in consultation with the Chair and Shadow Lead of Licensing Committee” to the end of recommendations (4), (5) and (6).

Agreed –

- (1) the consent dates for 2013/14;
- (2) the consent fees for 2013/2014 as set out in Appendix I to the report, subject to annual review;
- (3) to delegate authority to the Assistant Director for Economic Development to approve, within Committee policy, the issuing of Consents to existing city centre traders seeking to continue trading during 2013/14;

- (4) to delegate authority to the Assistant Director for Economic Development to approve, within Committee policy, the issuing of Consents to new traders for vacant sites, in consultation with Chair and Shadow Lead of Licensing Committee;
- (5) to delegate authority to the Assistant Director for Economic Development to approve, within Committee policy, short term street trading consents in association with other city centre events and commercial activity, in consultation with Chair and Shadow Lead of Licensing Committee;
- (6) to delegate authority to the Assistant Director for Economic Development to approve, within Committee policy, to approve and set fees for ad hoc street trading applications, in consultation with Chair and Shadow Lead of Licensing Committee.

18. **EXEMPT BUSINESS**

There were no items of exempt business.

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

Committee: Licensing Committee

Date: 28 May 2013

Cabinet Member: Councillor Brian Vincent

CMT Member: Director of Place

Author: Peter Clemens

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

Ref: ERS/LIC/PREM

Key Decision: None

Part: I

Purpose of the report:

Applications have been received from various premises within Plymouth for the grant / variation of a premises licence under Sections 17 and 34 or the grant / variation of a club premises certificate under Schedule 8 and Section 84 of the Licensing Act 2003.

Corporate Plan 2012 – 2015:

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

I. Delivering Growth.

See <http://www.plymouth.gov.uk/corporateplan.htm>

Implications for Medium Term Financial Plan and Resource Implications:

Including finance, human, IT and land

Not applicable

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

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Alternative options considered and rejected:

None.

<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing/guidance-s182?view=Binary>

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Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

- 1.1 Since the introduction of the Licensing Act regime in 2005 applications have been received for the grant and variation of premises licences and club premises certificates. Some of these applications have received representations from responsible authorities or interested parties and have been mediated out by agreement with both the applicant and the respective responsible authority without the need to bring the applications before the committee for determination.

2.0 RESPONSIBLE AUTHORITIES

2.1 *Environmental Health*

JD's Grill	City Centre
Prince Albert	Devonport
Barcelona	City Centre
Tiki Bar	City Centre
Le Vignoble	Stonehouse
Sizzall	City Centre
Le Bistrot Pierre	Stonehouse
Wagamama	Stonehouse
Wetherspoons	Plympton

2.2 *Devon and Cornwall Police*

Ron Dewdney's	Devonport
Prince Albert	Devonport
Indian Restaurant	Bretonside
TR2	Cattedown
Polski Smak	Mutley
Barcelona	City Centre
IL Capriccio	City Centre
Tiki Bar	City Centre
Sizzall	City Centre
Le Bistrot Pierre	Stonehouse
Royal William Bakery	Stonehouse
Wagamama	Stonehouse
Wetherspoons	Plympton
Rockfish	Barbican
Reel Cinema	City Centre

2.3 *Trading Standards*

Prince Albert	Devonport
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2.4 *Child Protection*

Reel Cinema	City Centre
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3.0 CONSIDERATIONS

- 3.1 Section (9.27) of the Guidance issued under section 182 of the Licensing Act 2003 and section 18(3)(a) of the act states that a hearing does not have to take place if there are representations but all parties can reach an agreement through a mediation process. When written agreement has been made representations are then withdrawn and the agreed conditions are included within their operating schedule. In such cases officers can determine the application.
- 3.2 The premises listed above are ones that have been dealt with by way of mediation and written agreement for the period between 1 June 2012 until 15 May 2013 and this report is submitted for the information of the committee.

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PLYMOUTH CITY COUNCIL

Subject: Proposed New Street Trading Consent Sites
Committee: Licensing Committee
Date: 28 May 2013
Cabinet Member: Councillor Brian Vincent (Environment)
CMT Member: Anthony Payne (Director for Place)
Author: Phil Conday, Senior Environmental Health Officer
Contact details: 01752 305480
Email: phil.conday@plymouth.gov.uk
Ref: PPS/SHL/ST1
Key Decision: No
Part: I

Purpose of the report:

Street trading restrictions currently only apply to a designated list of streets. Within these areas street trading is restricted to specifically authorised sites. The Plymouth Waterfront Partnership Business Investment District (BID) wishes to review street trading within the BID area. Part of this review is to introduce new street trading sites which will augment existing provision and support future business development in the area.

This report seeks approval for the introduction of 10 proposed street trading sites on Madeira Road and Hoe Road and set the appropriate consent fees.

Corporate Plan 2012 – 2015:

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

Delivering Growth: The Waterfront BID aims to improve the economic success of a vital part of the City. The ability to offer low cost trading opportunities for suitable businesses will assist by extending the range of services and products available in the area.

Value to Communities: Street trading must be undertaken in a controlled manner to minimise the risk of the businesses having a negative impact on an area, for example through highway obstruction, causing nuisance or by providing poor quality services.

**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 and improvements are financed through the consent and pitch fees.

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

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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 aspects 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:

1. Approval is granted for the introduction of 10 proposed street trading consent sites with associated fees as listed in Appendices 1 and 2
2. Officers are authorised to advertise the consent sites for the remainder of the 2013/14 financial year
3. Committee delegate approval to the Licensing Sub Committee of all new applications for consents.

These sites have received objections and comment as part of the consultation process, but have been overcome in liaison with those raising objections. The fees are deemed appropriate to cover all costs associated with the consent and provisions of facilities for each site.

Alternative options considered and rejected:

The authority could decide not to approve the introduction of one or more of the proposed trading sites, resulting in a potential loss of amenity or facilities for visitors to the Hoe area.

Published work / information:

[Street Trading and Pedlary Laws: A joint consultation on draft regulations to repeal the Pedlars Acts \(UK wide\) and make changes to the street trading legislation in England, Wales and Northern Ireland](#)

[Local Governemnt \(Miscellaneous Provisions\) Act 1982](#)

[Street Trading - Plymouth City Council website](#)

[Street Trading Consultation for Hoe Road and Madeira Road](#)

Background papers:

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Sign off:

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Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes													

1.0 Introduction

- 1.1 The Council currently operates a scheme under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA1982) for the Control of Street Trading in the City Centre, the Hoe and Barbican areas only.
- 1.2 Under the scheme, certain streets have been designated as “Prohibited Streets”, where street trading is prohibited, and other streets designated as “Consent Streets”, where street trading is permitted only with the consent of the Council.

2.0 Proposed Street trading sites

- 2.1 The Plymouth Waterfront Partnership (PWP) had originally established 15 potential new street trading consent sites located within the historic Waterfront area of Plymouth. These are located in the areas of Madeira Road and Hoe Road, both of which are Consent Streets.
- 2.2 It is proposed that the street trading sites are allowed to trade for 12 months of the year, with exclusions during special events or circumstances such as road closures due to highway maintenance. Consideration may be given during the application process to reduce this duration where the vendor is proposing to operate on a seasonal basis. Fees can be reviewed in line with any changes to the duration of the consent.
- 2.3 The proposed sites are static pitches and are in addition to existing consents given to ice cream vendors from mobile vehicles. The proposed acceptable trade types are detailed in the Proposed Site and Fee Table in Appendix I. In order to offer a diverse range of products, there are no specific limitations to the types of acceptable trade in some cases. However, the sale of ice cream products will not be accepted at any of the proposed pitches.
- 2.4 It is proposed that the Committee have the final sanction on deciding the suitable type of trade at each proposed site.

3.0 Consultation

- 3.1 In determining any possible negative and positive implications of introducing the new trading sites, consultation was undertaken with:
 - Devon and Cornwall Police
 - Devon and Somerset Fire and Rescue Service
 - Plymouth Transport and Infrastructure
 - Plymouth Transport & Highways (AMEY)
 - Plymouth Pannier Market Manager
 - All current Street Trading Consent holders
 - The Waterfront Business Improvement District (BID)
 - Business Members that operate in the PWP BID area
 - The City Centre Business Improvement District
 - Planning
 - Legal Services
 - Property and Facilities Management

- Parking Division
- Waste Collection & Street Scene
- Environmental Health
- Plymouth Community Safety Unit
- Economic Development

4.0 Considerations of Representations

- 4.1 Following consultation, the Public Protection Service has received a number of responses, which can be found in Appendix 4. The responses have been considered and have resulted in amendments to the original proposals.
- 4.2 Consultation responses from Internal and External Agencies are summarised below:
- 4.3 Plymouth Transport & Highways Department have raised concerns that the public access across the highway is not sufficient, if certain proposed sites are granted. The Department have outlined that a minimum of 2 metres from kerbside to the façade of the proposed trader would be acceptable.
- 4.4 Devon & Cornwall Police have also echoed these concerns from a public safety point of view, as any smaller gap may force members of the public into the road increasing risk of collision with vehicles.
- 4.5 As a result, it is the Officer's recommendations that proposed site 6, site 7, site 10, site 12a and site 12b would not meet this criterion, and should therefore not be pursued any further and withdrawn.
- 4.6 Plymouth City Council Transport & Infrastructure Department have raised concerns with regard to the proposed new sites:
- i) Loss of amenity and revenue through use of pay & display parking – An objection was raised that the proposed trading locations will impact on the provision of pay & display parking spaces, with regard to number available and potential revenue losses. The proposed trading sites will be situated on the pavement, away from any parking bays. Any vehicles associated with the trader will be subject to the existing parking requirements provided on the Hoefront. There will therefore be no loss of on street pay & display parking.
 - ii) An objection was raised that the proposed trading sites were not suitable on Commercial Wharf, which was described as a working Wharf. The proposed trading sites will not be located on Commercial Wharf and will be situated on the highway.
- 4.7 Plymouth City Council Economic Development Department have raised concerns that the proposed traders will clash with organised events held on the Hoefront, such as Plymouth Half Marathon, Lord Mayor's celebrations or similar large scale events that attract event catering or road closures. Where this is the case, it will be proposed through conditions of the street trading consent that the affected proposed traders may be excluded during such events, where no refund of fees will be made. This is currently an existing condition of trading with regard to ice cream vendors in these areas and is detailed in Condition 24 of Appendix 3.

5.0 Consultation responses from local businesses, groups and organisations:

- i) Waste control and litter – concerns have been raised about the generation of rubbish and litter from proposed businesses. In order to reduce the likelihood of rubbish and littering of the street, a condition of the street trading consent will require traders that supply hot or cold food, to provide a suitable waste receptacle for the public to use. Under the Environmental Protection Act 1990, businesses additionally have a Duty of Care to control their waste and ensure appropriate disposal. This will place a lesser burden on the usage of public waste receptacles located on the Hoefront.
- ii) Concerns and objections have been raised concerning the introduction of new street traders that will sell hot or cold food. These concerns have focused on a potential loss of trade due to increased competition between existing and new food outlets. This can be considered by Committee as part of the application process with regard to the choice of product to be sold for the local amenity and location to existing traders.
- iii) Type of structure and safety – it was highlighted from the Consultation that the provision of gazebos and tents will not be safe during high wind conditions, on exposed areas of Hoe Road and Madeira Road. It is therefore proposed that applicants submit details of their trading structure, which should fit within the requirements of the Conditions and be of a suitable and safe construction. It is recommended that consideration of the suitability of the structure forms part of the approval process.
- iv) Health, Safety and Hygiene of potential food vendors – concerns have been raised concerning the health, safety and hygiene of practices undertaken by potential hot & cold food traders. All food traders will be required to comply with relevant food safety, health & safety and fire safety Legislation, and will be subject to stringent conditions through the application process, such as a requirement for training in basic food hygiene.
- v) Noise from new street traders – concerns have been raised about the potential for noise from the use of generators to supply electricity to vendors. It is proposed that the use of generators is not acceptable. Currently, there is no electricity supply provided to the proposed site location, however, this may be introduced following a review of these street trading sites and any changes in types of trade that may require an electrical supply in the future.
- vi) Odour from proposed new street traders - with regard to odour, it is perceived that this will not be of concern due to the proximity of proposed trading sites to existing businesses and domestic premises. The distance is sufficient to naturally disperse odours into the air without causing nuisance. This can also be a consideration during the suitability of applicants during the application process.

6.0 Fees

- 6.1 Fees can be recovered for the administration and enforcement of the system. This is not a revenue raising power and as such no revenue can be accrued.
- 6.2 A list of the proposed fees for the consent site can be found in table Appendix I
- 6.3 The Annual Fee is proposed to include both the Consent and Pitch Fee. The Consent Fee will be set £400 per site, which will cover the general administration generated by the introduction and maintenance of the consent. The Pitch Fee will be used to facilitate the

operation of the site, which will include maintenance and improvement of the site for the period of the consent.

- 6.4 Fees may be subject to review annually, where it may be increased or decreased based upon the level of revenue generated against the administration of the consent regime.

7.0 Conditions of trading

- 7.1 The Council applies standard conditions to Street Trading Consents. This is to ensure that street traders can undertake the business in a controlled and safe environment, whilst minimizing any negative impact on the local amenity.
- 7.2 The standard conditions are not exhaustive and other conditions may be added to individual consents where appropriate. A list of the standard conditions can be found in the Appendix 3.
- 7.3 No outdoor seating will be permitted for the proposed trading sites, in order to separate street traders from existing businesses that provide seating for customers.

8.0 Approval of Applications:

- 8.1 It is proposed that the Public Protection Service and Plymouth Waterfront Partnership Business Improvement District (BID) receive copies of the application for consideration. Consultation with other agencies and bodies will form part of the consideration for suitability of the application.
- 8.2 The consultees will include those as outlined in Section 3.0 of this report.
- 8.3 All applications will be submitted to Committee.
- 8.4 In making a decision to accept or refuse an application, regard should be made to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Appendix I**Proposed Site and Fee Table:**

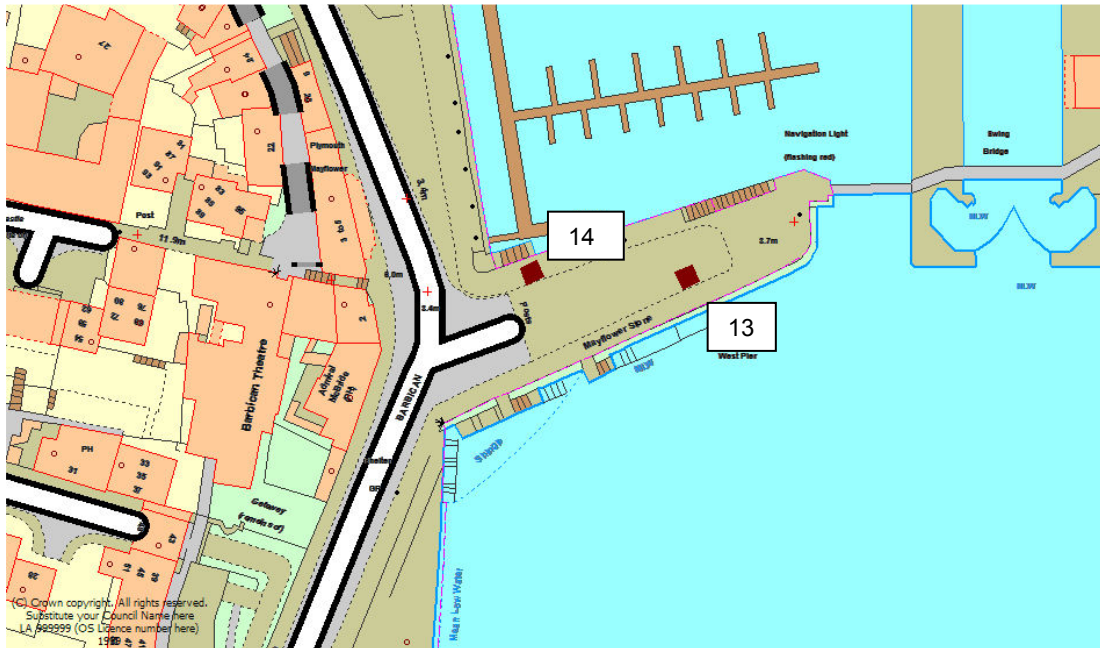
Site Number	Description	Annual Consent Fee	Type of Trade
1	Hoe Road (Colonnade West)	£5,400	To be decided as part of application process
2	Hoe Road (mid-West Colonnade)	£5,400	To be decided as part of application process
3	Hoe Road (mid-East Colonnade)	£5,400	To be decided as part of application process
4	Hoe Road (Colonnade East)	£5,400	To be decided as part of application process
5	Hoe Road (Lido West)	£5,400	To be decided as part of application process
6*	Madeira Road (adj the roundabout)	£1,400	To be decided as part of application process
7*	Madeira Road (above Mens Pool)	£1,900	To be decided as part of application process
8	Madeira Road (Triangle west)	£4,400	To be decided as part of application process
9	Madeira Road (Triangle east)	£4,400	To be decided as part of application process
10*	Madeira Road (Corinthian East)	£2,400	To be decided as part of application process
11	Madeira Road (adjacent to Cannons)	£3,400	To be decided as part of application process
12a*	Commercial Wharf	£2,400	To be decided as part of application process
12b*	Commercial Wharf	£2,400	To be decided as part of application process
13	West Pier (Prawn)	£4,400	To be decided as part of application process
14	West Pier	£2,400	To be decided as part of application process

*sites 6, 7, 10, 12a and 12b have been removed following consultation

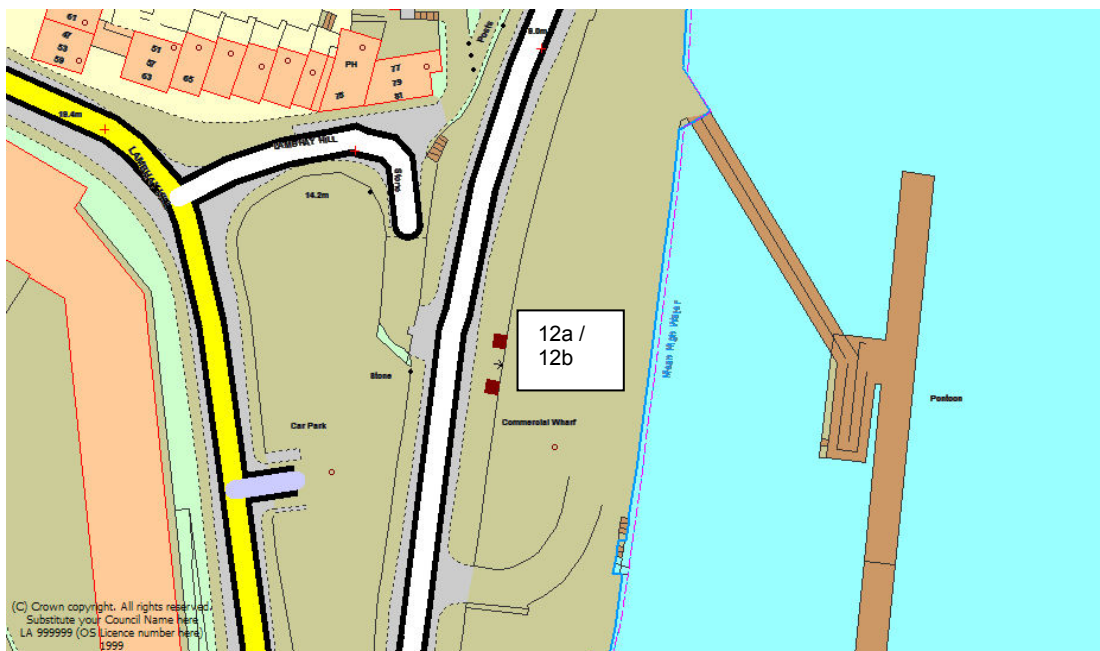
Appendix 2

Maps showing locations of proposed street trading pitches:

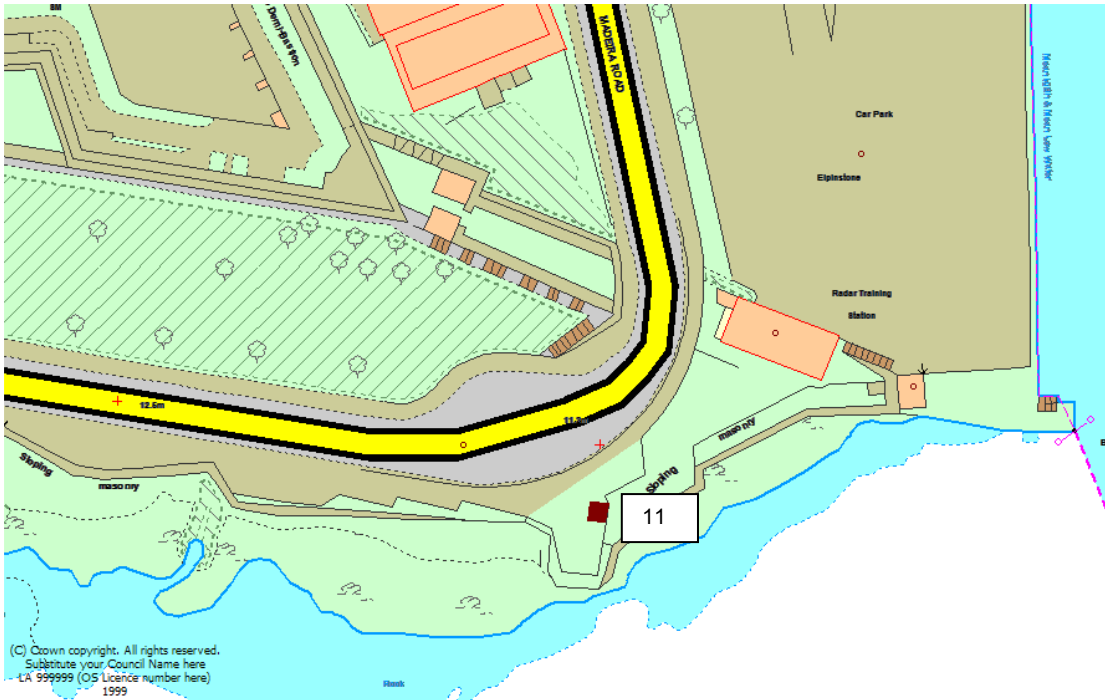
Map showing West Pier locations – 14 & 13



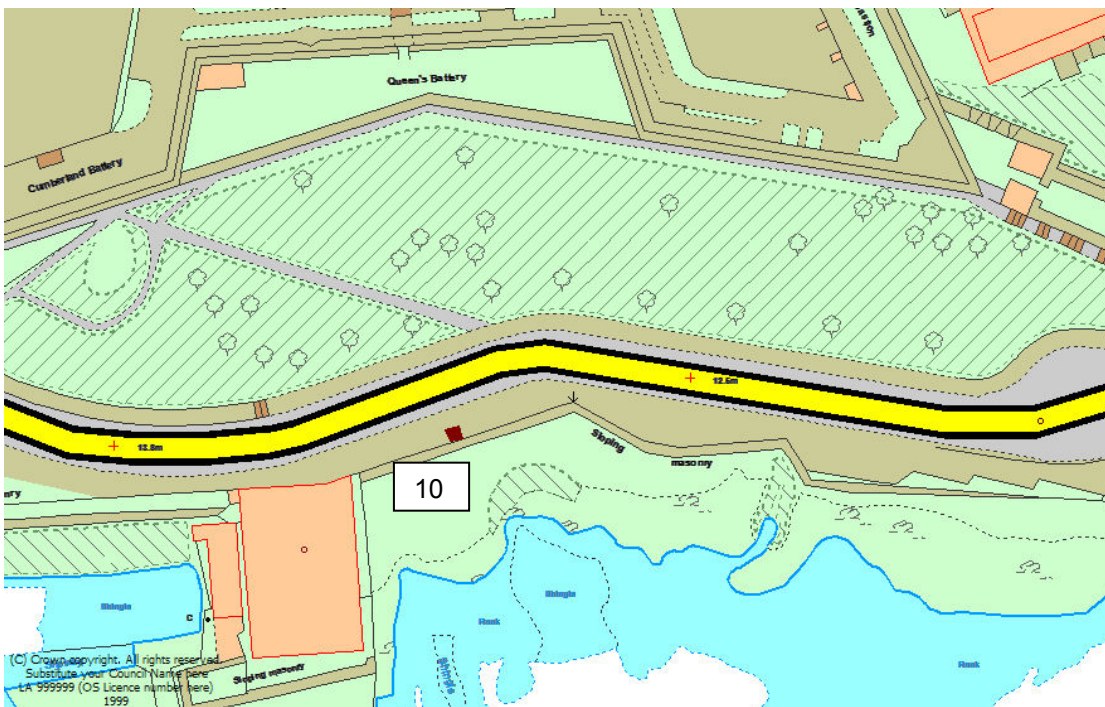
Map showing locations above Commercial Wharf – 12a* & 12b*



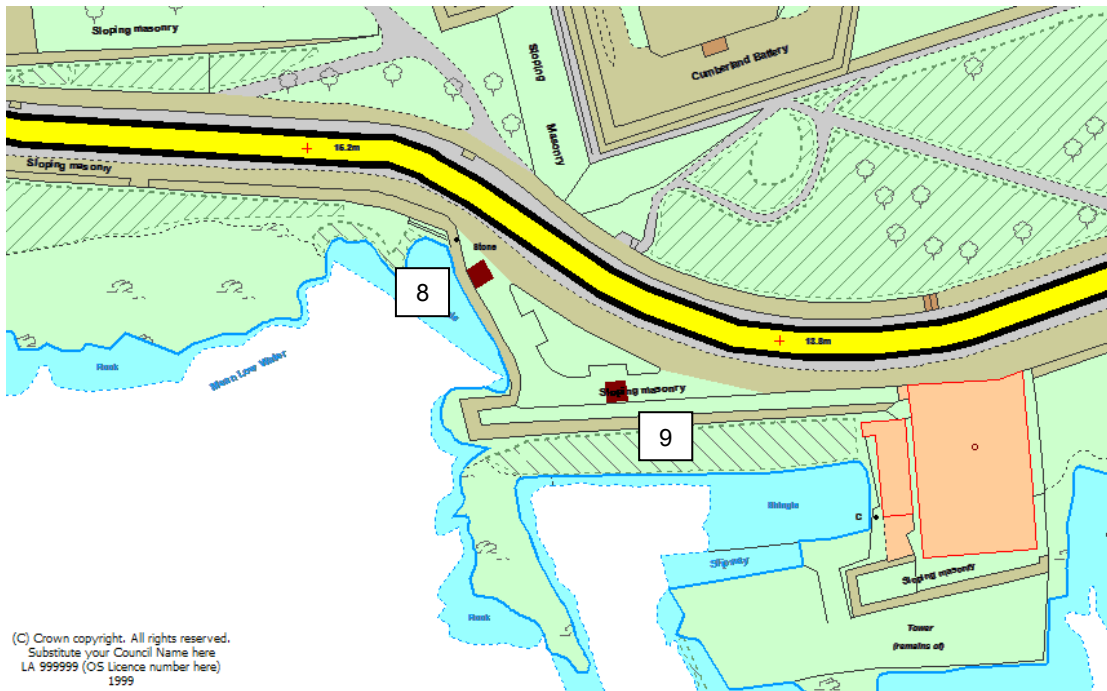
Map showing Madeira Road (Cannons) location - 11



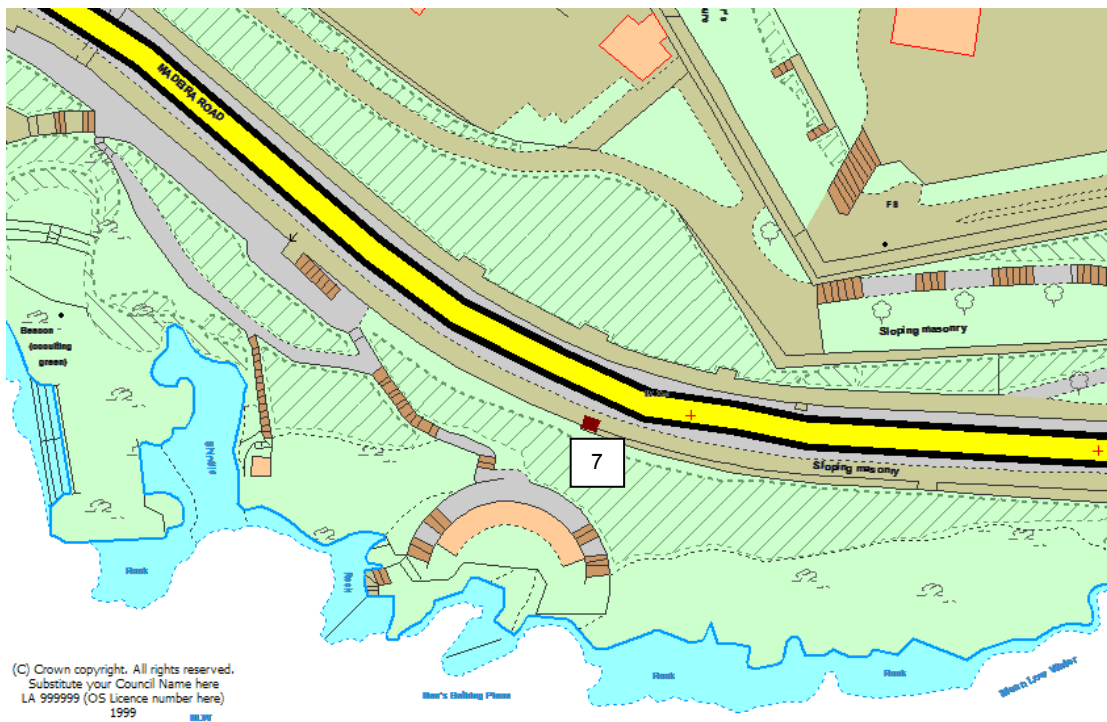
Map showing Madeira Road (Corinthian East) location – 10*



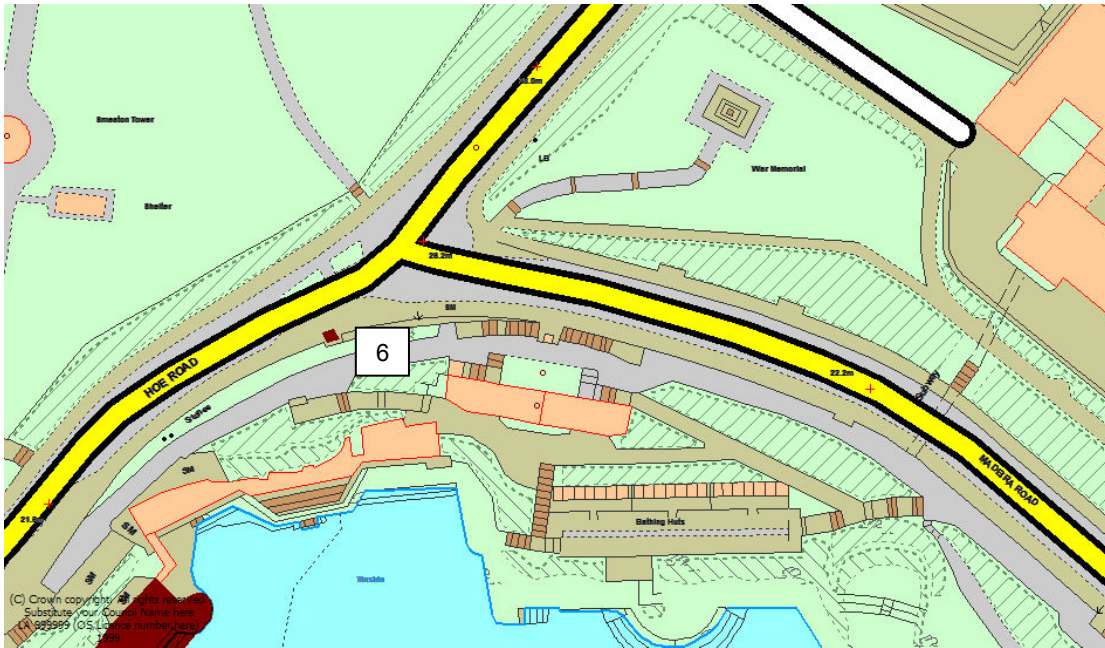
Map showing Madeira Road (Triangle East & West) locations – 9 & 8



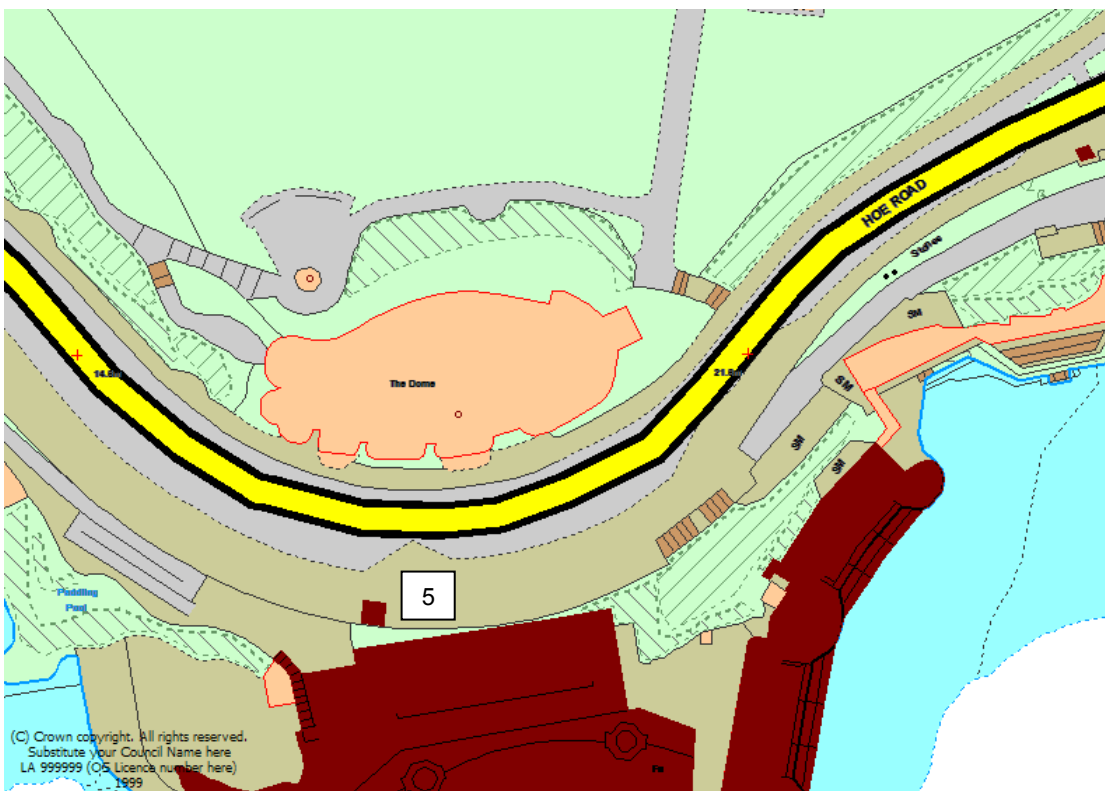
Map showing Madeira Road (above Men's Pool) location – 7*



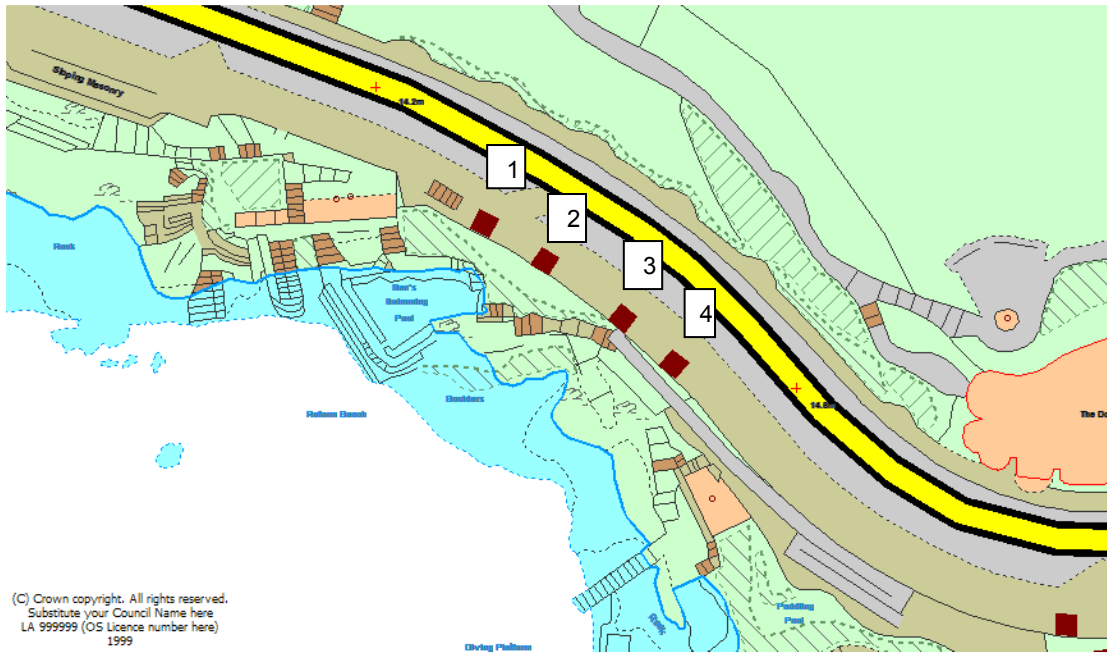
Map showing Madeira Road (Adjacent roundabout) location – 6*



Map showing Hoe Road (Lido West) location - 5



Map showing Hoe Road (Colonnade East, Mid-East, Mid-West and West) locations – 1, 2, 3 & 4



Appendix 3:

General Conditions for Annual Street Trading Consents

1. No trading to which the attached consent relates shall take place except between the dates of:
2. The operational hours shall be:
Between the hours of and on Mondays
Between the hours of and on Tuesdays
Between the hours of and on Wednesdays
Between the hours of and on Thursdays
Between the hours of and on Fridays
Between the hours of and on Saturdays
Between the hours of and on Sundays
3. The street trading consent relates to the following area/site only:
4. The street trading consent relates to the following vehicle/stall only:
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Environmental Services.
6. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work Act, 1974, the Food Hygiene (England) Regulations 2006. Advice on these requirements is available from the Environmental Health Department. The Consent Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
7. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Plymouth City Council. Consent Holders shall have special regard to and must take positive action to prevent excessive noise.
8. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner. The Consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
9. Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
10. The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate.
11. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.

12. The Consent Holder's stall shall not exceed 2.3 metres in height nor occupy an area greater than 3 metres x 3 metres, unless specified. There shall be a gap between the façade of the street trader's structure and the edge of the pavement of no less than 2 metres.
13. The Consent Holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. A serviceable fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
14. All hot food vans/trailers are required to carry a basic first aid kit. The Consent Holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.
15. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, that is accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, Royal Institute of Public Health and Hygiene or a certificate of attendance at a Level 2 Course run by Plymouth City Council.
16. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited.
17. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Environmental Services of the name and address of that person. An administration fee will be payable.
18. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Environmental Services.
19. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Environmental Services. A refund of the portion of the fee equal to the remaining full months will be payable, less £50 which the Council will retain to cover administrative costs.
20. Consent holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
21. A copy of the Consent shall be carried by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
22. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum level of insurance shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Consent is issued. Proof of cover must be produced to an officer of Plymouth City Council as required.
23. These general conditions, which apply to all Street Trading in Plymouth, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.
24. Consent holders must be aware that the trading location may be affected by temporary road closures or suspension of access to the trading location. This may be as a result of organized events, such as Lord Mayors Day, Firework Festival or Plymouth Half Marathon. Closure of the road and

restrictive access may also be implemented due to roadworks or similar highways repair and improvements. In these circumstances, trading will not be possible and no refund of any Consent fee will be made.

Conday, Phil (DEVELOPMENT)

From: Clace, Sarah (DEVELOPMENT)
Sent: 21 January 2013 13:48
To: Conday, Phil (DEVELOPMENT)
Subject: FW: New Street Trading Consent Sites F.A.O.Phil Conday
Attachments: 01202013TradingConsentObjectionLetter.doc

From: [REDACTED]
Sent: Monday, January 21, 2013 1:15 PM
To: Public Protection (DEVELOPMENT); Conday, Phil (DEVELOPMENT)
Cc: waterfrontmanager@waterfrontbid.co.uk
Subject: New Street Trading Consent Sites F.A.O.Phil Conday

Dear Mr Conday,

Re:
Local Government (Miscellaneous Provisions Act 1982)
Consultation on the proposed provision of new Street Trading Consent Sites on
Madeira Road and Hoe Road

Please find attached letter of objection to these proposals which I send on behalf of The Royal Plymouth Corinthian Yacht Club.

Will you kindly acknowledge receipt of this e-mail, a hard copy of the attachment has been posted to you.

Yours

[REDACTED]
Commodore R.P.C.Y.C.



Madeira Road
Plymouth
Devon
PL1 2NY
Tel: 01752 664327
Fax: 01752 664527
Email: club@rpcyc.com
www.rpcyc.com

Attn: Phil Conday
Your ref: PC/SHL/ST1
Environmental Services
Plymouth City Council
Civic Centre
Plymouth PL1 2AA

20th January 2013

Dear Mr Conday,

Re: **Consultation on Proposed Provision of New Street Trading Consent Sites on Madeira Road and Hoe Road**

The Flag Officers and Management of the Royal Plymouth Corinthian Yacht Club object in the strongest terms to the above proposal. The provision of 11 commercial food and drink outlets on Madeira and Hoe Road, will only lower the tone and standing of the area. The hot food will consist of Burgers and Hot dogs, and Mr Arscott's press statement that it is "for the sale of cockles and winkles etc." defies belief. No doubt the 'Kiss me Quick' hats will be on the non food outlets. The commercial effect on the business in the area which are open all year around will be economically catastrophic resulting in the loss of employment for those who work in them. The statement that the vendors will not be allowed to sell Ice Cream due to the adverse effect on the ice cream vendors already in the area appears to acknowledge that fact. The granting of licences on a permanent basis can only be seen as a kick in the teeth to the businesses in the area which are already struggling to survive in the economic down turn.

The use of gazebos makes one wonder if the proposers have ever visited the roads concerned, in any wind over 20 knots they will take off or if sufficiently anchored down will be ripped to shreds, they certainly would not survive a half gale at any time of year and in winter would be dangerous to those using the roads or foot paths.

The sighting of two food outlets 8 & 9 in close proximity to our property will cause a smell nuisance and possible smoke nuisance and no doubt the empty food containers will be deposited into our harbour, onto our roof (we already have problems with this) or over the wall onto the Duchy of Cornwall land to the east of the club.

How are the Hot & Cold food outlets going to either heat the food or keep it cool. Gas bottles can be used to provide energy for cooking but what happens to them at night when the gazebo is unmanned, we have had problems with drunks from the Barbican dumping our flower pots over the side of our entrance walkway onto the rocks below, will we arrive one morning to find gas bottles down there? Will generators be used for the fridges to keep the 'cockles and mussels' cool and fit for consumption in the event we have a good warm summer. If so this will cause a noise and petrol/diesel exhaust nuisance to passers by and in westerly winds to our property. Will the food outlets be required to comply with the hygiene regulations? If they require running water, where will it be drawn from and where will it be emptied? There is no mains drainage south of Dutton's restaurant as we found to our cost last year. Public facilities for sanitary arrangements are presently sparse in the area, ill maintained and often not open anyway.

The Waterfront Bid was supposed to enhance the area, attract visitors and thus improve the trade to existing businesses in the area (who have to pay extra rates for the privilege). It would appear that the Waterfront bid is working directly against the businesses it is supposed to help.

Yours faithfully



Commodore
Royal Plymouth Corinthian Yacht Club

Conday, Phil (DEVELOPMENT)

From: Chapman, Tracey (DEVELOPMENT) on behalf of Public Protection (DEVELOPMENT)
Sent: 21 January 2013 12:39
To: Conday, Phil (DEVELOPMENT)
Subject: FW: PC/SHL/STI

From: [REDACTED]
Sent: Monday, January 21, 2013 12:32 PM
To: Public Protection (DEVELOPMENT)
Subject: PC/SHL/STI

Dear Phil

Feedback e-mail regarding Street Trading on Madeira & Hoe road.

As a person living in Plymouth I know every visitor & people living in Plymouth goes on to the Hoe area and lots of events happen on the Hoe through out the year too, so I think it would be much better if there was more outlets for people to buy hot food and souvenir from this area. It is definitely very difficult times for the Council and individuals from job prospect point of view. I am sure granting this scheme would create a lot of jobs and income for some families and the Plymouth City Council. Every little helps!!!

Thank you.
Kind regards,
[REDACTED]

Conday, Phil (DEVELOPMENT)

From: Chapman, Tracey (DEVELOPMENT) on behalf of Public Protection (DEVELOPMENT)
Sent: 21 January 2013 12:04
To: Conday, Phil (DEVELOPMENT)
Subject: FW: Consultation on Stalls on Hoe Road
Attachments: David Ltr.doc

From: [REDACTED]
Sent: Sunday, January 20, 2013 7:10 PM
To: waterfrontmanager@waterfrontbid.co.uk
Cc: Public Protection (DEVELOPMENT)
Subject: Consultation on Stalls on Hoe Road


Please find attached a letter from myself about the consultation document released by the Council asking thoughts on stalls on the Hoe Road.

I would hope that your organisation would see through the weaknesses of providing a string of food outlets at the end of Hoe Road and will argue the case accordingly. I suspect all the small businesses paid their levy to you and would need help, not additional and direct competition.

I would appreciate confirmation you have received this and an indication as to what your thoughts are.

Thank you

[REDACTED]


Pier Street
West Hoe
Plymouth
PL1 3BT

20th January 2013

Mr Conday
Safety, Health & licensing
Plymouth City Council
PL1 2AA

I have been given a copy of your consultation document PC/SHL//STI dated 8th January in my capacity as a member of the Committee of the Friends of West Hoe Park. I understand it is a consultation document seeking responses from those who have a service in the area, but we feel that residents of the area need to be consulted as well and as such please accept this return as a considered response from the 'Friends'.

The addition of high quality, innovative and interesting stalls along the Hoe Road would be welcomed. The idea of bringing footfall to the West of the Hoe is of obvious benefit to traders and residents alike, is loudly applauded and is much needed.

What will not bring these additional visitors is a string of 5 Burger Bars - or Hot Food vendors as they are coyly called in your document. This will bring litter and noise and no variety and total and probably stifling competition to the local small businesses. There are 5 hot food vendors already installed in the exact area who serve visitors 12 months a year, good and bad weather, and I expect they survive throughout the winter months on the profit made by the summer trade. To bring 5 hot food vendors to the Hoe and allow them to set up business outside the existing businesses, literally on the pavement outside, seems (to put it mildly) crass and thoughtless.

Furthermore I suspect there has been no research to show that these additional stalls will increase the footfall. Conversely, what will bring more visitors, will be a variety of stalls. Thinking as I write these could be:

- 'Farmers market' type stalls selling fresh fruit, vegetables and fish from local sources.
- Quality souvenirs - possibly home made.
- Art and Craft stalls.
- Local street artists.

- Charity stalls advertising their charity (Guide dogs, Mencap, Salvation Army, Citizens Advice, Victim Support, Help the Heroes, Rotary, Lions, Round table etc etc)
- Local Hobby Groups (model trains, sewing, dance etc)
- Local businesses to sell products and advertise their services

You will no doubt come up with other ideas in consultation with the Plymouth Waterfront Partnership. But these would be varied, change on a frequent basis, and be a real interest factor for visitors. As long as you were not too greedy in seeking revenue, and rather control the numbers by minimum quality standards, I expect you will be onto a really good idea.

Please, please, don't consign the West Hoe to be known as a fast food pit, but raise the quality of provision of street vendors and, at the same time, increase the footfall for the 5 struggling businesses that already exist selling a variety of coffees and fast foods.

Thank you for listening.

Best Wishes

Yours Sincerely


Friends of West Hoe Park

ROYAL CYCLED
PUBLIC PROTECTION SERVICE

14 JAN 13

PHIL CONDAY P.A.C.
SENIOR OFFICER
SAFETY, HEALTH & LICENSING
PUBLIC PROTECTION SERVICE
CIVIC CENTRE BUILDING
PLYMOUTH
DEVON

VICTORIA ROAD
PLYMOUTH
DEVON
PL5 1QS
07833591031
realcycledcoffee@gmail.com

17/1/2013

Dear Mr Conday

I think the proposal to have a number of commercial pitches on the sea front it's a brilliant idea. I would be interested in pitch 9 and would like further information once / if the proposal is approved.

I currently have a pitch at the ice ring, offering tea & coffee and hot chocolate served from a coffee tricycle. This will finish at the end of February, at which point I will be looking for another pitch in the Plymouth area, any help your department can offer would be appreciated.

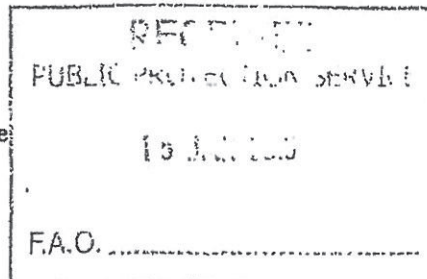
Yours sincerely



Real Cycled Coffee
www.realcycledcoffee.co.uk



Phil Conday
Senior Officer
Safety, Health & Licensing - Public Protection Service
Plymouth City Council
Civic Centre
Plymouth PL1 2AA





14 January 2013

Dear Sir

**Local Government (Miscellaneous Provisions) Act 1982:
Consultation on the proposed provision of new Street Trading Consent Sites on Madeira
Road and Hoe Road**

Please be advised that in my capacity as office leader for Plymouth PwC, that we have no objection to the proposed provision above. We are very supportive of any enhancements and/or improvements to the City in making it an excellent place to work and live.

Yours faithfully



Office leader
PwC Plymouth

*PricewaterhouseCoopers LLP, Princess Court, 23 Princess Street, Plymouth PL1 2EX
T: +44 (0) 1752 267441, F: +44 (0) 1752 673514, www.pwc.co.uk*

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Conday, Phil (DEVELOPMENT)

From: Chapman, Tracey (DEVELOPMENT) on behalf of Public Protection (DEVELOPMENT)
Sent: 21 January 2013 09:41
To: Conday, Phil (DEVELOPMENT)
Subject: FW: Street Trading on Hoe Road

From: [REDACTED]
Sent: Sunday, January 20, 2013 1:25 PM
To: Public Protection (DEVELOPMENT)
Subject: Street Trading on Hoe Road

FAO Mr P Conday - Senior Officer, Safety, Health & Licensing

I have been given a copy of your consultation document PC/SHL//STI dated 8th January in my capacity as a member of the Committee of the Friends of West Hoe Park.

I understand it is a consultation document seeking responses from those who have a service in the area, but we feel that residents of the area need to be consulted as well and as such please accept this return as a considered response from the 'Friends'.

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'Farmers market' type stalls selling fresh fruit, vegetables and fish from local sources.

Quality souvenirs - possibly home made.

Art and Craft stalls.

Local street artists.

Charity stalls advertising their charity (Guide dogs, Mencap, Salvation Army, Citizens Advice, Victim Support, Help the Heroes, Rotary, Lions, Round table etc etc)

Local Hobby Groups (model trains, sewing, dance etc)

Local businesses to sell products and advertise their services

And you will no doubt come up with other ideas in consultation with the Plymouth Waterfront Partnership. But these would be varied, change on a frequent basis, and be a real interest factor for visitors.

As long as you were not too greedy in seeking revenue, and rather control the numbers by minimum

21/01/2013

quality standards, I expect you will be onto a really good idea.

Please, please, don't consign the West Hoe to be known as a fast food pit, but raise the quality of provision of street vendors and, at the same time, increase the footfall for the 5 struggling businesses that already exist selling a variety of coffees and fast foods.

Thank you for listening.

Best Wishes



West Hoe

Conday, Phil (DEVELOPMENT)

From: Phillips, Clare (DEVELOPMENT)
Sent: 19 January 2013 12:10
To: Conday, Phil (DEVELOPMENT)
Subject: Waterfront Street Trading consultation

Hi Phil

Following our telephone conversation I just wanted to register some feedback. I understand the intention is to use the stall described as a Tourist Information 'stall' as a starting point for walking tours. I would be grateful if this could be made clear in the wording of any future proposals and contracts. The current document description has already started rumours about the closure of our existing office. In addition the TIC currently generates income from the ticketing facilities for local attractions including bus and boat tours and is open all year.

'4.1 It is envisaged that the proposed sites will offer a variety of street trading uses, including hot/cold

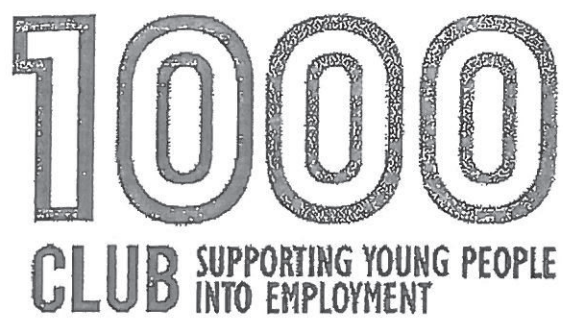
food, arts & crafts and tourist information & services. '

I am also concerned about the appearance of temporary gazebo structures, if they go ahead, strict guidelines to appearance should be set down in their contracts. The location of the sites in question make the use of temporary structures unsuitable and out of character, from regular experience keeping signs outside our building in place is an issue for a large percentage of the year including the summer months because of the wind strength.

Kind regards

Clare

Clare Phillips
Visitor Services Manager
Plymouth City Council
Tourist Information Centre
Plymouth Mayflower
3-5 The Barbican
Plymouth
PL1 2LR
Tel 01752 306331
E clare.phillips@plymouth.gov.uk
www.visitplymouth.co.uk



www.1000club.co.uk

Conday, Phil (DEVELOPMENT)

From: Timothy.HINDE@devonandcornwall.pnn.police.uk
Sent: 18 January 2013 16:50
To: Conday, Phil (DEVELOPMENT)
Subject: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road. NOT PROTECTIVELY MARKED

Hi Phil

I am the Neighbourhood Team Leader for the Barbican and Hoe areas and have been asked to collate the opinions of various officers regarding the proposals.

Below are the opinions of the Neighbourhood Beat Manager for the area, the Road Casualty Reduction officer and Inspector Green who is the overall Inspector for the south and central area of the city.

I have also reviewed the proposals and mirror the opinion that the overall idea is a good one for the areas covered and will only enhance the Barbican and Hoe further.

However I do mirror the concerns of all officers copied in this email.

I am happy to work further on this with you.

Regards

Tim HINDE
NTL Barbican and Hoe

Inspector Green.

I have a few concerns....

Foot space in some of the locations is one.... This time of year all fine and dandy, but what about on a busy 'summer' day or when there's an event like the ½ marathon/ fireworks and the like?

Could you have Chris and Lucy have a look and reply to me.

Baggie, with your road safety view, could you pass any observations to me as well?

Thanks - Darren
Inspector 13678 Darren Green

MPC Ian Baggott.

I have been and had a look at the proposed site locations.

I think in principle the idea is a good one although on pedestrian safety I have the following concerns.

21/01/2013

Site 7 – The footpath at that location is only 2.5 metres wide. Obviously I don't the exact size of the stall and where it is going to be located. There is a regress into the boundary wall at the location but that still isn't very deep. My concern is that it may force pedestrians into the road to get passed especially on busy days/nights when events are taking place.

The same applies to site 6. Also at that site pedestrians will also have the added obstacle of the railings, where cycles can be 'parked', to contend with. This is also by a major junction (mini roundabout) and is a main crossing point between Maderia Road and the grass area near to Smeatons Tower and as a result is routinely very busy with pedestrians.

Sites 10 / 12a / 12b – The paths also aren't very wide at those locations and the same concerns with pedestrian safety applies.

I don't want to appear to be giving a negative response but pedestrian safety is paramount.

Regards
Ian Baggott
Road Casualty Reduction Officer

PC Higham.

I have viewed the proposals with NTL PS Hinde. Ultimately I have no major concerns. I am of the opinion that if we don't use it we'll lose it. Anything that improves the Hoe & Barbican I am all in favour of & I feel these proposals will benefit the area. My concerns are, & I admit I am thinking worst case scenarios & being devils' advocate. Sites 1,2,3,4 & 5 are potentially all going to be food stalls. We have had Ice cream wars every so often & I know none of the stalls can sell ice cream but how will the other non ice cream vendors in the area react? Will the stalls being there cause any disputes between vendors that would require police intervention?

I have the same concern as Ian around sites 6,7,10,12a & 12b & the width of pavements. I appreciate these are all proposed small stalls or artists & clearly the council have put serious thought into who can go where & generally I can see no problems but some of the pavements are not particularly wide for these sites & with busy days on the Hoe the pavements can become very busy with prams out in force. I can see any pavement obstructions on busy days forcing pedestrians into the road. On the whole I feel it's a good idea but police views were asked for so I have looked at it as a police officer. & the potential for police issues.

Regards,
Chris Higham,
Waterfront beat manager.

101 - The new non emergency number for Devon and Cornwall Police
Textphone 18001 101 for the deaf, hard of hearing or speech impaired
Always call 999 in an emergency

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21/01/2013

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Duttons Continental Cafe
Madeira Road
PLYMOUTH, PL1 2NU

Attn: Phil Conday
Environmental Services
Plymouth City Council
Civic Centre
PLYMOUTH, PL1 2AA

Tel: 01752 255245
Your ref: PC/SHL/ST1

11th January 2013

Dear Mr Conday

**RE: CONSULTATION ON PROPOSED PROVISION OF NEW STREET
TRADING CONSENT SITES ON MADEIRA ROAD AND HOE ROAD**

Thank you for your letter dated 8th January 2013 regarding the above.

We are writing, following our telephone call to you on 10th January 2013, to object to the above proposals in the strongest possible terms.

In general, the granting of 11 commercial food and drink outlets, in a period of severe recession and trading in direct competition with the existing cafes and restaurants along the waterfront could be economically catastrophic for many concerned. In fact one business in the West Hoe area of the waterfront has already gone into liquidation twice in the last three years and the evidence is that many businesses are presently poised on a knife edge in terms of surviving the recession.

The proviso that these outlets would not be allowed to sell ice-creams appears to be an acknowledgement that they could have a negative effect on the trade of the existing ice-cream street vendors in the area but no such consideration seems to have been given to their adverse effect on the existing cafes and restaurants in the area. Likewise, the granting of permission to sell art and craft items, mostly located near the Barbican, must surely have an adverse commercial effect on the art galleries and gift shops in the Barbican area; already probably struggling to make ends meet.

You say in your explanatory literature that on consent street permits are commonly issued to traders wishing to trade less frequently or for one off events, yet the proposal is to make these permits permanent and for 12 hours a day. It is bad enough when these permits are issued for special occasions thereby militating against any meaningful extra trade being enjoyed by businesses on those occasions. However, to grant permits on a permanent basis and thereby reduce trade drastically all the year through is totally reprehensible and a kick in the teeth to already hard pressed businesses in the area.

The Waterfront BID, for which we are all obliged to pay extra rates, was set up with a mandate to attract visitors to the area and thus to improve the trade of the businesses on the waterfront. The setting up of 15 gazebos along the waterfront will do nothing to attract visitors to the area and could have a catastrophic impact on existing businesses – it feels rather like being asked to pay extra rates to pay for your own execution and funeral!!

For Duttons in particular, we have already had to absorb the effects of three new cafes and outlets being opened on the waterfront area within the last 18 months. Additionally, the Dome is due to open this summer, complete with celebrity chef status and all the free advertising that goes with that status. We are uncertain what impact that will have on our trade but we were confident that we could weather the storm anyway, as our greatest asset - our garden - would ensure we would be able to attract sufficient visitors to make ends meet in the event that we do have half decent summer weather this year. However, the setting up of a gazebo alongside the wall of our garden selling food and drinks is likely to have an extremely negative effect on our sales. Apart from having a unit selling what we are selling (though doubtless not of the same quality) the location of the gazebo would obstruct the view of the café and garden to pedestrians approaching from the Hoe thereby affecting the number of footfall customers we attract from that direction.

The favourite spot in our garden for our customers is in the bottom area with views overlooking the sea and the Duttons Cannons and this is what attracts many people to eat in our café during the summer when most of our trade takes place, allowing us to survive the quiet winter months. To have a gazebo pitched just the other side of the wall, within two or three feet of the tables located at the end of the garden, would totally destroy the ambiance of the garden area for several reasons:

- (a) It would destroy the sea views and views of Duttons Cannons presently enjoyed by our customers.
- (b) It would doubtless cause a noise nuisance and be intrusive to our customers in an area which is presently secluded, peaceful, and serene, with noise emanating from people purchasing food and drinks from the gazebo, noise emanating from electricity generators, and people looking over the wall at our customers as they are waiting to be served.
- (c) It would also cause a smell nuisance with cooking smells emanating from the gazebo and possible smoke nuisance, for instance, if burgers and hot dogs are being cooked, especially bearing in mind the proximity of the gazebo to our customer seating area and the prevailing south westerly winds.
- (d) It could be a health and safety risk to our customers and the general public, bearing in mind that high winds in that area are frequent and often horrendous and gazebos have a propensity to take off in such conditions.

We cannot emphasise enough how upset we are at these proposals. We are in the midst of a severe economic recession which is set to bite even more as families will lose benefits and have their pay frozen this year, yet having to pay more for the basic necessities of life. This has a huge impact on the café and restaurant trade. If Plymouth City Council is genuine in its assertion that it supports small businesses then we would urge you to put a stop to these proposals immediately. We would like to be kept informed about the progress or otherwise of these

proposals. In the meantime we would appreciate it if you would supply us with the following information:

(1) How much is Plymouth City Council proposing to charge for each of these pitches and how will they be advertised?

(2) Annex 1 does not specify the size or footprint of pitch number 11 and we would like to be informed of this.

(3) Your proposals (3.4) state that each pitch where power is required is to have a designated electricity supply. Will this take the form of generators?

(4) Are the pitches serving hot and cold food and drinks required to have running water and refrigeration and to comply with the strict hygiene laws that cafes and restaurants are required to abide by? If so where would this water supply come from?

(5) Will the vendors preparing and trading in footstuffs be required to possess food and hygiene certificates?

We look forward to hearing from you regarding these queries and with updates as to the ongoing progress of these proposals.

With thanks for your attention to this matter

Yours sincerely

Neil & Justyna Fanous
Proprietors, Duttons Cafe

Conday, Phil (DEVELOPMENT)

From: House, Ray (COMMUNITY SERVICES)
Sent: 11 January 2013 13:55
To: Conday, Phil (DEVELOPMENT)
Cc: Watt, James (DEVELOPMENT & REGENERATION); Yabsley, Jamie (DEVELOPMENT & REGENERATION); Laurie, Annette (DEVELOPMENT)
Subject: RE: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

Commercial Wharf is a working wharf, also any street trading positions here will reduce the possibly use as an events space and could result in possible claim against the authority if any event impinges on their business.

Trading on Hoe road and Madeira Road are areas regularly used by events and extra infrastructure could preclude or impact on that event or put PCC in breach of agreements already in place with partners.

Day to day trading will not be an issues but a robust agreement needs to be put in place by commercial property where by traders in all street trading positions can be excluded with prior notification on event days or road closures. Also to allow PCC tender these positions during events and allow traders the opportunity to bid on these.

This also need to be highlighted in any paperwork sent our when businesses are asked to formulate their business plan bid stating this.

This clause already exists with the existing ice cream franchises in this area.

Ray House
 Events Officer
 Economic Development
 Plymouth City Council
 Civic Centre
 Plymouth
 PL1 2AA

T +441752307024
 M +447876397365
 E raymond.house@plymouth.gov.uk
www.plymouth.gov.uk

From: Conday, Phil (DEVELOPMENT)
Sent: 09 January 2013 15:16
To: House, Ray (COMMUNITY SERVICES); Walker, Karen (COMMUNITY SERVICES)
Subject: FW: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

From: Conday, Phil (DEVELOPMENT)
Sent: Tuesday, January 08, 2013 4:34 PM
To: 'licensingwest@devonandcornwall.pnn.police.uk'; Child Protect (SOCIAL SERVICES); 'westfiresafety@devfire.gov.uk'; Planning Consents (DEVELOPMENT); Plymouth Community Safety Unit (HOUSING SERVICES); Highways (DEVELOPMENT); Transport (DEVELOPMENT); Parking (DEVELOPMENT); Waste Collection & Street Scene (DEVELOPMENT)
Subject: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

Dear valued Consultee

Please find attached letter and Consultation Document regarding the proposed introduction of new street trading consent sites on Hoe Road and Madeira Road, situated on the hoe front.

I have forwarded this email to you as your service may have an on-going interest in such a proposal.

I would be grateful if you could forward the attached documents to the relevant recipient within your department, body or organisation for any comments that you may have.

It would be appreciated if any comments or concerns are received by our Department by Tuesday 22nd January 2013.

Many thanks

Phil Conday
Senior Officer
Safety, Health & Licensing
Public Protection Service
Plymouth City Council
Tel: 01752 305480
Fax: 01752 226314
E: phil.conday@plymouth.gov.uk

Conday, Phil (DEVELOPMENT)

From: Artherton, Mike
Sent: 10 January 2013 15:27
To: Conday, Phil (DEVELOPMENT)
Cc: Laurie, Annette (DEVELOPMENT); White, Tom (DEVELOPMENT & REGENERATION); Perkin, Clive (DEVELOPMENT & REGENERATION)
Subject: Street Trading Consultation
Importance: High

Phil,

Pauline Burrows, within my team, is currently going through the proposals and will come back shortly. In the meantime I wanted to raise something which will inevitably affect the financial aspects on the street trading.

In the past the Transport Department has allowed traders space on the highway, mostly in defined sections within pay and display bays, for no fee; effectively subsidising revenue loss from parking fees; mostly relevant during peak seasons. This is not sustainable.

The paper eludes (I haven't read as yet however Pauline is going through) a significant increase in proposed sites. Whilst it is accepted that not all of these are proposing to use road space now is however the time to address the subsidy issue; Transport part subsidising costs for a service another receives the income for.

I need to be clear that in this paper it must not be assume that the Highways department will permit vehicles to park on the highway, my concern specifically being within pay and display bays, and not have to comply with existing traffic orders i.e. pay.

Clearly we would not expect a trader to have to feed a meter however their now needs to be a dialogue concerning the creation of a legally recognised permit which could be issued to street traders operating in the existing locations (which are within pay and display bays) and a charge levied for this with payment received by Transport and then for us to consider any requests for further sites on the Highway (again my specific focus being any which implicate on pay and display bays).

I have also copied to Tom White, as Network Manager, who may have other comments to make, if not engaged already, in respect to proposed sites on Highway land.

Mike Artherton
Parking & Marine Service Manager
Transport & Infrastructure
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

T +441752305582
E mike.artherton@plymouth.gov.uk
www.plymouth.gov.uk

Conday, Phil (DEVELOPMENT)

From: Artherton, Mike
Sent: 11 January 2013 10:29
To: Conday, Phil (DEVELOPMENT)
Cc: Laurie, Annette (DEVELOPMENT); Burrows, Pauline (DEVELOPMENT & REGENERATION)
Subject: Consultation Trading Sites

Phil,

One further point to add to my email of 10th Jan.

I note that it is proposed to create trading sites on Commercial Wharf. Commercial Wharf is a designated 'working marine wharf' and is not suitable for trading sites. We would likely object to these or, if we are convinced otherwise, would set specific conditions following further discussion.

Commercial Wharf is managed by Transport and the income received from the Commercial units is paid to Transport. If there were to be any trading sites on Commercial Wharf then this money would also be received by Transport.

There is also the issue of competition with existing businesses, which is less of a concern for me, but still remains something to review.

Regards

Mike

Mike Artherton
Parking & Marine Service Manager
Transport & Infrastructure
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

T +441752305582
E mike.artherton@plymouth.gov.uk
www.plymouth.gov.uk

Conday, Phil (DEVELOPMENT)

From: Ashley Raddon [araddon@dsfire.gov.uk]
Sent: 09 January 2013 14:20
To: Conday, Phil (DEVELOPMENT)
Cc: House, Ray (COMMUNITY SERVICES)
Subject: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.
Attachments: Street Trading Waterfront V1.pdf; Consultation letter 2013 v.1.pdf; CFA - FRAs open air events.pdf

Dear Sir,

Thank you for the above consultation.

I offer the following observations:

1. Fire & Rescue emergency access vehicular routes to be maintained during normal trading hours and where it may form part of an open air event on the Hoe (e.g. Event Safety Plan, HSG 195);
2. Where necessary, Fire & Rescue vehicle access to be maintained to satisfy The Building Regulations – ADB, B5 – Table 20: Access route specification (minimum widths of roads between kerbs etc.); and
3. To comply with the Regulatory Reform (Fire Safety) Order 2005 it is recommended that all traders carry out a fire risk assessment in accordance with The Chief Fire Officer's Association guidance for traders, food concessions and stall holders (please see attached).

If I can be of any further assistance please do not hesitate to contact me.

Regards



Ashley Raddon EngTech, MFireE
Fire Protection Officer
West Devon Group
Devon & Somerset Fire & Rescue Service
T. 01752 333622 F. 01752 333640 w. araddon@dsfire.gov.uk

please don't print this email unless you really need to.

From: Conday, Phil (DEVELOPMENT) [mailto:Phillip.Cunday@plymouth.gov.uk]
Sent: 08 January 2013 16:38
To: 'licensingwest@devonandcornwall.pnn.police.uk'; Child Protect (SOCIAL SERVICES); West Devon Fire Safety; Planning Consents (DEVELOPMENT); Plymouth Community Safety Unit (HOUSING SERVICES); Highways (DEVELOPMENT); Transport (DEVELOPMENT); Parking (DEVELOPMENT); Waste Collection & Street Scene (DEVELOPMENT)
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It would be appreciated if any comments or concerns are received by our Department by Tuesday 22nd January 2013.

Many thanks

Phil Conday
Senior Officer
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Public Protection Service
Plymouth City Council
Tel: 01752 305480
Fax: 01752 226314
E: phil.conday@plymouth.gov.uk

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Conday, Phil

From: Ellis, Ian (DEVELOPMENT& REGENERATION)
Sent: 25 January 2013 11:27
To: Conday, Phil (DEVELOPMENT)
Subject: FW: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

Please see comments from Transport and Infrastructure, below.

Regards

Ian Ellis
Assistant Network Manager
Transport and Infrastructure
Place Directorate
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA
T 01752 304223
E ian.ellis@plymouth.gov.uk
www.plymouth.gov.uk

From: Bleasdale, Nicola [<mailto:Nicola.Bleasdale@amey.co.uk>]
Sent: Friday, January 25, 2013 11:17 AM
To: Ellis, Ian (DEVELOPMENT& REGENERATION)
Subject: RE: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

Hi Ian

I have had a read through – and there are a couple of sections that are a cause for concern;

3.2 Each proposed trading site is to be allocated a fixed space no greater than 3 metres x 3 metres. Trading is to be kept within this location under a gazebo or similar temporary structure approved by Plymouth City Council. All sites will allow a minimum of 1.2 metres to the pavement edge to allow public right of way. The pitches will be allocated on a permanent basis.

The 1.2 metre is not what we put forward nor is a 1.2metre footway acceptable in such a high tourist area – it was made perfectly clear that within such areas of high expectant footfall that an absolute min of 2m would be expected to be maintained at all times. Also any structure placed on public highway will require the permissions from Plymouth Transport & Highways.

3.4 Preliminary agreement with the location & size of the pitches has been agreed with Highways division in principle. Each pitch, where power is required, is to have a designated electricity supply.

This too would require permissions/authorisations from Plymouth Transport & Highways – A Section 50 licence would be required to install and maintain apparatus in ground.

Another point I would like to raise is that although it is mentioned that the traders will be trading from the carriageway – there are concerns regarding the maintenance aspect of the areas – and the mounting of kerbs lines etc. etc.

Could you please forward these comments over to Phil Conday with any others that you may wish to add.

Kind regards

Nicola Bleasdale
Street Care Co-ordinator | Network Management | Plymouth Transport & Highways
Amey

t: 01752 237949 | **m:** 07970 055019 | **e:** nicola.bleasdale@amey.co.uk

Plymouth Transport & Highways | Prince Rock Depot | Macadam Road | Plymouth | PL4 0RZ

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From: Ellis, Ian (DEVELOPMENT& REGENERATION) [<mailto:Ian.Ellis@plymouth.gov.uk>]
Sent: 11 January 2013 08:59
To: Plymouth Watchman
Cc: White, Tom (DEVELOPMENT & REGENERATION)
Subject: FW: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

Please see below consultation on proposed street trading sites.

I'd be grateful if you would provide (to me) any feedback on the proposals in respect of how they might affect the delivery of Services, i.e. highway operations, proposed schemes etc. This may require a 'round robin',

Regards

Ian

Ian Ellis
Assistant Network Manager
Transport and Infrastructure
Place Directorate
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA
T 01752 304223
E ian.ellis@plymouth.gov.uk
www.plymouth.gov.uk

From: Cocker, Bob (DEVELOPMENT & REGENERATION)
Sent: Thursday, January 10, 2013 5:52 PM
To: Ellis, Ian (DEVELOPMENT& REGENERATION)
Subject: FW: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

for info or comment.

From: Banning, Cheryl (DEVELOPMENT & REGENERATION) **On Behalf Of** Transport (DEVELOPMENT)
Sent: Wednesday, January 09, 2013 4:47 PM
To: Cocker, Bob (DEVELOPMENT & REGENERATION)
Subject: FW: Consultation on proposed new Street Trading sites on Madeira Road and Hoe Road.

Hi Bob

Would this come to you guys to look at? Or any ideas who it would need to go to?

Thanks

Cheryl Banning
Project Assistant
Business Team (Dev & Reg)
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

T +441752307795
E cheryl.banning@plymouth.gov.uk
www.plymouth.gov.uk

From: Conday, Phil (DEVELOPMENT)
Sent: 08 January 2013 16:34
To: 'licensingwest@devonandcornwall.pnn.police.uk'; Child Protect (SOCIAL SERVICES); 'westfiresafety@devfire.gov.uk'; Planning Consents (DEVELOPMENT); Plymouth Community Safety Unit (HOUSING SERVICES); Highways (DEVELOPMENT); Transport (DEVELOPMENT); Parking (DEVELOPMENT); Waste Collection & Street Scene (DEVELOPMENT)
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Tel: 01752 305480
Fax: 01752 226314
E: phil.conday@plymouth.gov.uk

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Conday, Phil

From: Highways (DEVELOPMENT)
Sent: 08 January 2013 16:34
To: Conday, Phil (DEVELOPMENT)
Subject: Email acknowledgement

Thank you for your enquiry, this will be passed to the relevant team who will respond to you within 10 working days.

All pothole enquiries will be passed to our Streetworks team who aim to respond to the issue within 24 hours. Whilst we are unable to reply to individual pothole enquiries, please be assured that every effort is being made to address the reported issue.

If you have any further queries, please call Plymouth Transport & Highways on 01752 668000.

Thank you

Plymouth Transport & Highways

t: 01752 668000 | e: plymouth.watchman@amey.co.uk

Plymouth Transport & Highways | Floor 10 | Civic Centre | Armada Way | Plymouth | PL1 2AA

www.plymouth.gov.uk

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